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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2012	.	
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	.	

The Committee on Regulated Industries (Rich) recommended the following:

Senate Amendment (with title amendment)

Between lines 25 and 26
insert:

Section 2. Subsection (7) of section 489.103, Florida Statutes, is amended to read:

489.103 Exemptions.—This part does not apply to:

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

1. ~~(a)~~ When building or improving farm outbuildings or one-family or two-family residences on such property for the



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

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

32 3. When installing, uninstalling, or replacing solar panels
33 on one-family, two-family, or three-family residences for the
34 occupancy or use of such owner or tenant of the owner.

35 (b) This subsection does not exempt any person who is
36 employed by or has a contract with such owner and who acts in
37 the capacity of a contractor. The owner may not delegate the
38 owner's responsibility to directly supervise all work to any
39 other person unless that person is registered or certified under
40 this part and the work being performed is within the scope of
41 that person's license. For the purposes of this subsection, the



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42 term "owners of property" includes the owner of a mobile home
43 situated on a leased lot.

44 (c) To qualify for exemption under this subsection, an
45 owner must personally appear and sign the building permit
46 application and must satisfy local permitting agency
47 requirements, if any, proving that the owner has a complete
48 understanding of the owner's obligations under the law as
49 specified in the disclosure statement in this section. An
50 owner's notarized signature or personal appearance to sign the
51 permit application is not required for a solar project, as
52 described in subparagraph (a)3., if the building permit
53 application is submitted electronically to the permitting
54 authority and the owner certifies the application and disclosure
55 statement using the permitting authority's electronic
56 confirmation system. If any person violates the requirements of
57 this subsection, the local permitting agency shall withhold
58 final approval, revoke the permit, or pursue any action or
59 remedy for unlicensed activity against the owner and any person
60 performing work that requires licensure under the permit issued.
61 The local permitting agency shall provide the person with a
62 disclosure statement in substantially the following form:

63
64 DISCLOSURE STATEMENT

65
66 1. I understand that state law requires construction
67 to be done by a licensed contractor and have applied
68 for an owner-builder permit under an exemption from
69 the law. The exemption specifies that I, as the owner
70 of the property listed, may act as my own contractor



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71 with certain restrictions even though I do not have a
72 license.

73
74 2. I understand that building permits are not required
75 to be signed by a property owner unless he or she is
76 responsible for the construction and is not hiring a
77 licensed contractor to assume responsibility.

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

87
88 4. I understand that I may build or improve a one-
89 family or two-family residence or a farm outbuilding.
90 I may also build or improve a commercial building if
91 the costs do not exceed \$75,000. The building or
92 residence must be for my own use or occupancy. It may
93 not be built or substantially improved for sale or
94 lease. If a building or residence that I have built or
95 substantially improved myself is sold or leased within
96 1 year after the construction is complete, the law
97 will presume that I built or substantially improved it
98 for sale or lease, which violates the exemption.
99



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100 5. I understand that, as the owner-builder, I must
101 provide direct, onsite supervision of the
102 construction.

103
104 6. I understand that I may not hire an unlicensed
105 person to act as my contractor or to supervise persons
106 working on my building or residence. It is my
107 responsibility to ensure that the persons whom I
108 employ have the licenses required by law and by county
109 or municipal ordinance.

110
111 7. I understand that it is a frequent practice of
112 unlicensed persons to have the property owner obtain
113 an owner-builder permit that erroneously implies that
114 the property owner is providing his or her own labor
115 and materials. I, as an owner-builder, may be held
116 liable and subjected to serious financial risk for any
117 injuries sustained by an unlicensed person or his or
118 her employees while working on my property. My
119 homeowner's insurance may not provide coverage for
120 those injuries. I am willfully acting as an owner-
121 builder and am aware of the limits of my insurance
122 coverage for injuries to workers on my property.

123
124 8. I understand that I may not delegate the
125 responsibility for supervising work to a licensed
126 contractor who is not licensed to perform the work
127 being done. Any person working on my building who is
128 not licensed must work under my direct supervision and



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129 must be employed by me, which means that I must comply
130 with laws requiring the withholding of federal income
131 tax and social security contributions under the
132 Federal Insurance Contributions Act (FICA) and must
133 provide workers' compensation for the employee. I
134 understand that my failure to follow these laws may
135 subject me to serious financial risk.
136

137 9. I agree that, as the party legally and financially
138 responsible for this proposed construction activity, I
139 will abide by all applicable laws and requirements
140 that govern owner-builders as well as employers. I
141 also understand that the construction must comply with
142 all applicable laws, ordinances, building codes, and
143 zoning regulations.
144

145 10. I understand that I may obtain more information
146 regarding my obligations as an employer from the
147 Internal Revenue Service, the United States Small
148 Business Administration, the Florida Department of
149 Financial Services, and the Florida Department of
150 Revenue. I also understand that I may contact the
151 Florida Construction Industry Licensing Board at
152 ... (telephone number) ... or ... (Internet website
153 address) ... for more information about licensed
154 contractors.
155

156 11. I am aware of, and consent to, an owner-builder
157 building permit applied for in my name and understand



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158 that I am the party legally and financially
159 responsible for the proposed construction activity at
160 the following address: ...(address of property)....
161

162 12. I agree to notify ...(issuer of disclosure
163 statements)... immediately of any additions,
164 deletions, or changes to any of the information that I
165 have provided on this disclosure.
166

167 Licensed contractors are regulated by laws designed to
168 protect the public. If you contract with a person who
169 does not have a license, the Construction Industry
170 Licensing Board and Department of Business and
171 Professional Regulation may be unable to assist you
172 with any financial loss that you sustain as a result
173 of a complaint. Your only remedy against an unlicensed
174 contractor may be in civil court. It is also important
175 for you to understand that, if an unlicensed
176 contractor or employee of an individual or firm is
177 injured while working on your property, you may be
178 held liable for damages. If you obtain an owner-
179 builder permit and wish to hire a licensed contractor,
180 you will be responsible for verifying whether the
181 contractor is properly licensed and the status of the
182 contractor's workers' compensation coverage.
183

184 Before a building permit can be issued, this
185 disclosure statement must be completed and signed by
186 the property owner and returned to the local



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187 permitting agency responsible for issuing the permit.
188 A copy of the property owner's driver license, the
189 notarized signature of the property owner, or other
190 type of verification acceptable to the local
191 permitting agency is required when the permit is
192 issued.

193
194 Signature: ...(signature of property owner)....

195 Date: ...(date)....
196

197 (d) A building permit application and disclosure statement
198 electronically submitted by an owner to the authority for a
199 solar project, as described in subparagraph (a)3., must also
200 contain the following additional statement:

201
202 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty
203 of perjury, I declare that all the information
204 contained in this building permit application and the
205 representations made in the required disclosure
206 statement are true and correct.

207
208 (e) A permitting authority that accepts a building permit
209 application and disclosure statement in an electronic format
210 from an owner who is exempt pursuant to this subsection and who
211 applies for a permit relating to a solar project, as described
212 in subparagraph (a)3., is not liable in any civil action for
213 inaccurate information submitted by the owner using the
214 authority's electronic confirmation system.

215 Section 3. Paragraph (b) of subsection (6) of section



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216 713.135, Florida Statutes, is amended, and paragraph (d) is
217 added to that subsection, to read:

218 713.135 Notice of commencement and applicability of lien.—

219 (6)

220 (b)1. Consistent with the requirements of paragraph (a), an
221 authority responsible for issuing building permits under this
222 section may accept a building permit application in an
223 electronic format, as prescribed by the authority. Building
224 permit applications submitted to the authority electronically
225 must contain the following additional statement in lieu of the
226 requirement in paragraph (a) that a signed, sworn, and notarized
227 signature of the owner or agent and the contractor be part of
228 the owner's affidavit:

229
230 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty
231 of perjury, I declare that all the information
232 contained in this building permit application is true
233 and correct.

234
235 2. An owner or contractor is not required to personally
236 appear and provide a notarized signature when filing a building
237 permit application for a solar project if the building permit
238 application is electronically submitted to the permitting
239 authority and the owner or contractor certifies that the
240 application is consistent with this paragraph using the
241 permitting authority's electronic confirmation system. For
242 purposes of this subparagraph, the term "solar project" means
243 installing, uninstalling, or replacing solar panels on single-
244 family residential property, multi-family residential property,



245 or commercial property.

246 (d) An authority responsible for issuing building permits
247 which accepts building permit applications in an electronic
248 format for solar projects, as defined in subparagraph (b)2., is
249 not liable in any civil action for any inaccurate information
250 submitted by an owner or contractor using the authority's
251 electronic confirmation system.

252
253 ===== T I T L E A M E N D M E N T =====

254 And the title is amended as follows:

255 Between lines 7 and 8

256 insert:

257 amending s. 489.103, F.S.; providing an exemption from
258 construction contracting requirements for an owner who
259 installs, removes, or replaces solar panels on certain
260 residences while acting as the contractor; providing
261 for an electronic signature on the permit application;
262 requiring the building permit application and
263 disclosure statement to include a declaration
264 statement by the owner; providing that the issuing
265 authority is not liable in any civil action for
266 inaccurate information submitted by the owner using
267 the authority's electronic permitting system; amending
268 s. 713.135, F.S.; providing that an owner or
269 contractor is not required to personally appear and
270 provide a notarized signature when filing a building
271 permit application for a solar project if certain
272 conditions are met; providing that the issuing
273 authority is not liable in any civil action for



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inaccurate information submitted by the owner using
the authority's electronic permitting system;