

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1579 Occupational Licensing

SPONSOR(S): State Administration & Technology Appropriations Subcommittee, Mooney

TIED BILLS: **IDEN./SIM. BILLS:** SB 1142

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	14 Y, 0 N	Wright	Anstead
2) State Administration & Technology Appropriations Subcommittee	12 Y, 0 N, As CS	Helpling	Topp
3) Commerce Committee	14 Y, 0 N	Wright	Hamon

SUMMARY ANALYSIS

Part I of Chapter 489, F.S., addresses the licensure and regulation of construction contractors. Construction contractors are either certified for statewide practice or registered as a locally licensed contractor by the Construction Industry Licensing Board (CILB), housed within the Department of Business and Professional Regulation (DBPR). The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.

In 2021, HB 735 was enacted, relating to preempting occupational licensing to the state, and specifically preempted local licensing that is outside the scope of state contractor licensing provisions. Specifically, it provided that a county or municipality may not require a license for a person whose job scope does not substantially correspond to a statutory or specialty contractor category licensed by the CILB.

In 2023, HB 1383 was enacted, as a follow-up to HB 735 in 2021. The law extended the expiration date for local licensing and established new specialty license categories. Recently, some local governments have stopped performing certain local licensing functions related to specialty contractors.

The bill requires the CILB to issue a registration to an eligible applicant to engage in the business of contracting in a specified local jurisdiction, provided each of the following conditions are satisfied:

- The applicant held, in any local jurisdiction in Florida during 2021, 2022, or 2023, a certificate of registration issued by the state or a local license issued by a local jurisdiction to perform work in a statutory category of contractor licensed by the CILB.
- The applicant submits all of the following to the CILB:
 - Evidence of the certificate of registration or local license held by the applicant.
 - Evidence that the specified local jurisdiction does not require a license for the category of work for which the applicant was issued a certification of registration or local license.
 - Evidence that the applicant has submitted the required fee.
 - Evidence of compliance with certain insurance and financial responsibility requirements.

The bill provides that an examination is not required for an applicant seeking such a registration.

The bill provides that the CILB is responsible for disciplining licensees issued such a registration. The CILB must make such licensure and disciplinary information available through the automated information system.

The bill does not appear to have a fiscal impact on local governments, and may have an indeterminate positive fiscal impact on state government. See Fiscal Analysis & Economic Impact Statement.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida Building Code

In response to the destruction of Hurricane Andrew, in 1998, the Legislature approved a single state building code and enhanced the oversight role of the state over local code enforcement. In 2000, the Legislature authorized the implementation of the Building Code (Code), and that first edition replaced all local codes on March 1, 2002, making it the first statewide building code in the United States.¹

The "Florida Building Codes Act" was created to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state Code. The Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.²

The Florida Building Commission (Building Commission) was statutorily created to implement the Code. The Building Commission, which is housed within DBPR, is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Code. The Building Commission reviews several International Codes published by the International Code Council, the National Electric Code, and other nationally adopted model codes (model codes) to determine if the Code needs to be updated and adopts an updated Code every three years.³

Local Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.⁴ Every local government must enforce the Building Code and issue building permits.⁵ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.⁶

Construction Licenses

Chapter 489, F.S., relates to "contracting," with part I addressing the licensure and regulation of construction contracting, and part II addressing the licensure and regulation of electrical and alarm system contracting.

Construction contractors are either certified or registered by the Construction Industry Licensing Board (CILB) housed within DBPR. The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate. The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.⁷

"Certified contractors" are individuals who pass the state competency examination and obtain a certificate of competency issued by DBPR. Certified contractors are able to obtain a certificate of

¹ *Id.*

² See s. 553.72(1), F.S.

³ Ss. 553.73 and 553.74, F.S.

⁴ S. 553.72, F.S.

⁵ Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

⁶ Ss. 125.56(4)(a) and 553.79(1), F.S.

⁷ S. 489.107, F.S.

competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state.⁸

“Certified specialty contractors” are contractors whose scope of work is limited to a particular phase of construction, such as drywall or demolition. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.

“Registered contractors” are individuals that have taken and passed a local competency examination and can practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued.⁹

The CILB licenses the following types of contractors:¹⁰

Statutory Licenses	Specialty Licenses
<ul style="list-style-type: none"> • Air Conditioning- Classes A, B, and C • Building • General • Internal Pollutant Storage Tank Lining Applicator • Mechanical • Plumbing • Pollutant Storage Systems • Pool/Spa- Classes A, B, and C • Precision Tank Tester • Residential • Roofing • Sheet Metal • Solar • Underground Excavation 	<ul style="list-style-type: none"> • Drywall • Demolition • Gas Line • Glass and Glazing • Industrial Facilities • Irrigation • Marine • Residential Pool/Spa Servicing • Solar Water Heating • Structure • Swimming Pool Decking • Swimming Pool Excavation • Swimming Pool Finishes • Swimming Pool Layout • Swimming Pool Piping • Swimming Pool Structural • Swimming Pool Trim • Tower

HB 735 (2021 Regular Session)

In 2021, HB 735¹¹ was enacted, relating to preempting occupational licensing to the state. The law defines the following terms:

- “Local government” means a county, municipality, special district, or political subdivision of the state.
- “Occupation” means a paid job, profession, work, line of work, trade, employment, position, post, career, field, vocation, or craft.
- “Licensing” means any training, education, test, certification, registration, or license that is required for a person to perform an occupation along with any associated fee.

The law expressly preempts occupational licensing to the state. This preemption supersedes any local government licensing requirement of occupations unless:

- The licensing of occupations by local governments is authorized by general law; or
- The local licensing scheme for an occupation was imposed before July 1, 2021. However, any such local licensing scheme expires on July 1, 2023.

⁸ S. 489.105, F.S.

⁹ S. 489.103, F.S.

¹⁰ S. 489.105(a)-(q), F.S.; R. 61G4-15.015-.040, F.A.C.

¹¹ Ch. 2021-214, L.O.F.

The law provides that any local licensing of an occupation not authorized under the provisions of the bill or otherwise authorized by general law does not apply and may not be enforced.

Also, HB 735 specifically preempted local licensing that is outside the scope of state contractor licensing provisions. Specifically, it provided that a county or municipality may not require a license for a person whose job scope does not substantially correspond to a contractor category licensed by the CILB after July 1, 2023.

The law precluded counties and municipalities from requiring a license for certain job scopes, including, but not limited to, painting, flooring, cabinetry, interior remodeling, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

HB 1383 (2023 Regular Session)

In 2023, HB 1383¹² was enacted, relating to local construction licensing, as a follow-up to HB 735 in 2021.

The law extended the expiration date for local licensing without general law authority to July 1, 2024, from July 1, 2023.

The law requires the CILB, by July 1, 2024, to, by rule, establish certified specialty contractor categories for voluntary licensure for all of the following:

- Structural aluminum or screen enclosures.
- Marine seawall work.
- Marine bulkhead work.
- Marine dock work.
- Marine pile driving.
- Structural masonry.
- Structural prestressed, precast concrete work.
- Rooftop solar heating installation.
- Structural steel.
- Window and door installation, including garage door installation and hurricane or windstorm protection.
- Plaster and lath.
- Structural carpentry.

The law also prohibits local governments from requiring a license to obtain a permit for a job scope outside of the practice of contracting, including, but not limited to, painting, flooring, cabinetry, interior remodeling when the scope of the project does not include a task for which a state license is required, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, pressure washing, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

The law allows a local government to continue to offer a license for veneer work, including aluminum or vinyl gutters, siding, soffit, or fascia; rooftop painting, coating, and cleaning above three stories; and fence installation and erection, if the local government imposed such a licensing requirement before January 1, 2021.

Since the passage of HB 1383 in 2023, some local governments have stopped performing certain local licensing functions for contractors.¹³

¹² Ch. 2023-271, L.O.F.

¹³ For example, Lee County is no longer issuing new licenses. Lee County, Contractor Licensing, <https://www.leegov.com/dcd/ContLic> (last visited Jan. 27, 2024).

Automated Information System

Section 455.2286, F.S., requires DBPR to implement an automated information system for all building code enforcement, professional engineer, architects, interior designers, landscape architects, and **contractor licensees**. The system must provide instant notification to local building departments and other interested parties regarding the status of the license. The provision of such information must consist, at a minimum, of an indication of:

- Whether the license is active,
- Any current failure to meet the terms of any final action by a licensing authority,
- Any ongoing disciplinary cases that are subject to public disclosure,
- Whether there are any outstanding fines, and
- The reporting of any material violations of the Building Code.¹⁴

The system must also retain information developed by DBPR and local governments on individuals found to be practicing or contracting without holding the applicable license, certification, or registration required by law.¹⁵

Effect of the Bill

The bill requires the CILB to issue a registration to an eligible applicant to engage in the “business of a contractor” in a specified local jurisdiction, provided each of the following conditions are satisfied:

- The applicant held, in any local jurisdiction in Florida during 2021, 2022, or 2023, a certificate of registration issued by the state or a local license issued by a local jurisdiction to perform work in a statutory category of contractor licensed by the CILB.
- The applicant submits all of the following to the CILB:
 - Evidence of the certificate of registration or local license held by the applicant.
 - Evidence that the specified local jurisdiction does not require a license for the category of work for which the applicant was issued a certification of registration or local license during 2021, 2022, or 2023, such as a notification on the website of the local jurisdiction or an email or letter from the office of the local building official or local building department stating that such licensing is not required or available in that local jurisdiction.
 - Evidence that the applicant has submitted the required fee.
 - Evidence of compliance with certain insurance and financial responsibility requirements.

The provides that an examination is not required for an applicant seeking such a registration.

The bill provides that the CILB is responsible for disciplining licensees issued such a registration. The CILB must make such licensure and disciplinary information available through the automated information system.

The bill provides that the fees for an applicant seeking such a registration and renewal of such registration every 2 years are the same as the fees established by the CILB for applications, registration and renewal, and record making and recordkeeping. The bill specifies that DBPR must provide license, renewal, and cancelation notices pursuant to ss. 455.273 and 455.275, F.S.¹⁶

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 489.117, F.S.; requiring issuance of a local license under certain circumstances.

Section 2: Provides an effective date.

¹⁴ S. 455.2286, F.S.

¹⁵ *Id.*

¹⁶ Ss. 455.273 and 455.275, F.S., require certain license notices and documents to be sent to a licensee’s address of record or email address of record.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate positive fiscal impact on revenues, as an unknown number of applicants will seek a registration from DBPR based on a local license.

2. Expenditures:

DBPR can absorb any additional complaint and investigative responsibilities without requiring additional resources.¹⁷

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may assist those contractors who chose local licensure rather than statewide licensure to remain in the workforce if the local jurisdiction stops issuing local licenses.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DBPR will need to adopt rules related to new registration applications.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 6, 2024, the State Administration & Technology Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Makes a technical change regarding evidence that must be submitted by an applicant.
- Authorizes DBPR to provide license, renewal and cancellation notices pursuant to statute, including email, in lieu of only mail.

This analysis is drafted to the committee substitute as passed by the State Administration & Technology Appropriations Subcommittee.