

By Senator Baker

20-01098-09

20091422\_\_

1                   A bill to be entitled  
2           An act relating to exemptions from construction  
3           contracting requirements; amending s. 489.103, F.S.;  
4           requiring that owners of property acting as their own  
5           contractor and providing direct, onsite supervision of  
6           all work not performed by licensed contractors read  
7           and sign a disclosure statement before a permit is  
8           issued; requiring that the disclosure statement  
9           contain certain statements and provisions; providing  
10          an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

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14           Section 1. Subsection (7) of section 489.103, Florida  
15 Statutes, is amended to read:

16           489.103 Exemptions.—This part does not apply to:

17           (7) Owners of property when acting as their own contractor  
18           and providing direct, onsite supervision themselves of all work  
19           not performed by licensed contractors:

20           (a) When building or improving farm outbuildings or one-  
21           family or two-family residences on such property for the  
22           occupancy or use of such owners and not offered for sale or  
23           lease, or building or improving commercial buildings, at a cost  
24           not to exceed \$75,000, on such property for the occupancy or use  
25           of such owners and not offered for sale or lease. In an action  
26           brought under this part, proof of the sale or lease, or offering  
27           for sale or lease, of any such structure by the owner-builder  
28           within 1 year after completion of same creates a presumption  
29           that the construction was undertaken for purposes of sale or

20-01098-09

20091422\_\_

30 lease.

31 (b) When repairing or replacing wood shakes or asphalt or  
32 fiberglass shingles on one-family, two-family, or three-family  
33 residences for the occupancy or use of such owner or tenant of  
34 the owner and not offered for sale within 1 year after  
35 completion of the work and when the property has been damaged by  
36 natural causes from an event recognized as an emergency  
37 situation designated by executive order issued by the Governor  
38 declaring the existence of a state of emergency as a result and  
39 consequence of a serious threat posed to the public health,  
40 safety, and property in this state.

41  
42 This subsection does not exempt any person who is employed by or  
43 has a contract with such owner and who acts in the capacity of a  
44 contractor. The owner may not delegate the owner's  
45 responsibility to directly supervise all work to any other  
46 person unless that person is registered or certified under this  
47 part and the work being performed is within the scope of that  
48 person's license. For the purposes of this subsection, the term  
49 "owners of property" includes the owner of a mobile home  
50 situated on a leased lot. To qualify for exemption under this  
51 subsection, an owner must personally appear and sign the  
52 building permit application and must satisfy local permitting  
53 agency requirements, if any, proving that the owner has a  
54 complete understanding of the owner's obligations under the law  
55 as specified in the disclosure statement in this section. If any  
56 person violates the requirements of this subsection, the local  
57 permitting agency shall withhold final approval, revoke the  
58 permit, or pursue any action or remedy for unlicensed activity

20-01098-09

20091422\_\_

59 against the owner and any person performing work that requires  
60 licensure under the permit issued. The local permitting agency  
61 shall provide the person with a disclosure statement, which  
62 shall be read and signed by the property owner or owner-builder,  
63 in substantially the following form:

64 1. I understand that state law requires construction to be  
65 done by licensed contractors and I have applied for an owner-  
66 builder permit under an exemption to that law. The exemption  
67 provides that I, as the owner of the property listed, may act as  
68 my own contractor with certain restrictions even though I do not  
69 have a license.

70  
71 2. I understand that building permits are not required to  
72 be signed by a property owner unless the owner is responsible  
73 for the construction and is not hiring a licensed contractor to  
74 assume this responsibility.

75  
76 3. I understand that as an owner-builder, I am the  
77 responsible party of record on the permit. I understand that I  
78 may protect myself from potential financial risk by hiring a  
79 licensed contractor and having the permit filed in his or her  
80 name instead of my own. I also understand that contractors are  
81 required by law to be licensed and bonded in Florida and to list  
82 their license numbers on permits and contracts.

83  
84 4. I understand that I may build or improve a one-family or  
85 two-family residence or a farm outbuilding. I may also build or  
86 improve a commercial building if costs do not exceed \$75,000.  
87 The building or residence must be for my own use or occupancy.

20-01098-09

20091422

88 It may not be built or substantially improved for sale or lease.  
89 If a building I have built or substantially improved myself is  
90 sold or leased within 1 year after the date on which  
91 construction is complete, the law will presume that I built or  
92 substantially improved it for sale or lease, which is a  
93 violation of this exemption.

94  
95 5. I understand that, as the owner-builder, I must provide  
96 direct, onsite supervision of the construction.

97  
98 6. I understand that I may not hire an unlicensed person to  
99 act as my contractor or to supervise people working on my  
100 building. It is my responsibility to make certain that people I  
101 employ have the licenses required by state law or by county or  
102 municipal licensing ordinances.

103  
104 7. I understand that a frequent practice of unlicensed  
105 persons is to have the property owner obtain an owner-builder  
106 permit that erroneously implies that the property owner is  
107 providing his or her own labor and materials. I, as an owner-  
108 builder, may be held liable and subject to serious financial  
109 risk for any injuries sustained by an unlicensed person and his  
110 or her employees while working on my property. My homeowner's  
111 insurance may not provide coverage for those injuries. I am  
112 willfully acting as an owner-builder and am aware of the limits  
113 of my insurance coverage for injuries to workers on my property.

114  
115 8. I understand that I may not delegate the responsibility  
116 for supervising work to a licensed contractor who is not

20-01098-09

20091422

117 licensed to perform the work being done. Any person working on  
118 my building who is not licensed must work under my direct  
119 supervision and must be employed by me, which means that I must  
120 deduct FICA contributions and withholding tax and provide  
121 workers' compensation for that employee, all as prescribed by  
122 law. I understand my failure to abide by these laws may subject  
123 me to serious financial risk.

124

125 9. I agree that, as the party legally and financially  
126 responsible for this proposed construction activity, I will  
127 abide by all applicable laws and requirements that govern owner-  
128 builders as well as employers. I also understand that the  
129 construction must comply with all applicable laws, ordinances,  
130 building codes, and zoning regulations.

131

132 10. I understand that I may obtain more information  
133 regarding my obligations as an employer from the Internal  
134 Revenue Service, the United States Small Business  
135 Administration, the Florida Department of Financial Services,  
136 and the Florida Department of Revenue. I also understand I may  
137 contact the Florida Construction Industry Licensing Board (CILB)  
138 at 850-487-1395 or [www.myflorida.com/dbpr/pro/cilb/index.html](http://www.myflorida.com/dbpr/pro/cilb/index.html)  
139 for more information about licensed contractors.

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141 11. I am aware of and consent to an owner-builder building  
142 permit applied for in my name, and understand that I am the  
143 party legally and financially responsible for proposed  
144 construction activity at the following address:

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20-01098-09

20091422\_\_

146 ...(Address of location of construction activity)...

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148 12. I agree to notify the issuer of this form immediately  
149 of any additions, deletions, or changes to any of the  
150 information I have provided on this form.

151  
152 Licensed contractors are regulated by laws designed to protect  
153 the public. If you contract with someone who does not have a  
154 license, the Construction Industry Licensing Board and  
155 Department of Business and Professional Regulation may be unable  
156 to assist you with any financial loss you may sustain as a  
157 result of a complaint. Your only remedy against unlicensed  
158 contractors may be in civil court. It is also important for you  
159 to understand that if an unlicensed contractor, or the  
160 unlicensed contractor's employee, is injured while working on  
161 your property, you may be held liable for damages. If you obtain  
162 an owner-builder permit and wish to hire licensed contractors,  
163 you will be responsible for verifying that the contractors are  
164 properly licensed and have the required workers' compensation  
165 insurance coverage.

166  
167 Before a building permit is issued, this form must be completed  
168 and signed by the property owner and returned to the local  
169 permitting agency responsible for issuing the permit. A copy of  
170 the property owner's driver's license, form notarization, or  
171 other verification acceptable to the local permitting agency is  
172 required to be presented when the permit is issued to verify the  
173 property owner's signature.

20-01098-09

20091422\_\_

175 ...(Signature of property owner)...

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177 ...(Name of property owner)...

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179 ...(Date)...

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~~Disclosure Statement~~

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~~State law requires construction to be done by licensed contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own contractor with certain restrictions even though you do not have a license. You must provide direct, onsite supervision of the construction yourself. You may build or improve a one-family or two-family residence or a farm outbuilding. You may also build or improve a commercial building, provided your costs do not exceed \$75,000. The building or residence must be for your own use or occupancy. It may not be built or substantially improved for sale or lease. If you sell or lease a building you have built or substantially improved yourself within 1 year after the construction is complete, the law will presume that you built or substantially improved it for sale or lease, which is a violation of this exemption. You may not hire an unlicensed person to act as your contractor or to supervise people working on your building. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances. You may not delegate the responsibility for supervising work to a licensed contractor who is not licensed to perform the work being done. Any person working on your building who is not licensed must work under your direct~~

20-01098-09

20091422\_\_

204 ~~supervision and must be employed by you, which means that you~~  
205 ~~must deduct F.I.C.A. and withholding tax and provide workers'~~  
206 ~~compensation for that employee, all as prescribed by law. Your~~  
207 ~~construction must comply with all applicable laws, ordinances,~~  
208 ~~building codes, and zoning regulations.~~

209 Section 2. This act shall take effect July 1, 2009.