

**By** Senator Perry

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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.

9

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, and  
16 is only responsible for, the project contracted for and means,  
17 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

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30 defined in paragraphs (a)-(c), and Division II, consisting of  
31 those contractors defined in paragraphs (d)-(q):

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

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

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

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

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

72       j. The installation of all swimming pool, spa, hot tub, or  
73       water feature piping, including, but not limited to, drain  
74       piping, perimeter piping, and circulation or filter piping, used  
75       in the construction of swimming pools, spas, hot tubs, or  
76       decorative or interactive water feature displays or areas.

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

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88 equipment rooms or housing for pool/spa equipment, and also  
89 includes the scope of work of a swimming pool/spa servicing  
90 contractor.

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

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

112       (k) "Residential pool/spa contractor" has the same meaning  
113 as a commercial pool/spa contractor under paragraph (j), except  
114 a residential pool/spa contractor may not construct any new  
115 commercial swimming pool, spa, hot tub, or public bathing place.  
116 means a contractor whose scope of work involves, but is not

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117 limited to, the construction, repair, and servicing of a  
118 residential swimming pool, or hot tub or spa, regardless of use.  
119 The scope of work includes the installation, repair, or  
120 replacement of existing equipment, any cleaning or equipment  
121 sanitizing that requires at least a partial disassembling,  
122 excluding filter changes, and the installation of new pool/spa  
123 equipment, interior finishes, the installation of package pool  
124 heaters, the installation of all perimeter piping and filter  
125 piping, and the construction of equipment rooms or housing for  
126 pool/spa equipment, and also includes the scope of work of a  
127 swimming pool/spa servicing contractor. The scope of such work  
128 does not include direct connections to a sanitary sewer system  
129 or to potable water lines. The installation, construction,  
130 modification, or replacement of equipment permanently attached  
131 to and associated with the pool or spa for the purpose of water  
132 treatment or cleaning of the pool or spa requires licensure;  
133 however, the usage of such equipment for the purposes of water  
134 treatment or cleaning does not require licensure unless the  
135 usage involves construction, modification, or replacement of  
136 such equipment. Water treatment that does not require such  
137 equipment does not require a license. In addition, a license is  
138 not required for the cleaning of the pool or spa in a way that  
139 does not affect the structural integrity of the pool or spa or  
140 its associated equipment.

141 (1) "Swimming pool/spa servicing contractor" means a  
142 contractor whose scope of work includes involves, but is not  
143 limited to, all aspects of the repair, renovation, remodeling,  
144 or and servicing of a swimming pool, or hot tub, or spa, splash  
145 pad or other interactive water feature, decorative water

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146 feature, public bathing place, or swimming pool or spa  
147 appurtenance, whether public or private, or otherwise,  
148 regardless of use.

149     1. The scope of work includes, but is not limited to, all  
150     of the following:

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

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

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

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

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

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

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

174         h. The installation, repair, or replacement of all tile and

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

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

194       3. The usage of swimming pool, spa, hot tub, or water  
195 feature such equipment for the purposes of water treatment or  
196 cleaning does not require licensure unless the usage involves  
197 installation construction, modification, substantial or complete  
198 disassembly, or replacement of such equipment; filter media changes; or  
199 the cleaning of a swimming pool, spa, hot tub, or water feature,  
200 or its associated equipment, which does not affect the  
201 structural integrity of the swimming pool, spa, hot tub, or  
202 water feature does not require a license. In addition, a license

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204 ~~is not required for the cleaning of the pool or spa in a way~~  
205 ~~that does not affect the structural integrity of the pool or spa~~  
206 ~~or its associated equipment.~~

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

209 489.143 Payment from the fund.—

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

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

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

224 (6) (a) For contracts entered into before July 1, 2004,  
225 payments for claims against any one licensee may not exceed, in  
226 the aggregate, \$100,000 annually, up to a total aggregate of  
227 \$250,000. For any claim approved by the board which is in excess  
228 of the annual cap, the amount in excess of \$100,000 up to the  
229 total aggregate cap of \$250,000 is eligible for payment in the  
230 next and succeeding fiscal years, but only after all claims for  
231 the then-current calendar year have been paid. Payments may not  
232 exceed the aggregate annual or per claimant limits under law.

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

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

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

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