

1 A bill to be entitled
 2 An act relating to swimming pool and spa contractors;
 3 amending s. 489.105, F.S.; revising definitions;
 4 amending s. 489.143, F.S.; specifying a maximum
 5 recovery amount for certain claims relating to certain
 6 contracts; specifying a total aggregate cap for
 7 certain licensees relating to certain contracts;
 8 providing an effective date.

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

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12 Section 1. Paragraphs (j), (k), and (l) of subsection (3)
 13 of section 489.105, Florida Statutes, are amended to read:

14 489.105 Definitions.—As used in this part:

15 (3) "Contractor" means the person who is qualified for,
 16 and is only responsible for, the project contracted for and
 17 means, except as exempted in this part, the person who, for
 18 compensation, undertakes to, submits a bid to, or does himself
 19 or herself or by others construct, repair, alter, remodel, add
 20 to, demolish, subtract from, or improve any building or
 21 structure, including related improvements to real estate, for
 22 others or for resale to others; and whose job scope is
 23 substantially similar to the job scope described in one of the
 24 paragraphs of this subsection. For the purposes of regulation
 25 under this part, the term "demolish" applies only to demolition

26 | of steel tanks more than 50 feet in height; towers more than 50
 27 | feet in height; other structures more than 50 feet in height;
 28 | and all buildings or residences. Contractors are subdivided into
 29 | two divisions, Division I, consisting of those contractors
 30 | defined in paragraphs (a)-(c), and Division II, consisting of
 31 | those contractors defined in paragraphs (d)-(g):

32 | (j) "Commercial pool/spa contractor" means a contractor
 33 | whose scope of work involves, but is not limited to, all phases
 34 | of the construction, repair, renovation, remodel,
 35 | deconstruction, and servicing of any swimming pool, ~~or~~ hot tub,
 36 | ~~or~~ spa, splash pad or other interactive water feature,
 37 | decorative water feature, public bathing place, or swimming pool
 38 | or spa appurtenance, whether public, private, or otherwise,
 39 | regardless of use.

40 | 1. The scope of such work includes, but is not limited to,
 41 | all of the following:

42 | a. The scope of work of a swimming pool/spa servicing
 43 | contractor.

44 | b. The connection, replacement, disconnection, or
 45 | reconnection of power wiring on the load side of the dedicated
 46 | existing electrical circuit disconnect means for swimming pool,
 47 | spa, hot tub, or water feature equipment.

48 | c. The installation of equipotential bonding; swimming
 49 | pool, spa, or hot tub lighting; light transformers; light
 50 | conduit; and any cleaning or sanitizing equipment that requires

51 at least partial disassembling.

52 d. The construction of equipment rooms or housing for
53 swimming pool, spa, hot tub, or water feature equipment.

54 e. Excavation and earthmoving required for the
55 installation of swimming pools, spas, hot tubs, or water
56 features and the operation of construction pumps for dewatering
57 purposes for swimming pool, spa, hot tub, or water feature
58 excavation sites and drained swimming pools, spas, hot tubs, or
59 water features.

60 f. The installation of rebar or similar support materials
61 for swimming pool, spa, hot tub, or water feature structures,
62 and the shaping and shooting of gunite dry mix and wet mix,
63 concrete, or similar product mix used in the construction of
64 swimming pools, spas, hot tubs, or water features.

65 g. The installation of fiberglass swimming pool, spa, or
66 hot tub shells and vinyl swimming pool, spa, or hot tub liners.

67 h. The application and removal of all interior swimming
68 pool, spa, hot tub, or water feature finishes.

69 i. The construction, maintenance, or remodel of decorative
70 or interactive water features, displays, or areas that use
71 recirculated water, including fountains, waterfalls, and spray
72 nozzles.

73 j. The installation of all swimming pool, spa, hot tub, or
74 water feature piping including, but not limited to, drain
75 piping, perimeter piping, and circulation or filter piping used

76 in the construction of swimming pools, spas, hot tubs, or
 77 decorative or interactive water feature displays or areas.

78 k. The construction and installation of retaining walls,
 79 concrete flatwork, pavers and bricks, and footings associated
 80 with the construction of swimming pools, spas, hot tubs, or
 81 water features, whether newly constructed or additions to or
 82 remodels of existing swimming pools, spas, hot tubs, or water
 83 features ~~The installation, repair, or replacement of existing~~
 84 ~~equipment, any cleaning or equipment sanitizing that requires at~~
 85 ~~least a partial disassembling, excluding filter changes, and the~~
 86 ~~installation of new pool/spa equipment, interior finishes, the~~
 87 ~~installation of package pool heaters, the installation of all~~
 88 ~~perimeter piping and filter piping, and the construction of~~
 89 ~~equipment rooms or housing for pool/spa equipment, and also~~
 90 ~~includes the scope of work of a swimming pool/spa servicing~~
 91 ~~contractor.~~

92 2. The scope of ~~such~~ work does not include direct
 93 connections to a sanitary sewer system or to potable water
 94 lines, the installation or upgrade of dedicated electrical
 95 disconnect or electrical circuits, or any work inside a main
 96 electrical panel. ~~The installation, construction, modification,~~
 97 ~~or replacement of equipment permanently attached to and~~
 98 ~~associated with the pool or spa for the purpose of water~~
 99 ~~treatment or cleaning of the pool or spa requires licensure;~~
 100 ~~however,~~

101 3. The usage of swimming pool, spa, hot tub, or water
102 feature ~~such~~ equipment for the purposes of water treatment or
103 cleaning does not require licensure unless the usage involves
104 installation ~~construction~~, modification, or replacement of such
105 equipment. Water treatment that does not require such equipment;
106 filter media changes; or the cleaning of a swimming pool, spa,
107 hot tub, or water feature, or its associated equipment, which
108 does not affect the structural integrity of the swimming pool,
109 spa, hot tub, or water feature, does not require a license. ~~In~~
110 ~~addition, a license is not required for the cleaning of the pool~~
111 ~~or spa in a way that does not affect the structural integrity of~~
112 ~~the pool or spa or its associated equipment.~~

113 (k) "Residential pool/spa contractor" has the same meaning
114 as a commercial pool/spa contractor under paragraph (j), except
115 a residential pool/spa contractor may not construct any new
116 commercial swimming pool, spa, hot tub, or public bathing place.
117 ~~means a contractor whose scope of work involves, but is not~~
118 ~~limited to, the construction, repair, and servicing of a~~
119 ~~residential swimming pool, or hot tub or spa, regardless of use.~~
120 ~~The scope of work includes the installation, repair, or~~
121 ~~replacement of existing equipment, any cleaning or equipment~~
122 ~~sanitizing that requires at least a partial disassembling,~~
123 ~~excluding filter changes, and the installation of new pool/spa~~
124 ~~equipment, interior finishes, the installation of package pool~~
125 ~~heaters, the installation of all perimeter piping and filter~~

126 | ~~piping, and the construction of equipment rooms or housing for~~
 127 | ~~pool/spa equipment, and also includes the scope of work of a~~
 128 | ~~swimming pool/spa servicing contractor. The scope of such work~~
 129 | ~~does not include direct connections to a sanitary sewer system~~
 130 | ~~or to potable water lines. The installation, construction,~~
 131 | ~~modification, or replacement of equipment permanently attached~~
 132 | ~~to and associated with the pool or spa for the purpose of water~~
 133 | ~~treatment or cleaning of the pool or spa requires licensure;~~
 134 | ~~however, the usage of such equipment for the purposes of water~~
 135 | ~~treatment or cleaning does not require licensure unless the~~
 136 | ~~usage involves construction, modification, or replacement of~~
 137 | ~~such equipment. Water treatment that does not require such~~
 138 | ~~equipment does not require a license. In addition, a license is~~
 139 | ~~not required for the cleaning of the pool or spa in a way that~~
 140 | ~~does not affect the structural integrity of the pool or spa or~~
 141 | ~~its associated equipment.~~

142 | (1) "Swimming pool/spa servicing contractor" means a
 143 | contractor whose scope of work includes ~~involves~~, but is not
 144 | limited to, all aspects of the repair, renovation, remodeling,
 145 | or and servicing of a swimming pool, ~~or~~ hot tub, ~~or~~ spa, splash
 146 | pad or other interactive water feature, decorative water
 147 | feature, public bathing place, or swimming pool or spa
 148 | appurtenance, whether public or private, or otherwise,
 149 | regardless of use.

150 | 1. The scope of work includes, but is not limited to, all

151 of the following:

152 a. The installation, repair, or replacement of all
153 swimming pool, spa, hot tub, or water feature equipment,
154 including, but not limited to, pool pumps; filters; feeders;
155 controllers; and swimming pool, spa, or hot tub heaters, whether
156 electric, gas, or solar.

157 b. The connection, replacement, disconnection, or
158 reconnection of power wiring on the load side of the dedicated
159 existing electrical circuit disconnect means for swimming pool,
160 spa, hot tub, or water feature equipment.

161 c. The repair or replacement of equipotential bonding;
162 swimming pool, spa, or hot tub lighting; light transformers;
163 light conduit; and any cleaning or sanitizing equipment that
164 requires at least partial disassembling.

165 d. The repair of equipment rooms or housing for swimming
166 pool, spa, hot tub, or water feature equipment.

167 e. The repair or replacement of all perimeter piping and
168 filter piping.

169 f. The substantial or complete draining of a swimming
170 pool, spa, or hot tub for the purpose of a repair or renovation
171 and the operation of construction pumps for dewatering purposes
172 for drained swimming pools, spas, hot tubs, or water features.

173 g. The removal and reapplication of all interior swimming
174 pool, spa, hot tub, or water feature finishes.

175 h. The installation, repair, or replacement of all tile

176 and coping for swimming pools, spas, hot tubs, or water features
177 ~~the repair or replacement of existing equipment, any cleaning or~~
178 ~~equipment sanitizing that requires at least a partial~~
179 ~~disassembling, excluding filter changes, and the installation of~~
180 ~~new pool/spa equipment, interior refinishing, the reinstallation~~
181 ~~or addition of pool heaters, the repair or replacement of all~~
182 ~~perimeter piping and filter piping, the repair of equipment~~
183 ~~rooms or housing for pool/spa equipment, and the substantial or~~
184 ~~complete draining of a swimming pool, or hot tub or spa, for the~~
185 ~~purpose of repair or renovation.~~

186 2. The scope of ~~such~~ work does not include direct
187 connections to a sanitary sewer system or to potable water
188 lines, the installation or upgrade of dedicated electrical
189 disconnect or electrical circuits, or any work inside a main
190 electrical panel. ~~The installation, construction, modification,~~
191 ~~substantial or complete disassembly, or replacement of equipment~~
192 ~~permanently attached to and associated with the pool or spa for~~
193 ~~the purpose of water treatment or cleaning of the pool or spa~~
194 ~~requires licensure; however,~~

195 3. The usage of swimming pool, spa, hot tub, or water
196 feature ~~such~~ equipment for the purposes of water treatment or
197 cleaning does not require licensure unless the usage involves
198 installation ~~construction, modification, substantial or complete~~
199 ~~disassembly,~~ or replacement of such equipment. Water treatment
200 that does not require such equipment; filter media changes; or

201 the cleaning of a swimming pool, spa, hot tub, or water feature,
202 or its associated equipment, which does not affect the
203 structural integrity of the swimming pool, spa, hot tub, or
204 water feature does not require a license. ~~In addition, a license~~
205 ~~is not required for the cleaning of the pool or spa in a way~~
206 ~~that does not affect the structural integrity of the pool or spa~~
207 ~~or its associated equipment.~~

208 Section 2. Subsections (3) and (6) of section 489.143,
209 Florida Statutes, are amended to read:

210 489.143 Payment from the fund.—

211 (3)(a) Beginning January 1, 2005, for each Division I
212 contract entered into after July 1, 2004, payment from the
213 recovery fund is subject to a \$50,000 maximum payment for each
214 Division I claim.

215 (b) Beginning January 1, 2017, for each Division II
216 contract entered into on or after July 1, 2016, payment from the
217 recovery fund is subject to a \$15,000 maximum payment for each
218 Division II claim.

219 (c) Beginning January 1, 2025, for each contract entered
220 into on or after July 1, 2024, with a Division II contractor
221 certified or registered to perform the scope of work described
222 in s. 489.105(3)(j), (k), or (l), payment from the recovery fund
223 is subject to a \$50,000 maximum payment for each Division II
224 claim.

225 (6)(a) For contracts entered into before July 1, 2004,

226 | payments for claims against any one licensee may not exceed, in
227 | the aggregate, \$100,000 annually, up to a total aggregate of
228 | \$250,000. For any claim approved by the board which is in excess
229 | of the annual cap, the amount in excess of \$100,000 up to the
230 | total aggregate cap of \$250,000 is eligible for payment in the
231 | next and succeeding fiscal years, but only after all claims for
232 | the then-current calendar year have been paid. Payments may not
233 | exceed the aggregate annual or per claimant limits under law.

234 | (b) Beginning January 1, 2005, for each Division I
235 | contract entered into after July 1, 2004, payment from the
236 | recovery fund is subject only to a total aggregate cap of
237 | \$500,000 for each Division I licensee.

238 | (c) Beginning January 1, 2017, for each Division II
239 | contract entered into on or after July 1, 2016, payment from the
240 | recovery fund is subject only to a total aggregate cap of
241 | \$150,000 for each Division II licensee.

242 | (d) Beginning January 1, 2025, for each contract entered
243 | into on or after July 1, 2024, with a Division II contractor
244 | certified or registered to perform the scope of work described
245 | in s. 489.105(3)(j), (k), or (l), payment from the recovery fund
246 | is subject only to a total aggregate cap of \$500,000 for each
247 | Division II licensee.

248 | Section 3. This act shall take effect July 1, 2024.