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580-03334A-09

Proposed Committee Substitute by the Committee on Regulated  
Industries

A bill to be entitled

An act relating to construction contracting; amending  
s. 489.103, F.S.; requiring that owners of property  
acting as their own contractor and providing direct,  
onsite supervision of all work not performed by  
licensed contractors read and sign a disclosure  
statement before a permit is issued; requiring that  
the disclosure statement contain certain statements  
and provisions; amending ss. 489.128 and 489.532,  
F.S.; providing that certain individuals or business  
organizations may not be considered unlicensed for  
failure to have a required local jurisdiction license;  
providing for retroactive application; providing an  
effective date.

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

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

489.103 Exemptions.—This part does not apply to:

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

(a) When building or improving farm outbuildings or one-  
family or two-family residences on such property for the  
occupancy or use of such owners and not offered for sale or  
lease, or building or improving commercial buildings, at a cost



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28 not to exceed \$75,000, on such property for the occupancy or use  
29 of such owners and not offered for sale or lease. In an action  
30 brought under this part, proof of the sale or lease, or offering  
31 for sale or lease, of any such structure by the owner-builder  
32 within 1 year after completion of same creates a presumption  
33 that the construction was undertaken for purposes of sale or  
34 lease.

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

45  
46 This subsection does not exempt any person who is employed by or  
47 has a contract with such owner and who acts in the capacity of a  
48 contractor. The owner may not delegate the owner's  
49 responsibility to directly supervise all work to any other  
50 person unless that person is registered or certified under this  
51 part and the work being performed is within the scope of that  
52 person's license. For the purposes of this subsection, the term  
53 "owners of property" includes the owner of a mobile home  
54 situated on a leased lot. To qualify for exemption under this  
55 subsection, an owner must personally appear and sign the  
56 building permit application and must satisfy local permitting



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57 agency requirements, if any, proving that the owner has a  
58 complete understanding of the owner's obligations under the law  
59 as specified in the disclosure statement in this section. If any  
60 person violates the requirements of this subsection, the local  
61 permitting agency shall withhold final approval, revoke the  
62 permit, or pursue any action or remedy for unlicensed activity  
63 against the owner and any person performing work that requires  
64 licensure under the permit issued. The local permitting agency  
65 shall provide the person with a disclosure statement, which  
66 shall be read and signed by the property owner or owner-builder,  
67 in substantially the following form:

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

74  
75 2. I understand that building permits are not required to  
76 be signed by a property owner unless the owner is responsible  
77 for the construction and is not hiring a licensed contractor to  
78 assume this responsibility.

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



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86 license numbers on permits and contracts.

87

88 4. I understand that I may build or improve a one-family or  
89 two-family residence or a farm outbuilding. I may also build or  
90 improve a commercial building if costs do not exceed \$75,000.

91 The commercial building or residence that I improve must be for  
92 my own occupancy. I understand that I may not build or

93 substantially improve a building for sale or lease. If a

94 building I have built or substantially improved myself is sold  
95 or leased within 1 year after the date on which construction is

96 complete, the law will presume that I built or substantially

97 improved it for sale or lease, which is a violation of this

98 exemption. I may repair or replace wood shakes or asphalt or

99 fiberglass shingles on a one-family, two-family, or three-family

100 residence for myself or my tenant's occupancy or use only if the

101 property has been damaged by natural causes from an event

102 recognized as an emergency situation in an executive order

103 issued by the Governor declaring a state of emergency.

104

105 5. I understand that, as the owner-builder, I must provide

106 direct, onsite supervision of the construction.

107

108 6. I understand that I may not hire an unlicensed person to  
109 act as my contractor or to supervise people working on my

110 building. It is my responsibility to make certain that people I

111 employ have the licenses required by state law or by county or

112 municipal licensing ordinances.

113

114 7. I understand that a frequent practice of unlicensed



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115 persons is to have the property owner obtain an owner-builder  
116 permit that erroneously implies that the property owner is  
117 providing his or her own labor and materials. I, as an owner-  
118 builder, may be held liable and subject to serious financial  
119 risk for any injuries sustained by an unlicensed person and his  
120 or her employees while working on my property. My homeowner's or  
121 business insurance may not provide coverage for those injuries.  
122 I am willfully acting as an owner-builder and am aware of the  
123 limits of my insurance coverage for injuries to workers on my  
124 property.

125  
126 8. I understand that I may not delegate the responsibility  
127 for supervising work to a licensed contractor who is not  
128 licensed to perform the work being done. Any person working on  
129 my residence or building who is not licensed must work under my  
130 direct supervision and must be employed by me, which means that  
131 I must deduct FICA contributions and withholding tax and provide  
132 workers' compensation for that employee, all as prescribed by  
133 law. I understand my failure to abide by these laws may subject  
134 me to serious financial risk.

135  
136 9. I agree that, as the party legally and financially  
137 responsible for this proposed construction activity, I will  
138 abide by all applicable laws and requirements that govern owner-  
139 builders as well as employers. I also understand that the  
140 construction must comply with all applicable laws, ordinances,  
141 building codes, and zoning regulations.

142  
143 10. I understand that I may obtain more information



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144 regarding my obligations as an employer from the Internal  
145 Revenue Service, the United States Small Business  
146 Administration, the Florida Department of Financial Services,  
147 and the Florida Department of Revenue. I also understand I may  
148 contact the Florida Construction Industry Licensing Board (CILB)  
149 at 850-487-1395 or [www.myflorida.com/dbpr/pro/cilb/index.html](http://www.myflorida.com/dbpr/pro/cilb/index.html)  
150 for more information about licensed contractors.

151  
152 11. I am aware of and consent to an owner-builder building  
153 permit applied for in my name, and understand that I am the  
154 party legally and financially responsible for proposed  
155 construction activity at the following address:

156  
157 ...(Address of location of construction activity)...  
158

159 12. I agree to notify the issuer of this form immediately  
160 of any additions, deletions, or changes to any of the  
161 information I have provided on this form.  
162

163 Licensed contractors are regulated by laws designed to  
164 protect the public. If you contract with someone who does not  
165 have a license, the Construction Industry Licensing Board and  
166 Department of Business and Professional Regulation may be unable  
167 to assist you with any financial loss you may sustain as a  
168 result of a complaint. Your only remedy against unlicensed  
169 contractors may be in civil court. It is also important for you  
170 to understand that if an unlicensed contractor, or the  
171 unlicensed contractor's employee, is injured while working on  
172 your property, you may be held liable for damages. If you obtain



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173 an owner-builder permit and wish to hire licensed contractors,  
174 you will be responsible for verifying that the contractors are  
175 properly licensed and have the required workers' compensation  
176 insurance coverage.

177  
178 Before a building permit is issued, this form must be  
179 completed and signed by the property owner and returned to the  
180 local permitting agency responsible for issuing the permit. A  
181 copy of the property owner's driver's license, form  
182 notarization, or other verification acceptable to the local  
183 permitting agency is required to be presented when the permit is  
184 issued to verify the property owner's signature.

185  
186 ...(Signature of property owner)...

187  
188 ...(Name of property owner)...

189  
190 ...(Date)...

191 ~~Disclosure Statement~~

192  
193 ~~State law requires construction to be done by licensed~~  
194 ~~contractors. You have applied for a permit under an exemption to~~  
195 ~~that law. The exemption allows you, as the owner of your~~  
196 ~~property, to act as your own contractor with certain~~  
197 ~~restrictions even though you do not have a license. You must~~  
198 ~~provide direct, onsite supervision of the construction yourself.~~  
199 ~~You may build or improve a one-family or two-family residence or~~  
200 ~~a farm outbuilding. You may also build or improve a commercial~~  
201 ~~building, provided your costs do not exceed \$75,000. The~~



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202 ~~building or residence must be for your own use or occupancy. It~~  
203 ~~may not be built or substantially improved for sale or lease. If~~  
204 ~~you sell or lease a building you have built or substantially~~  
205 ~~improved yourself within 1 year after the construction is~~  
206 ~~complete, the law will presume that you built or substantially~~  
207 ~~improved it for sale or lease, which is a violation of this~~  
208 ~~exemption. You may not hire an unlicensed person to act as your~~  
209 ~~contractor or to supervise people working on your building. It~~  
210 ~~is your responsibility to make sure that people employed by you~~  
211 ~~have licenses required by state law and by county or municipal~~  
212 ~~licensing ordinances. You may not delegate the responsibility~~  
213 ~~for supervising work to a licensed contractor who is not~~  
214 ~~licensed to perform the work being done. Any person working on~~  
215 ~~your building who is not licensed must work under your direct~~  
216 ~~supervision and must be employed by you, which means that you~~  
217 ~~must deduct F.I.C.A. and withholding tax and provide workers'~~  
218 ~~compensation for that employee, all as prescribed by law. Your~~  
219 ~~construction must comply with all applicable laws, ordinances,~~  
220 ~~building codes, and zoning regulations.~~

221 Section 2. Paragraph (a) of subsection (1) of section  
222 489.128, Florida Statutes, is amended to read:

223 489.128 Contracts entered into by unlicensed contractors  
224 unenforceable.—

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

228 (a) For purposes of this section, an individual is  
229 unlicensed if the individual does not have a license required by  
230 this part concerning the scope of the work to be performed under





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231 the contract. A business organization is unlicensed if the  
232 business organization does not have a primary or secondary  
233 qualifying agent in accordance with this part concerning the  
234 scope of the work to be performed under the contract. For  
235 purposes of this section, if no state ~~or local~~ license is  
236 required for the scope of work to be performed under the  
237 contract, the individual performing that work shall not be  
238 considered unlicensed.

239 Section 3. Paragraph (a) of subsection (1) of section  
240 489.532, Florida Statutes, is amended to read:

241 489.532 Contracts entered into by unlicensed contractors  
242 unenforceable.—

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

246 (a) For purposes of this section, an individual is  
247 unlicensed if the individual does not have a license required by  
248 this part concerning the scope of the work to be performed under  
249 the contract. A business organization is unlicensed if the  
250 business organization does not have a primary or secondary  
251 qualifying agent in accordance with this part concerning the  
252 scope of the work to be performed under the contract. For  
253 purposes of this section, if no state ~~or local~~ license is  
254 required for the scope of work to be performed under the  
255 contract, the individual performing that work shall not be  
256 considered unlicensed.

257 Section 4. The amendments made by this act to ss. 489.128  
258 and 489.532, Florida Statutes, apply retroactively to contracts  
259 entered into on or after October 1, 2000, and apply to all



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260 actions that are pending on or are filed on or after the  
261 effective date of this act.

262 Section 5. This act shall take effect upon becoming a law.