

By Senator McClain

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1 A bill to be entitled
2 An act relating to roof contracting; amending s.
3 489.105, F.S.; revising the definition of the term
4 "roofing contractor"; amending s. 489.147, F.S.;
5 revising the circumstances under which residential
6 property owners are authorized to cancel a roof repair
7 or replacement contract without penalty or obligation
8 following a declared state of emergency; providing
9 applicability; revising what constitutes an official
10 start date; revising the notice that contractors must
11 provide to residential property owners when executing
12 such a contract; reenacting ss. 489.107(4) (b),
13 489.113(2), 489.117(1) (a), (2) (a) and (b), and (4) (a),
14 489.118(1), 489.126(1), 489.131(10) and (11), and
15 877.02(2), F.S., relating to the Construction Industry
16 Licensing Board, qualifications for practice and
17 restrictions, registration and specialty contractors,
18 certification of registered contractors and
19 grandfathering provisions, moneys received by
20 contractors, applicability, and solicitation of legal
21 services or retainers therefor and penalty,
22 respectively, to incorporate the amendment made to s.
23 489.105, F.S., in references thereto; providing an
24 effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Paragraph (e) of subsection (3) of section
29 489.105, Florida Statutes, is amended to read:

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30 489.105 Definitions.—As used in this part:

31 (3) "Contractor" means the person who is qualified for, and
32 is only responsible for, the project contracted for and means,
33 except as exempted in this part, the person who, for
34 compensation, undertakes to, submits a bid to, or does himself
35 or herself or by others construct, repair, alter, remodel, add
36 to, demolish, subtract from, or improve any building or
37 structure, including related improvements to real estate, for
38 others or for resale to others; and whose job scope is
39 substantially similar to the job scope described in one of the
40 paragraphs of this subsection. For the purposes of regulation
41 under this part, the term "demolish" applies only to demolition
42 of steel tanks more than 50 feet in height; towers more than 50
43 feet in height; other structures more than 50 feet in height;
44 and all buildings or residences. Contractors are subdivided into
45 two divisions, Division I, consisting of those contractors
46 defined in paragraphs (a)-(c), and Division II, consisting of
47 those contractors defined in paragraphs (d)-(q):

48 (e) "Roofing contractor" means a contractor whose services
49 are unlimited in the roofing trade and who has the experience,
50 knowledge, and skill to install, maintain, repair, alter,
51 extend, or design, if not prohibited by law, and use materials
52 and items used in the installation, maintenance, extension, and
53 alteration of all kinds of roofing, waterproofing, and coating,
54 except when coating is not represented to protect, repair,
55 waterproof, stop leaks, or extend the life of the roof. The
56 scope of work of a roofing contractor also includes all of the
57 following and any related work: skylights; and any related work,
58 required roof-deck attachments; ~~and any repair or replacement~~

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59 of wood roof sheathing or fascia as needed during roof repair or
60 replacement; and the evaluation and enhancement of roof-to-wall
61 connections for structures with wood roof decking as described
62 in section 706 of the Florida Building Code, Existing Building,
63 8th Edition (2023), provided that any enhancement that was
64 properly installed and inspected in accordance with the Office
65 of Insurance Regulation uniform mitigation verification
66 inspection form, the Florida Building Code, or project-specific
67 engineering exceeding these requirements is done in conjunction
68 with a roof covering replacement or repair and any related work.

69 Section 2. Subsection (6) of section 489.147, Florida
70 Statutes, is amended to read:

71 489.147 Prohibited property insurance practices; contract
72 requirements.-

73 (6)~~(a)~~ A residential property owner may cancel a contract
74 to replace or repair a roof without penalty or obligation within
75 10 days after the execution of the contract or by the official
76 start date, whichever comes first, if the contract was entered
77 into within 30 days after ~~based on~~ events that are subject of a
78 declaration of a state of emergency by the Governor.

79 (a) This subsection does not apply to any subsequent
80 extension of a state of emergency which has been declared by the
81 Governor for the same event.

82 (b) For the purposes of this subsection, the official start
83 date is the date on which work that includes the installation of
84 materials that will be included in the final work on the roof
85 commences, a ~~final~~ permit has been issued, or a temporary repair
86 to the roof covering or roof has been made in compliance with
87 the Florida Building Code.

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88 ~~(c)(b)~~ A contractor executing a contract during a
89 declaration of a state of emergency to replace or repair a roof
90 of a residential property must include or add as an attachment
91 to the contract the following language, in bold type of not less
92 than 14 ~~18~~ points, immediately before the space reserved for the
93 signature of the residential property owner:

94
95 “You, the residential property owner, may cancel this
96 contract without penalty or obligation within 10 days
97 after the execution of the contract or by the official
98 start date, whichever comes first, because this
99 contract was entered into within 30 days after events
100 resulting in the declaration of ~~during~~ a state of
101 emergency by the Governor. The official start date is
102 the date on which work that includes the installation
103 of materials that will be included in the final work
104 on the roof commences, a final permit has been issued,
105 or a temporary repair to the roof covering or roof
106 system has been made in compliance with the Florida
107 Building Code.”

108
109 ~~(d)(e)~~ The residential property owner must send the notice
110 of cancellation by certified mail, return receipt requested, or
111 other form of mailing that provides proof thereof, at the
112 address specified in the contract.

113 Section 3. For the purpose of incorporating the amendment
114 made by this act to section 489.105, Florida Statutes, in a
115 reference thereto, paragraph (b) of subsection (4) of section
116 489.107, Florida Statutes, is reenacted to read:

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117 489.107 Construction Industry Licensing Board.—

118 (4) The board shall be divided into two divisions, Division
119 I and Division II.

120 (b) Division II is comprised of the roofing contractor,
121 sheet metal contractor, air-conditioning contractor, mechanical
122 contractor, pool contractor, plumbing contractor, and
123 underground utility and excavation contractor members of the
124 board; one of the members appointed pursuant to paragraph
125 (2) (j); and one of the members appointed pursuant to paragraph
126 (2) (k). Division II has jurisdiction over the regulation of
127 contractors defined in s. 489.105(3) (d)-(p).

128 Section 4. For the purpose of incorporating the amendment
129 made by this act to section 489.105, Florida Statutes, in a
130 reference thereto, subsection (2) of section 489.113, Florida
131 Statutes, is reenacted to read:

132 489.113 Qualifications for practice; restrictions.—

133 (2) A person must be certified or registered in order to
134 engage in the business of contracting in this state. However,
135 for purposes of complying with the provisions of this chapter, a
136 subcontractor who is not certified or registered may perform
137 construction work under the supervision of a person who is
138 certified or registered, provided that the work is within the
139 scope of the supervising contractor's license, the supervising
140 contractor is responsible for the work, and the subcontractor
141 being supervised is not engaged in construction work that would
142 require a license as a contractor under any of the categories
143 listed in s. 489.105(3) (d)-(o). This subsection does not affect
144 the application of any local construction licensing ordinances.
145 To enforce this subsection:

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146 (a) The department shall issue a cease and desist order to
147 prohibit any person from engaging in the business of contracting
148 who does not hold the required certification or registration for
149 the work being performed under this part. For the purpose of
150 enforcing a cease and desist order, the department may file a
151 proceeding in the name of the state seeking issuance of an
152 injunction or a writ of mandamus against any person who violates
153 any provision of such order.

154 (b) A county, municipality, or local licensing board
155 created by special act may issue a cease and desist order to
156 prohibit any person from engaging in the business of contracting
157 who does not hold the required certification or registration for
158 the work being performed under this part.

159 Section 5. For the purpose of incorporating the amendment
160 made by this act to section 489.105, Florida Statutes, in
161 references thereto, paragraph (a) of subsection (1), paragraphs
162 (a) and (b) of subsection (2), and paragraph (a) of subsection
163 (4) of section 489.117, Florida Statutes, are reenacted to read:

164 489.117 Registration; specialty contractors.—

165 (1)(a) A person engaged in the business of a contractor as
166 defined in s. 489.105(3)(a)-(o) must be registered before
167 engaging in business as a contractor in this state, unless he or
168 she is certified. Except as provided in paragraph (2)(b), to be
169 initially registered, the applicant must submit the required fee
170 and file evidence of successful compliance with the local
171 examination and licensing requirements, if any, in the area for
172 which registration is desired. An examination is not required
173 for registration.

174 (2)(a) Except as provided in paragraph (b), the board may

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175 not issue a new registration after July 1, 1993, based on any
176 certificate of competency or license for a category of
177 contractor defined in s. 489.105(3)(a)-(o) which is issued by a
178 municipal or county government that does not exercise
179 disciplinary control and oversight over such locally licensed
180 contractors, including forwarding a recommended order in each
181 action to the board as provided in s. 489.131(7). For purposes
182 of this subsection and s. 489.131(10), the board shall determine
183 the adequacy of such disciplinary control by reviewing the local
184 government's ability to process and investigate complaints and
185 to take disciplinary action against locally licensed
186 contractors.

187 (b) The board shall issue a registration to an eligible
188 applicant to engage in the business of a contractor in a
189 specified local jurisdiction, provided each of the following
190 conditions are satisfied:

191 1. The applicant held, in any local jurisdiction in this
192 state during 2021, 2022, or 2023, a certificate of registration
193 issued by the state or a local license issued by a local
194 jurisdiction to perform work in a category of contractor defined
195 in s. 489.105(3)(a)-(o).

196 2. The applicant submits all of the following to the board:

197 a. Evidence of the certificate of registration or local
198 license held by the applicant as required by subparagraph 1.

199 b. Evidence that the specified local jurisdiction does not
200 have a license type available for the category of work for which
201 the applicant was issued a certificate of registration or local
202 license during 2021, 2022, or 2023, such as a notification on
203 the website of the local jurisdiction or an e-mail or letter

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204 from the office of the local building official or local building
205 department stating that such license type is not available in
206 that local jurisdiction.

207 c. Evidence that the applicant has submitted the required
208 fee.

209 d. Evidence of compliance with the insurance and financial
210 responsibility requirements of s. 489.115(5).

211

212 An examination is not required for an applicant seeking a
213 registration under this paragraph.

214 (4)(a)1. A person whose job scope does not substantially
215 correspond to either the job scope of one of the contractor
216 categories defined in s. 489.105(3)(a)-(o), or the job scope of
217 one of the certified specialty contractor categories established
218 by board rule, is not required to register with the board. A
219 local government, as defined in s. 163.211, may not require a
220 person to obtain a license, issued by the local government or
221 the state, for a job scope which does not substantially
222 correspond to the job scope of one of the contractor categories
223 defined in s. 489.105(3)(a)-(o) and (q) or authorized in s.
224 489.1455(1), or the job scope of one of the certified specialty
225 contractor categories established pursuant to s. 489.113(6). A
226 local government may not require a state or local license to
227 obtain a permit for such job scopes. For purposes of this
228 section, job scopes for which a local government may not require
229 a license include, but are not limited to, painting; flooring;
230 cabinetry; interior remodeling when the scope of the project
231 does not include a task for which a state license is required;
232 driveway or tennis court installation; handyman services;

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233 decorative stone, tile, marble, granite, or terrazzo
234 installation; plastering; pressure washing; stuccoing; caulking;
235 and canvas awning and ornamental iron installation.

236 2. A county that includes an area designated as an area of
237 critical state concern under s. 380.05 may offer a license for
238 any job scope which requires a contractor license under this
239 part if the county imposed such a licensing requirement before
240 January 1, 2021.

241 3. A local government may continue to offer a license for
242 veneer, including aluminum or vinyl gutters, siding, soffit, or
243 fascia; rooftop painting, coating, and cleaning above three
244 stories in height; or fence installation and erection if the
245 local government imposed such a licensing requirement before
246 January 1, 2021.

247 4. A local government may not require a license as a
248 prerequisite to submit a bid for public works projects if the
249 work to be performed does not require a license under general
250 law.

251 Section 6. For the purpose of incorporating the amendment
252 made by this act to section 489.105, Florida Statutes, in a
253 reference thereto, subsection (1) of section 489.118, Florida
254 Statutes, is reenacted to read:

255 489.118 Certification of registered contractors;
256 grandfathering provisions.—The board shall, upon receipt of a
257 completed application and appropriate fee, issue a certificate
258 in the appropriate category to any contractor registered under
259 this part who makes application to the board and can show that
260 he or she meets each of the following requirements:

261 (1) Currently holds a valid registered local license in one

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262 of the contractor categories defined in s. 489.105(3)(a)-(p).

263 Section 7. For the purpose of incorporating the amendment
264 made by this act to section 489.105, Florida Statutes, in a
265 reference thereto, subsection (1) of section 489.126, Florida
266 Statutes, is reenacted to read:

267 489.126 Moneys received by contractors.—

268 (1) For purposes of this section, the term "contractor"
269 includes all definitions as set forth in s. 489.105(3), and any
270 person performing or contracting or promising to perform work
271 described therein, without regard to the licensure of the
272 person.

273 Section 8. For the purpose of incorporating the amendment
274 made by this act to section 489.105, Florida Statutes, in
275 references thereto, subsections (10) and (11) of section
276 489.131, Florida Statutes, are reenacted to read:

277 489.131 Applicability.—

278 (10) No municipal or county government may issue any
279 certificate of competency or license for any contractor defined
280 in s. 489.105(3)(a)-(o) after July 1, 1993, unless such local
281 government exercises disciplinary control and oversight over
282 such locally licensed contractors, including forwarding a
283 recommended order in each action to the board as provided in
284 subsection (7). Each local board that licenses and disciplines
285 contractors must have at least two consumer representatives on
286 that board. If the board has seven or more members, at least
287 three of those members must be consumer representatives. The
288 consumer representative may be any resident of the local
289 jurisdiction who is not, and has never been, a member or
290 practitioner of a profession regulated by the board or a member

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291 of any closely related profession.

292 (11) Any municipal or county government which enters or has
293 in place a reciprocal agreement which accepts a certificate of
294 competency or license issued by another municipal or county
295 government in lieu of its own certificate of competency or
296 license allowing contractors defined in s. 489.105(3)(a)-(o),
297 shall file a certified copy of such agreement with the board not
298 later than 60 days after July 1, 1993, or 30 days after the
299 effective date of such agreement.

300 Section 9. For the purpose of incorporating the amendment
301 made by this act to section 489.105, Florida Statutes, in a
302 reference thereto, subsection (2) of section 877.02, Florida
303 Statutes, is reenacted to read:

304 877.02 Solicitation of legal services or retainers
305 therefor; penalty.-

306 (2) It shall be unlawful for any person in the employ of or
307 in any capacity attached to any hospital, sanitarium, police
308 department, wrecker service or garage, prison or court, for a
309 person authorized to furnish bail bonds, investigators,
310 photographers, insurance or public adjusters, or for a general
311 or other contractor as defined in s. 489.105 or other business
312 providing sinkhole remediation services, to communicate directly
313 or indirectly with any attorney or person acting on said
314 attorney's behalf for the purpose of aiding, assisting, or
315 abetting such attorney in the solicitation of legal business or
316 the procurement through solicitation of a retainer, written or
317 oral, or any agreement authorizing the attorney to perform or
318 render legal services.

319 Section 10. This act shall take effect upon becoming a law.