

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Dorworth offered the following:

2
3 **Substitute Amendment to Amendment (815099) (with title**
4 **amendment)**

5 Between lines 1188 and 1189, insert:

6 Section 39. Subsection (7) of section 489.103, Florida
7 Statutes, is amended to read:

8 489.103 Exemptions.—This part does not apply to:

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

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

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

33
34 This subsection does not exempt any person who is employed by or
35 has a contract with such owner and who acts in the capacity of a
36 contractor. The owner may not delegate the owner's
37 responsibility to directly supervise all work to any other
38 person unless that person is registered or certified under this
39 part and the work being performed is within the scope of that
40 person's license. For the purposes of this subsection, the term
41 "owners of property" includes the owner of a mobile home
42 situated on a leased lot. To qualify for exemption under this
43 subsection, an owner must personally appear and sign the
44 building permit application and must satisfy local permitting
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45 agency requirements, if any, proving that the owner has a
46 complete understanding of the owner's obligations under the law
47 as specified in the disclosure statement in this section. If any
48 person violates the requirements of this subsection, the local
49 permitting agency shall withhold final approval, revoke the
50 permit, or pursue any action or remedy for unlicensed activity
51 against the owner and any person performing work that requires
52 licensure under the permit issued. The local permitting agency
53 shall provide the person with a disclosure statement in
54 substantially the following form:

55 DISCLOSURE STATEMENT

56 1. I understand that state law requires construction to be done
57 by a licensed contractor and have applied for an owner-builder
58 permit under an exemption from the law. The exemption specifies
59 that I, as the owner of the property listed, may act as my own
60 contractor with certain restrictions even though I do not have a
61 license.

62 2. I understand that building permits are not required to be
63 signed by a property owner unless he or she is responsible for
64 the construction and is not hiring a licensed contractor to
65 assume responsibility.

66 3. I understand that, as an owner-builder, I am the responsible
67 party of record on a permit. I understand that I may protect
68 myself from potential financial risk by hiring a licensed
69 contractor and having the permit filed in his or her name
70 instead of my own name. I also understand that a contractor is
71 required by law to be licensed in Florida and to list his or her
72 license numbers on permits and contracts.

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73 4. I understand that I may build or improve a one-family or
74 two-family residence or a farm outbuilding. I may also build or
75 improve a commercial building if the costs do not exceed
76 \$75,000. The building or residence must be for my own use or
77 occupancy or for lease. It may not be built or substantially
78 improved for sale ~~or lease~~. If a building or residence that I
79 have built or substantially improved myself is sold ~~or leased~~
80 within 1 year after the construction is complete, the law will
81 presume that I built or substantially improved it for sale ~~or~~
82 ~~lease~~, which violates the exemption.

83 5. I understand that, as the owner-builder, I must provide
84 direct, onsite supervision of the construction.

85 6. I understand that I may not hire an unlicensed person to act
86 as my contractor or to supervise persons working on my building
87 or residence. It is my responsibility to ensure that the persons
88 whom I employ have the licenses required by law and by county or
89 municipal ordinance.

90 7. I understand that it is a frequent practice of unlicensed
91 persons to have the property owner obtain an owner-builder
92 permit that erroneously implies that the property owner is
93 providing his or her own labor and materials. I, as an owner-
94 builder, may be held liable and subjected to serious financial
95 risk for any injuries sustained by an unlicensed person or his
96 or her employees while working on my property. My homeowner's
97 insurance may not provide coverage for those injuries. I am
98 willfully acting as an owner-builder and am aware of the limits
99 of my insurance coverage for injuries to workers on my property.

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100 8. I understand that I may not delegate the responsibility for
101 supervising work to a licensed contractor who is not licensed to
102 perform the work being done. Any person working on my building
103 who is not licensed must work under my direct supervision and
104 must be employed by me, which means that I must comply with laws
105 requiring the withholding of federal income tax and social
106 security contributions under the Federal Insurance Contributions
107 Act (FICA) and must provide workers' compensation for the
108 employee. I understand that my failure to follow these laws may
109 subject me to serious financial risk.

110 9. I agree that, as the party legally and financially
111 responsible for this proposed construction activity, I will
112 abide by all applicable laws and requirements that govern owner-
113 builders as well as employers. I also understand that the
114 construction must comply with all applicable laws, ordinances,
115 building codes, and zoning regulations.

116 10. I understand that I may obtain more information regarding
117 my obligations as an employer from the Internal Revenue Service,
118 the United States Small Business Administration, the Florida
119 Department of Financial Services, and the Florida Department of
120 Revenue. I also understand that I may contact the Florida
121 Construction Industry Licensing Board at ...(telephone
122 number)... or ...(Internet website address)... for more
123 information about licensed contractors.

124 11. I am aware of, and consent to, an owner-builder building
125 permit applied for in my name and understand that I am the party
126 legally and financially responsible for the proposed

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127 construction activity at the following address: ...(address of
128 property)....

129 12. I agree to notify ...(issuer of disclosure statements)...
130 immediately of any additions, deletions, or changes to any of
131 the information that I have provided on this disclosure.

132 Licensed contractors are regulated by laws designed to protect
133 the public. If you contract with a person who does not have a
134 license, the Construction Industry Licensing Board and
135 Department of Business and Professional Regulation may be unable
136 to assist you with any financial loss that you sustain as a
137 result of a complaint. Your only remedy against an unlicensed
138 contractor may be in civil court. It is also important for you
139 to understand that, if an unlicensed contractor or employee of
140 an individual or firm is injured while working on your property,
141 you may be held liable for damages. If you obtain an owner-
142 builder permit and wish to hire a licensed contractor, you will
143 be responsible for verifying whether the contractor is properly
144 licensed and the status of the contractor's workers'
145 compensation coverage.

146 Before a building permit can be issued, this disclosure
147 statement must be completed and signed by the property owner and
148 returned to the local permitting agency responsible for issuing
149 the permit. A copy of the property owner's driver license, the
150 notarized signature of the property owner, or other type of
151 verification acceptable to the local permitting agency is
152 required when the permit is issued.

153 Signature: ...(signature of property owner)....

154 Date: ...(date)....

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T I T L E A M E N D M E N T

Remove line 128 and insert:

conforming a cross-reference; amending s. 489.103, F.S.;
exempting property owners from provisions regulating
construction contracting when building or improving farm
outbuildings or certain residences or commercial buildings on
such property for lease under certain circumstances; amending s.
509.211, F.S.;