

SB 154 by Latvala; (Identical to H 0513) Licensed Security Officers

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SB 538 by Bogdanoff (CO-INTRODUCERS) Gaetz, Fasano; (Identical to H 0153) Preference to Florida Businesses in Procurement of Personal Property and Services

SB 952 by Oelrich; (Identical to H 4039) Recreation and Parks

CS/SB 704 by CA, Bennett; (Compare to CS/H 0387) Building Construction and Inspection

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COMMITTEE MEETING EXPANDED AGENDA**BUDGET SUBCOMMITTEE ON GENERAL GOVERNMENT****APPROPRIATIONS****Senator Hays, Chair****Senator Benacquisto, Vice Chair****MEETING DATE:** Wednesday, February 1, 2012**TIME:** 10:15 —11:15 a.m.**PLACE:** James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building**MEMBERS:** Senator Hays, Chair; Senator Benacquisto, Vice Chair; Senators Braynon, Bullard, Diaz de la Portilla, Gibson, Jones, and Latvala

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Review and Discussion of Fiscal Year 2012-2013 Budget Issues:		Not Considered
	Dept. of Agriculture and Consumer Services Dept. of Business and Professional Regulation Dept. of Citrus Dept. of Environmental Protection Dept. of Financial Services Office of Financial Regulation Office of Insurance Regulation Dept. of Lottery		
	Dept. of Management Services Division of Administrative Hearings Human Relations Commission Northwood Shared Resource Center Public Employees Relations Commission Southwood Shared Resource Center Public Service Commission Fish and Wildlife Conservation Commission Dept. of Revenue		
2	SB 154 Latvala (Identical H 513)	Licensed Security Officers; Providing that a person who engages in any activity for which ch. 493, F.S., requires a license, but who acts without having a license, commits a misdemeanor of the first degree; providing that such person commits a felony of the third degree for a second or subsequent offense of engaging in activities without a license; authorizing the Department of Agriculture and Consumer Services to impose a civil penalty not to exceed a specified amount, etc. CM 10/04/2011 Favorable CJ 11/17/2011 Fav/1 Amendment BGA 02/01/2012 Fav/CS BC	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on General Government Appropriations
 Wednesday, February 1, 2012, 10:15 —11:15 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 538 Bogdanoff (Identical H 153, Compare CS/H 673)	<p>Preference to Florida Businesses in Procurement of Personal Property and Services; Citing this act as the "Buy Florida Act"; requiring an agency, county, municipality, school district, or other political subdivision of the state to grant a specified preference to a vendor located within the state when awarding a contract for printing; specifying the percentage of preference to be granted; requiring, rather than authorizing, an agency, county, municipality, school district, or other political subdivision of the state in making purchases of personal property through competitive solicitation to award a preference to the lowest responsible and responsive vendor having a principal place of business within this state under specified circumstances; specifying the percentage of preference to be granted; providing nonapplicability, etc.</p> <p>CA 12/05/2011 Favorable GO 01/09/2012 Favorable BGA 02/01/2012 Favorable BC</p>	<p>Favorable Yeas 5 Nays 0</p>
4	SB 952 Oelrich (Identical H 4039)	<p>Recreation and Parks; Repealing provisions relating to recreation centers, use and acquisition of land, and equipment and maintenance; supervision; playground and recreation boards; cooperation with other units and boards; gifts, grants, devises, and bequests; issuance of bonds; petition for referendum; resolution or ordinance providing for recreation system; tax levy; payment of expenses and custody of funds; and duties and functions of the Division of Recreation and Parks of the Department of Environmental Protection, etc.</p> <p>EP 01/24/2012 Favorable BGA 02/01/2012 Favorable BC</p>	<p>Favorable Yeas 6 Nays 0</p>
5	CS/SB 704 Community Affairs / Bennett (Compare CS/H 387, CS/H 651, CS/H 999, CS/CS/S 600, CS/S 820)	<p>Building Construction and Inspection; Revising the authorized methods of sending notices to violators of local codes; revising the definition of the term "bedroom" for purposes of requirements governing onsite sewage treatment and disposal systems; authorizing a building code administrator or building official to approve the electronic filing of building plans and related documents; revising the eligibility requirements of a building code inspector or plans examiner; increasing the maximum civil penalties that may be assessed against unlicensed contractors, etc.</p> <p>CA 01/12/2012 Fav/CS BGA 02/01/2012 Fav/CS BC</p>	<p>Fav/CS Yeas 6 Nays 0</p>

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on General Government Appropriations
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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	Other Related Meeting Documents		

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

BILL: CS/SB 154

INTRODUCER: Budget Subcommittee on General Government Appropriations and Senator Latvala

SUBJECT: Licensed Security Officers

DATE: February 1, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McCarthy	Hrdlicka	CM	Favorable
2.	Erickson	Cannon	CJ	Fav/1 amendment
3.	Blizzard	DeLoach	BGA	Fav/CS
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Currently, the Department of Agriculture and Consumer Services (department) is authorized by law to “take disciplinary action” against “any unlicensed person engaged in activities regulated” in ch. 493, F.S., related to private security, private investigative, and recovery services. Further, any person who violates any provision of ch. 493, F.S., with one exception, commits a first degree misdemeanor.

The provisions of the bill:

- Make it a first degree misdemeanor for a person to engage in any activity for which ch. 493, F.S., requires a license if the person does not hold the required license. However, a second or subsequent violation is a third degree felony and the department may seek the imposition of a civil penalty not to exceed \$10,000. This offense does not apply if the person engages in unlicensed activity within 90 days after the expiration date of the person’s license.
- Make it a third degree felony for a person, while impersonating a security officer, private investigator, recovery agent, or other person required to have a license under ch. 493, F.S., to knowingly and intentionally force another person to assist the impersonator in an activity within the scope of duty of a professional licensed under ch. 493, F.S. However, it is a

second degree felony if a person commits this violation during the course of committing a felony, and a first degree felony if a person commits this violation during the course of committing a felony that results in death or serious bodily injury to another human being.

- Authorize an armed licensed security officer and armed licensed security agency manager, in uniform, to temporarily detain a person on the premises of a critical infrastructure facility ascertaining the person's identity and the circumstances of the activity that is the basis for the temporary detention if the security officer or security agency manager has probable cause to believe the person has committed or is committing a crime against the client of the security officer or security agency manager or the client's patron. The bill provides procedures for notifying law enforcement and transferring the detained person.
- Authorize the security officer or security agency manager to search the person temporarily detained if they observe that the person is armed with a firearm, concealed weapon, or any destructive device that poses a threat to the safety of the security officer or security agency manager, or the detainee admits to the security officer or security agency manager that he or she is armed with a weapon.

The Legislature's Office of Economic and Demographic Research (EDR) has reviewed SB 154 and has indicated it intends to recommend to the Criminal Justice Impact Conference that the bill has an insignificant prison bed impact.

This bill substantially amends s. 493.6120, F.S., and creates an undesignated section of the Florida Statutes.

II. Present Situation:

Private Security, Private Investigative, and Recovery Services

The Division of Licensing within the department is responsible for the regulation of licensing of private security, private investigative, and recovery services.¹ Section 493.6101(19), F.S., defines a "security officer" as:

any individual who, for consideration, advertises as providing or performs bodyguard services or otherwise guards persons or property; attempts to prevent theft or unlawful taking of goods, wares, and merchandise; or attempts to prevent the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes, or other documents, papers, and articles of value or procurement of the return thereof. The term also includes armored car personnel and those personnel engaged in the transportation of prisoners.

Section 493.6101(16), F.S., defines a "private investigator" as "any individual who, for consideration, advertises as providing or performs private investigation." Private investigation is defined as an investigation to obtain information on any of the following matters:

¹ The responsibility for regulating private investigative, private security, and recovery industries was assigned to the Department of State in 1965. In 2002, the Division of Licensing of the Department of State was transferred to the Department of Agriculture and Consumer Services, including the Concealed Weapons Permit Program. See ss. 1, 3-10, ch. 2002-295, L.O.F.

- Crime or wrongs done or threatened against the United States or any state or territory of the United States, when operating under express written authority of the governmental official responsible for authorizing such investigation.
- The identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons.
- The credibility of witnesses or other persons.
- The whereabouts of missing persons, owners of unclaimed property or escheated property, or heirs to estates.
- The location or recovery of lost or stolen property.
- The causes and origin of, or responsibility for, fires, libels, slanders, losses, accidents, damage, or injuries to real or personal property.
- The business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the preparation therefore.²

Section 493.6101(21), F.S., defines a “recovery agent” as “any individual who, for consideration, advertises as providing or performs repossessions.” Section 493.6101(20), F.S., defines “recovery agency” as “any person who, for consideration, advertises as providing or is engaged in the business of performing repossessions.” Section 493.6101(22), F.S., defines “repossession” as recovery of motor vehicles, motor boats, airplanes, personal watercraft, all-terrain vehicles, farm equipment, industrial equipment, and motor homes “by an individual who is authorized by the legal owner, lienholder, or lessor to recover, or to collect money payment in lieu of recovery of, that which has been sold or leased under a security agreement that contains a repossession clause.”

Certain individuals are exempt from the licensing requirements for private security and private investigative services. These individuals include local, state, and federal law enforcement officers, licensed insurance investigators, and individuals solely, exclusively, and regularly employed as unarmed investigators and security officers “in connection with the business of his or her employer, when there exists an employer-employee relationship.”³

Section 493.6106(1), F.S., establishes criteria for granting licenses for security, private investigative, and repossession services. Individuals seeking a license must clear a criminal background check as well as meet specific training and experience requirements, which vary by the type of license. In addition, the applicant must meet the following criteria:

- Be at least 18 years of age.
- Be of good moral character.
- Not have been adjudicated incapacitated, unless capacity has been judicially restored.
- Not have been involuntarily placed in a treatment facility for the mentally ill, unless competency has been judicially restored.

² Section 493.6101(17), F.S.

³ Section 493.6102(1)-(4), F.S.

- Not have been diagnosed as having an incapacitating mental illness, unless a psychologist or psychiatrist licensed in this state certifies that she or he does not currently suffer from the mental illness.
- Not be a chronic and habitual user of alcoholic beverages to the extent that her or his normal faculties are impaired.
- Not have been committed under ch. 397, F.S., former ch. 396, F.S., or a similar law in any other state.
- Not have been found to be a habitual offender under s. 856.011(3), F.S., or a similar law in any other state.
- Not have had two or more convictions under s. 316.193, F.S., or a similar law in any other state within the 3-year period immediately preceding the date the application was filed, unless the individual establishes that she or he is not currently impaired and has successfully completed a rehabilitation course.
- Not have been committed for controlled substance abuse or have been found guilty of a crime under ch. 893, F.S., or a similar law relating to controlled substances in any other state within a 3-year period immediately preceding the date the application was filed, unless the individual establishes that she or he is not currently abusing any controlled substance and has successfully completed a rehabilitation course.
- Be a citizen or permanent legal resident alien of the United States or have appropriate authorization issued by the United States Citizenship and Immigration Services of the United States Department of Homeland Security.

License Classifications

Chapter 493, F.S., provides for numerous classifications of licenses within the three general categories of licenses, as follows:⁴

PRIVATE INVESTIGATION	
Agency	Class "A"
Private Investigator	Class "C"
Armed Private Investigator	Class "C" & Class "G"
Branch Office	Class "AA"
Manager	Class "C" or Class "MA" or Class "M"
Intern	Class "CC"
PRIVATE SECURITY	
Agency	Class "B"
Security Officer	Class "D"
Armed Security Officer	Class "D" & Class "G"
Branch Office	Class "BB"
Manager	Class "MB" or Class "M"
REPOSSESSION ACTIVITY	
Agency	Class "R"
Recovery Agent	Class "E"
Branch Office	Class "RR"
Manager	Class "MR" or Class "E"
Intern	Class "EE"
COMBINED PRIVATE INVESTIGATION AND SECURITY	
Agency	Class "A" & Class "B"

⁴ See 5N-1.116(1), F.A.C.

Branch Office Manager	Class “AB” Class “M”
SCHOOLS	
Security Officer School or Training Facility	Class “DS”
Security Officer Instructor	Class “DI”
Recovery Agent School or Training Facility	Class “RS”
Recovery Agent Instructor	Class “RI”
FIREARMS	
Instructor	Class “K”
Statewide Firearm License	Class “G”
MANAGERS	
Private Investigative Agency or Branch	Class “C”, “MA”, or “M”
Private Security Agency or Branch	Class “MB” or “M”
Recovery Agency or Branch	Class “E” or “MR”
Armed Manager	Appropriate Manager’s License and Class “G”

D, MB, and G Licenses

Generally, an applicant for a Class “D” security officer license must complete a minimum of 40 hours of professional training at a school or training facility licensed by the department, which establishes by rule the general content and number of hours of each subject area to be taught. Class MB security officers may manage a security agency. Class G officers have special firearms training requirements and are authorized to carry their firearms on duty.

Detention by Certified Seaport Security Officers

Class D and Class G security officers who are employed at seaports and who are given the power to detain persons are further required to be certified under the Maritime Transportation Security Act or s. 311.121, F.S.

The statutorily-specified certification curriculum for the seaport security officer training program includes no less than 218 hours of initial certification training that conforms to or exceeds model courses approved by the Federal Maritime Act under Section 109 of the Federal Maritime Transportation Security Act of 2002 for facility personnel with specific security duties.

Pursuant to s. 311.124, F.S., these particular Class D or G security officers are given the power to detain persons for a reasonable period of time if they have “probable cause to believe that a person is trespassing ... in a designated restricted area” pending the arrival of a law enforcement officer.⁵ In addition, this action does not “render the security officer criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.” Furthermore, the seaport security officer must, upon detaining a person for trespass, immediately call a certified law enforcement officer to the scene.

To date, the department has not issued any revised licenses to a Class “D” security officer stating that the person is certified as a seaport security officer.

⁵ “Restricted area” is defined by 33 C.F.R. part 105. See also s. 311.12, F.S.

Impersonating a Licensee

Section 493.6118(1), F.S., authorizes the department to “take disciplinary action” against “any unlicensed person engaged in activities regulated” in ch. 493, F.S., related to private security, private investigative, and recovery services. Grounds for such disciplinary action include:

- Conducting activities regulated under ch. 493, F.S., without a license or with a revoked or suspended license.
- Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer.
- Knowingly violating, advising, encouraging, or assisting the violation of any statute, court order, capias, warrant, injunction, or cease and desist order, in the course of business regulated under ch. 493, F.S.
- Violating any provision of ch. 493, F.S.

When the department finds any of the above violations it may impose an administrative fine not to exceed \$1,000 for every count or separate offense.⁶ Section 493.6120, F.S., provides that any person who violates any provision of ch. 493, F.S., with one exception,⁷ commits a first degree misdemeanor.⁸ The department is authorized to institute judicial proceedings in the appropriate circuit court seeking enforcement of ch. 493, F.S., or any rule or order of the department.⁹

The Power to Detain

Section 901.151(2)-(4), F.S., provides:

- Whenever any law enforcement officer of this state encounters any person under circumstances which reasonably indicate that such person has committed, is committing, or is about to commit a violation of the criminal laws of this state or the criminal ordinances of any municipality or county, the officer may temporarily detain such person for the purpose of ascertaining the identity of the person temporarily detained and the circumstances surrounding the person’s presence abroad which led the officer to believe that the person had committed, was committing, or was about to commit a criminal offense.¹⁰
- No person shall be temporarily detained [under the provisions of s. 901.151(2), F.S.] longer than is reasonably necessary to effect the purposes of that subsection. Such temporary detention shall not extend beyond the place where it was first effected or the immediate vicinity thereof.

⁶ Section 493.6118(2)(c), F.S.

⁷ The exception is in s. 493.6405, F.S. This section deals with the sale of motor vehicles, mobile homes, motorboats, aircraft, personal watercraft, all-terrain vehicles, farm equipment, or industrial equipment by a recovery agent or intern, and provides that a violation is a third degree felony.

⁸ A first degree misdemeanor is punishable by up to 1 year in a county jail and a fine of up to \$1,000 may also be imposed. See ss. 775.082 and 775.083, F.S.

⁹ Section 493.6121(6), F.S.

¹⁰ “This standard is consonant with the holding in *Terry v. Ohio*, 392 U.S. 1, 21, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968), which requires ‘specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.’ For reasonable suspicion justifying a detention to exist, ‘the detaining officers must have a particularized and objective basis for suspecting the particular person stopped of criminal activity.’ *United States v. Cortez*, 449 U.S. 411, 417–18, 101 S.Ct. 690, 66 L.Ed.2d 621 (1981).” *Tillman v. State*, 934 So.2d 1263, 1273 (Fla.2006).

- If at any time after the onset of the temporary detention authorized by s. 901.151(2), F.S., probable cause for arrest of the person shall appear, the person shall be arrested. If, after an inquiry into the circumstances which prompted the temporary detention, no probable cause for the arrest of the person shall appear, the person shall be released.

Section 812.015(3)(a), F.S., authorizes a law enforcement officer, a merchant, a farmer, or a transit agency's employee or agent, who has probable cause to believe that a retail theft, farm theft, or trespass, has been committed by a person and, in the case of retail or farm theft, that the property can be recovered by taking the offender into custody may, for the purpose of attempting to effect such recovery or for prosecution, take the offender into custody and detain the offender in a reasonable manner for a reasonable length of time. In the event the merchant, merchant's employee, farmer, or a transit agency's employee or agent takes the person into custody, a law enforcement officer shall be called to the scene immediately after the person has been taken into custody. Detention provisions are also applicable to transit fare evasion.

Section 509.143, F.S., authorizes innkeepers and food service establishment operators to "take a person into custody and detain that person" if there is probable cause to believe the person is engaging in disorderly conduct that threatens the safety of the person or others. In these situations, a law enforcement agency must be immediately contacted.

"Citizen's Arrest"

A citizen has a common law right to make a "citizen's arrest" for a felony or a breach of the peace committed in his presence. The citizen may make such an arrest and justify his failure to obtain a warrant by proving the person's guilt.¹¹

III. Effect of Proposed Changes:

Section 1 amends s. 493.6120, F.S., to make it a first degree misdemeanor for a person to engage in any activity for which ch. 493, F.S., requires a license if the person does not hold the required license. However, a second or subsequent violation is a third degree felony¹² and the department may seek the imposition of a civil penalty not to exceed \$10,000. This offense does not apply if the person engages in unlicensed activity within 90 days after the expiration date of the person's license.

This statute is also amended to make it a third degree felony for a person, while impersonating a security officer, private investigator, recovery agent, or other person required to have a license under ch. 493, F.S., to knowingly and intentionally force another person to assist the impersonator in an activity within the scope of duty of a professional licensed under ch. 493, F.S. However, it is a second degree felony¹³ if a person commits this violation during the course of committing a felony, and a first degree felony if a person commits this violation during the

¹¹ *Phoenix v. State*, 455 So.2d 1024 (Fla.1984).

¹² A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000 may also be imposed. See ss. 775.082 and 775.083, F.S.

¹³ A second degree felony is punishable by up to 15 years in state prison and a fine of up to \$10,000 may also be imposed. See ss. 775.082 and 775.083, F.S.

course of committing a felony that results in death or serious bodily injury to another human being.¹⁴

Section 2 creates an undesignated section of the Florida Statutes to provide that an on duty, uniformed armed licensed security officer or armed licensed security agency manager, may temporarily detain a person on the premises of a critical infrastructure facility if the security officer or security agency manager has probable cause to believe that the person has committed or is committing a crime against the client of the security officer or security agency manager or the client's patron. The person may be temporarily detained for the purpose of ascertaining the person's identity and the circumstances of the activity that is the basis for the temporary detention. The security officer or security agency manager must notify the law enforcement agency as soon as reasonably possible. The temporary detention must be done solely for the purpose of detaining the person before the arrival of a law enforcement officer. Custody of this person must be immediately transferred to the responding law enforcement officer unless the law enforcement officer requests the security officer to assist in detaining the person.

The security officer or security agency manager may search the person temporarily detained if the security officer or security agency manager observes that the person is armed with a firearm, concealed weapon, or any destructive device that poses a threat to the safety of the security officer or security agency manager, or the detainee admits to the security officer or security agency manager that he or she is armed with a weapon. The security officer or security agency manager is required to seize any weapon discovered and transfer the weapon to the responding law enforcement officer.

This section defines the term "critical infrastructure facility" to mean any one of the following, *if* it employs measures such as fences, barriers, or guard posts that are designed to exclude unauthorized personnel *and* is determined by a state or federal authority to be so vital to the state that the incapacity or destruction of the facility would have a debilitating impact on security, state economic stability, state public health or safety, or any combination of those matters:

- A chemical manufacturing facility.
- A refinery.
- An electrical power plant as defined in s. 403.031, F.S., including a substation, switching station, electrical control center, or electric transmission or distribution facility.
- A water intake structure, water treatment facility, wastewater treatment plant, or pump station.
- A natural gas transmission compressor station.
- A liquid natural gas terminal or storage facility.
- A telecommunications central switching office.
- A deep water port or railroad switching yard.
- A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas.
- A public transportation facility as defined in s. 343.62, F.S.

¹⁴ A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000 may also be imposed. See ss. 775.082 and 775.083, F.S.

In addition, a security officer or security agency manager must perform duties required under this new section in a uniform that bears at least one patch or emblem visible at all times clearly identifying the employing agency.

Section 3 provides that the bill would take effect on July 1, 2012.

Other Potential Implications:

While a person may know that physical barriers and signage indicate that trespassing may be unlawful, they may be unaware that they are in a “critical infrastructure facility” where security personnel would have the lawful authority to detain and search them, if otherwise warranted. The designation of “critical infrastructure facility” is not necessarily public information.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

It is unclear at this point whether the limited searches and seizures which security officers and security agency managers are authorized to make under the bill would raise any Fourth Amendment issues. Since the bill is not law and current law does not specifically provide such search and seizure authorization (e.g., s. 311.124, F.S., which is relevant to seaport security officers, only authorizes temporary *detention* of a person in certain circumstances), there is no relevant and controlling Fourth Amendment case regarding searches and seizures by security officers or security agency managers. However, security officers and security agency managers should be aware that any evidence they seize may be later used as evidence in a criminal case and should be handled accordingly.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates misdemeanor and felony offenses for specific unlicensed activity violations of ch. 493, F.S., as it relates to private investigations, private security, and repossession services. The bill authorizes the department to impose a civil penalty when a person commits a second or subsequent offense not to exceed \$10,000. All fines collected are to be deposited into the Fine and Forfeiture Fund by the clerk of the court in the county where the offense occurred, pursuant to s. 775.083, F.S. All revenues received by the clerk in the Fine and Forfeiture fund from court-related fees, fines, costs, and service charges are considered state funds and shall be remitted monthly to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission. The amount of fines to be potentially generated by the provisions of this bill are unknown at this time.

Although the Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation, has not reviewed this bill, it did determine that a very similar bill, SB 1588, during last year's session was estimated to have an insignificant prison bed impact. Further, the Legislature's Office of Economic and Demographic Research (EDR) has reviewed SB 154 and has indicated it intends to recommend to the CJIC that the bill has an insignificant prison bed impact.¹⁵

VI. Technical Deficiencies:

Throughout the bill the words "security officer or security agency manager" appear. However, on line 128 of the bill, only "security officer" is referenced. For consistency, the sponsor of the bill may want to consider a technical, conforming amendment.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Budget Subcommittee on General Government Appropriations on February 1, 2012:

Adds a reference to "security agency manager" to provide that a security officer or security agency manager may detain a person under provisions of the bill after the arrival of a law enforcement officer if the law enforcement officer requests the person's continuing detention.

B. Amendments:

None.

¹⁵ E-mail from Kathleen McCharen, EDR, to Senate Criminal Justice staff, dated October 21, 2011 (on file with the committee).

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Latvala

16-00053-12

2012154__

1 A bill to be entitled
 2 An act relating to licensed security officers;
 3 amending s. 493.6120, F.S.; providing that a person
 4 who engages in any activity for which ch. 493, F.S.,
 5 requires a license, but who acts without having a
 6 license, commits a misdemeanor of the first degree;
 7 providing that such person commits a felony of the
 8 third degree for a second or subsequent offense of
 9 engaging in activities without a license; authorizing
 10 the Department of Agriculture and Consumer Services to
 11 impose a civil penalty not to exceed a specified
 12 amount; providing that penalties do not apply if the
 13 person engaged in unlicensed activity within 90 days
 14 after the expiration date of the person's license;
 15 providing that a person who, while impersonating a
 16 security officer, private investigator, recovery
 17 agent, or other person required to have a license
 18 under ch. 493, F.S., knowingly and intentionally
 19 forces another person to assist the impersonator in an
 20 activity within the scope of duty of a professional
 21 licensed under ch. 493, F.S., commits a felony of the
 22 third degree; providing that a person who impersonates
 23 a security officer or other designated officer during
 24 the commission of a felony commits a felony of the
 25 second degree; providing that a person who
 26 impersonates a security officer or other designated
 27 officer during the commission a felony that results in
 28 death or serious bodily injury to another human being
 29 commits a felony of the first degree; authorizing a

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00053-12

2012154__

30 licensed security officer or a licensed security
 31 agency manager to detain a person on the premises of a
 32 critical infrastructure facility in certain
 33 circumstances; requiring the security officer to
 34 notify the law enforcement agency as soon as possible;
 35 requiring that custody of any person temporarily
 36 detained be immediately transferred to the responding
 37 law enforcement officer; providing for an exception to
 38 the immediate transfer; providing that the
 39 responsibilities of the security officer are limited
 40 to specified locations; prohibiting a security officer
 41 from detaining a person longer than is reasonably
 42 necessary; authorizing the security officer to search
 43 the person detained under certain circumstances;
 44 defining the term "critical infrastructure facility";
 45 providing identification requirements for certain
 46 licensed security officers; providing an effective
 47 date.

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

51 Section 1. Section 493.6120, Florida Statutes, is amended
 52 to read:

53 493.6120 Violations; penalty.—

54 (1)(a) Except as provided in paragraph (c), a person who
 55 engages in any activity for which this chapter requires a
 56 license and who does not hold the required license commits a
 57 misdemeanor of the first degree, punishable as provided in s.
 58 775.082 or s. 775.083.

Page 2 of 7

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00053-12 2012154

(b) A second or subsequent violation of paragraph (a) is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and the department may seek the imposition of a civil penalty not to exceed \$10,000.

(c) Paragraph (a) does not apply if the person engages in unlicensed activity within 90 days after the date of the expiration of his or her license.

(2)(a) A person who, while impersonating a security officer, private investigator, recovery agent, or other person required to have a license under this chapter, knowingly and intentionally forces another person to assist the impersonator in an activity within the scope of duty of a professional licensed under this chapter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who violates paragraph (a) during the course of committing a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A person who violates paragraph (a) during the course of committing a felony that results in death or serious bodily injury to another human being commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)(1) A ~~Any~~ person who violates any provision of this chapter, except s. 493.6405, subsection (1), or subsection (2), commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4)(2) A ~~Any~~ person who is convicted of any violation of this chapter is ~~shall~~ not ~~be~~ eligible for licensure for a period

16-00053-12 2012154

of 5 years.

(5)(3) A ~~Any~~ person who violates or disregards any cease and desist order issued by the department commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the department may seek the imposition of a civil penalty not to exceed \$5,000.

(6)(4) A ~~Any~~ person who was an owner, officer, partner, or manager of a licensed agency at the time of any activity that is the basis for revocation of the agency or branch office license and who knew or should have known of the activity, shall have his or her personal licenses or approval suspended for 3 years and may not have any financial interest in or be employed in any capacity by a licensed agency during the period of suspension.

Section 2. Protecting critical infrastructure facilities.

(1) A licensed security officer who possesses a valid Class "G" license, or a licensed security agency manager who possesses a valid Class "G" license, who is on duty, in uniform, providing security services on the premises of a critical infrastructure facility, and who has probable cause to believe that a person has committed or is committing a crime against the client, or the client's patron, of the licensed security officer or the licensed security agency manager, may temporarily detain the person for the purpose of ascertaining his or her identity and the circumstances of the activity that is the basis for the temporary detention. The security officer or security agency manager may detain the person in a reasonable manner until the responding law enforcement officer arrives at the premises of the client and is in the presence of the detainee.

(2) When temporarily detaining a person, the licensed

16-00053-12 2012154
 security officer or security agency manager shall notify the
 appropriate law enforcement agency as soon as reasonably
 possible. Temporary detention of a person by a licensed security
 officer or security agency manager must be done solely for the
 purpose of detaining the person before the arrival of a law
 enforcement officer. Custody of any person being temporarily
 detained shall be immediately transferred to the responding law
 enforcement officer.

(3) A licensed security officer or security agency manager
 may not detain a person under this section after the arrival of
 a law enforcement officer unless the law enforcement officer
 requests the security officer to continue detaining the person.
 The responsibilities of the licensed security officer or
 security agency manager do not extend beyond the place where the
 person was first detained or in the immediate vicinity.

(4) A person may not be temporarily detained under this
 section longer than is reasonably necessary to effect the
 purposes of this section.

(5) If a licensed security officer or security agency
 manager, while detaining a person under this section, observes
 that the person temporarily detained is armed with a firearm, a
 concealed weapon, or a destructive device that poses a threat to
 the safety of the security officer or security agency manager,
 or any person for whom the security officer or security agency
 manager is responsible for providing protection, or if the
 detainee admits to having a weapon in his or her possession, the
 security officer or security agency manager may conduct a search
 of the person and his or her belongings only to the extent
 necessary for the purpose of disclosing the presence of a

16-00053-12 2012154
 weapon. If the search reveals such a weapon, the weapon shall be
 seized and transferred to the responding law enforcement
 officer.

(6) As used in this section, the term "critical
 infrastructure facility" means any one of the following, if it
 employs measures such as fences, barriers, or guard posts that
 are designed to exclude unauthorized persons and is determined
 by a state or federal authority to be so vital to the state that
 the incapacity or destruction of the facility would have a
 debilitating impact on security, state economic stability, state
 public health or safety, or any combination of those matters:

(a) A chemical manufacturing facility;

(b) A refinery;

(c) An electrical power plant as defined in s. 403.031,
 Florida Statutes, including a substation, switching station,
 electrical control center, or electric transmission or
 distribution facility;

(d) A water intake structure, water treatment facility,
 wastewater treatment plant, or pump station;

(e) A natural gas transmission compressor station;

(f) A liquid natural gas terminal or storage facility;

(g) A telecommunications central switching office;

(h) A deepwater port or railroad switching yard;

(i) A gas processing plant, including a plant used in the
 processing, treatment, or fractionation of natural gas; or

(j) A public transportation facility as defined in s.
 343.62, Florida Statutes.

(7) A Class "D" or Class "MB" licensee shall perform duties
 regulated under this section in a uniform that bears at least

16-00053-12

2012154

175 one patch or emblem visible at all times clearly identifying the
176 employing agency.

177 Section 3. This act shall take effect July 1, 2012.



268380

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
11/17/2011	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Dean) recommended the following:

Senate Amendment

Delete line 128
and insert:
requests the security officer or security agency manager to
continue detaining the person.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

BILL: SB 538

INTRODUCER: Senator Bogdanoff and others

SUBJECT: Preference to Florida Businesses in Procurement of Personal Property and Services

DATE: January 11, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Favorable
2.	McKay	Roberts	GO	Favorable
3.	Betta	DeLoach	BGA	Favorable
4.			BC	
5.				
6.				

I. Summary:

The bill modifies the existing in-state vendor preference for public printing contracts to include counties, municipalities, school districts, and other political subdivisions as entities that may grant preference, and specifies the preference.

The bill alters the preference for in-state vendors by requiring, rather than authorizing, the preference for in-state vendors. The bill provides the preference shall be five percent for public printing contracts and in the procurement of personal property and services.

This bill substantially amends the following sections of the Florida Statutes: ss. 283.35 and 287.084.

II. Present Situation:

Public Printing Vendor Preference

Chapter 283 of the Florida Statutes regulates public printing. Section 283.35, F.S., provides that “[e]very agency must give preference to vendors located within the state when awarding contracts to have materials printed, whenever such printing can be done at no greater expense than the expense of awarding a contract to a vendor located outside the state and can be done at a level of quality comparable to that obtainable from a vendor located outside the state.”

Section 283.30(1), F.S., defines the term “agency” for purposes of ch. 283, F.S., to mean any official, officer, department, board, commission, division, bureau, section, district, office,

authority, committee, or council, or any other unit of organization, however designated, of the executive branch of state government, and the Public Service Commission.

State Agency Procurement Vendor Preference

Chapter 287 of the Florida Statutes regulates state agency¹ procurement of personal property and services. In providing preference to Florida businesses, s. 287.084, F.S., states:

- (1) When an agency, county, municipality, school district, or other political subdivision of the state is required to make purchases of personal property through competitive solicitation and the lowest responsible and responsive bid, proposal, or reply is by a vendor whose principal place of business is in a state or political subdivision thereof which grants a preference for the purchase of such personal property to a person whose principal place of business is in such state, then the agency, county, municipality, school district, or other political subdivision of this state may award a preference to the lowest responsible and responsive vendor having a principal place of business within this state, which preference is equal to the preference granted by the state or political subdivision thereof in which the lowest responsible and responsive vendor has its principal place of business. However, this section does not apply to transportation projects for which federal aid funds are available.
- (2) If a solicitation provides for the granting of a preference as is provided in this section, any vendor whose principal place of business is outside the State of Florida must accompany any written bid, proposal, or reply documents with a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that state to its own business entities whose principal places of business are in that foreign state in the letting of any or all public contracts.

III. Effect of Proposed Changes:

Section 1 provides a short title: the “Buy Florida Act.”

Section 2 amends s. 283.35, F.S., by expanding application of the printing preference to each county, municipality, school district, or other political subdivision of this state. The preference shall be five percent if the lowest bid is submitted by a vendor whose principal place of business is located outside the state if the printing can be performed in this state at a level of quality comparable to that obtainable from the vendor submitting the lowest bid located outside the state.

¹ As defined in s. 287.012(1), F.S., “agency” means any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. “Agency” does not include the university and college boards of trustees or the state universities and colleges.

Section 3 amends s. 287.084, F.S., by requiring preferences be given to in-state vendors and adding an additional provision to the existing preference. The preference for in-state vendors will be mandatory, rather than authorized. The bill provides the preference shall be five percent for public printing contracts and in the procurement of personal property and services. In a competitive solicitation in which the lowest bid is submitted by a vendor whose principal place of business is located outside the state and that state does not grant a preference in competitive solicitation to vendors having a principal place of business in that state, the preference to the lowest responsible and responsive vendor having a principal place of business in this state must be five percent.

Section 4 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The establishment of local preference laws may potentially implicate the Equal Protection Clause and the Commerce Clause of the U.S. Constitution.

The Equal Protection Clause

The United States Constitution provides that “no State shall . . . deny to any person within its jurisdiction, the equal protection of law.”² The in-state preference provisions in this bill may constitute an equal protection violation. If such legislation is challenged, the court would use a rational basis test to determine the constitutionality of the alleged discriminatory treatment.³ Under the rational basis test, a court must uphold a state statute so long as the classification bears a rational relationship to a legitimate state interest.⁴

The Commerce Clause

The United States Constitution provides that Congress shall have the power “to regulate commerce . . . among the states.”⁵ The Commerce Clause acts not only as a positive grant of power to Congress, but also as a negative constraint upon the states.⁶

² U.S. CONST. amend. XIV, § 1. *See also* FLA. CONST. art. I, s. 2.

³ *Nordlinger v. Hahn*, 505 U.S. 1, 33-34 (1992) (stating that a “classification *rationally* furthers a state interest when there is some fit between the disparate treatment and the legislative purpose.”).

⁴ *Id.*

⁵ U.S. CONST. art. I, s. 8, cl. 3.

Courts have used a two-tiered analysis to determine whether a statutory scheme violates the Commerce Clause:

1. “If a statute ‘directly regulates or discriminates against interstate commerce, or [if] its effect is to favor in-state economic interests over out-of-state interests,’ the court may declare it unconstitutional as applied, without further inquiry.”⁷
2. “. . . if the statute regulates evenhandedly and if it has only an indirect effect on interstate commerce, the court must determine whether the state’s interest is legitimate and, if so, whether the burden on interstate commerce exceeds the local benefits.”⁸

However, when a state or local government is acting as a “market participant” rather than a “market regulator,” it is not subject to the limitations of the Commerce Clause.⁹ A state is considered to be a “market participant” when it is acting as an economic actor such as a purchaser of goods and services.¹⁰ Since the state is acting as a “market participant” under this bill, the in-state preference provisions herein are likely to be upheld as an exception to the Commerce Clause.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill could result in more business being awarded to in-state vendors as a product of the preference being given to them.

C. Government Sector Impact:

As a result of this bill, counties, municipalities, school districts, and other political subdivisions will be required to grant in-state vendor preference for public printing contracts.

The bill provides that the preference for in-state vendors shall be five percent for public printing contracts and in the procurement of personal property and services.

The fiscal impact of these changes is indeterminate because future bids for contracts are unknown; however, costs for contracts could individually increase by up to five percent.

⁶ See *Gibbons v. Ogden*, 22 U.S. (9 Wheat.) 1 (1824).

⁷ *National Collegiate Athletic Ass’n v. Associated Press*, 18 So. 3d 1201, 1211-1212 (Fla. 1st DCA 2009) (citing *Brown-Forman Distillers Corp. v. New York State Liquor Authority*, 476 U.S. 573, 578-579).

⁸ *Id.* (citations omitted); See *Bainbridge v. Turner*, 311 F.3d 1104, 1108-1109.

⁹ See *White v. Massachusetts Council of Constr. Employers*, 460 U.S. 204, 204 (1983) (providing that a state may grant and enforce a preference to local residents when entering into construction projects for public projects).

¹⁰ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senators Bogdanoff and Gaetz

25-00370B-12

2012538

A bill to be entitled

An act relating to preference to Florida businesses in procurement of personal property and services; providing a short title; amending s. 283.35, F.S.; requiring an agency, county, municipality, school district, or other political subdivision of the state to grant a specified preference to a vendor located within the state when awarding a contract for printing; specifying the percentage of preference to be granted; amending s. 287.084, F.S.; requiring, rather than authorizing, an agency, county, municipality, school district, or other political subdivision of the state in making purchases of personal property through competitive solicitation to award a preference to the lowest responsible and responsive vendor having a principal place of business within this state under specified circumstances; specifying the percentage of preference to be granted; providing nonapplicability; providing an effective date.

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

Section 1. This act may be cited as the "Buy Florida Act."

Section 2. Section 283.35, Florida Statutes, is amended to read:

283.35 Preference given printing within the state. ~~Every agency shall give preference to vendors located within the state~~ When awarding a contract ~~contracts~~ to have materials printed,

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

25-00370B-12

2012538

the agency, county, municipality, school district, or other political subdivision of this state awarding the contract shall grant a preference to the lowest responsible and responsive vendor having a principal place of business within this state. The preference shall be 5 percent if the lowest bid is submitted by a vendor whose principal place of business is located outside the state and if the ~~whenever such~~ printing can be performed in this state ~~done at no greater expense than the expense of awarding a contract to a vendor located outside the state and can be done~~ at a level of quality comparable to that obtainable from the ~~a~~ vendor submitting the lowest bid located outside the state.

Section 3. Section 287.084, Florida Statutes, is amended to read:

287.084 Preference to Florida businesses.—

(1) (a) When an agency, county, municipality, school district, or other political subdivision of the state is required to make purchases of personal property through competitive solicitation and the lowest responsible and responsive bid, proposal, or reply is by a vendor whose principal place of business is in a state or political subdivision thereof which grants a preference for the purchase of such personal property to a person whose principal place of business is in such state, then the agency, county, municipality, school district, or other political subdivision of this state shall ~~may~~ award a preference to the lowest responsible and responsive vendor having a principal place of business within this state, which preference is equal to the preference granted by the state or political subdivision thereof

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

25-00370B-12

2012538

59 in which the lowest responsible and responsive vendor has its
60 principal place of business. In a competitive solicitation in
61 which the lowest bid is submitted by a vendor whose principal
62 place of business is located outside the state and that state
63 does not grant a preference in competitive solicitation to
64 vendors having a principal place of business in that state, the
65 preference to the lowest responsible and responsive vendor
66 having a principal place of business in this state shall be 5
67 percent.

68 (b) Paragraph (a) However, this section does not apply to
69 transportation projects for which federal aid funds are
70 available.

71 (2) if a solicitation provides for the granting of such
72 preference as is provided in this section, Any vendor whose
73 principal place of business is outside the State of Florida must
74 accompany any written bid, proposal, or reply documents with a
75 written opinion of an attorney at law licensed to practice law
76 in that foreign state, as to the preferences, if any or none,
77 granted by the law of that state to its own business entities
78 whose principal places of business are in that foreign state in
79 the letting of any or all public contracts.

80 Section 4. This act shall take effect July 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR ELLYN SETNOR
BOGDANOFF**
25th District

COMMITTEES:
Budget - Subcommittee on Finance and Tax,
Chair
Budget
Budget - Subcommittee on Transportation,
Tourism,
and Economic Development
Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Governmental Oversight and Accountability
Regulated Industries

JOINT COMMITTEE:
Administrative Procedures, *Alternating Chair*

January 17, 2012

Senator Alan Hays, Chair
Senate Subcommittee on General Government Appropriations
404 South Monroe Street
Tallahassee, FL 32399

**Re: SB 538, Relating to Preference to Florida Businesses in Procurement of Personal
Property and Services**

Chair Hays:

I am writing to request that you place **SB 538, Relating to Preference to Florida Businesses in
Procurement of Personal Property and Services** on the agenda of your Subcommittee on
General Government Appropriations at your earliest convenience.

Feel free to contact me with any questions or concerns about this legislation.

Sincerely,

Senator Ellyn Setnor Bogdanoff
Florida Senate - District 25

cc: Jamie DeLoach, Staff Director

SENATE APPROPRIATIONS
12 JAN 18 PM 2:29
STAFF DIR. _____
STAFF _____

REPLY TO:

- ☐ 312 Clematis Street, Suite 403, West Palm Beach, FL 33401 (561) 650-6833
- ☐ 1845 Cordova Road, Suite 202, Fort Lauderdale, Florida 33316 (954) 467-4205
- ☐ 212 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5100

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb 1, 2012

Meeting Date

Topic Preference to FL Business

Bill Number SB 538
(if applicable)

Name Ryan West

Amendment Barcode _____
(if applicable)

Job Title _____

Address 136 South Bronough Street
Street
Tallahassee FL 32301
City State Zip

Phone 850 521-1200

E-mail rwest@flchamber.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

✓

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/12
Meeting Date

Topic Preferences Buy Florida ACT

Bill Number SB 538
(if applicable)

Name HARRY DUNCANSON

Amendment Barcode _____
(if applicable)

Job Title Chairman Government Affairs

Address 9704 Waters Meet Drive
Street

Phone 954 401 5933

Tallahassee FL 32312
City State Zip

E-mail HarryDuncane.Comcast.NET

Speaking: ☒ For ☐ Against ☐ Information

Representing Printing Association of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

2/1/12
~~SB 538~~

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

✓

Meeting Date

Topic Preferencer

Bill Number SB 538
(if applicable)

Name Stephen Hogge (Hog)

Amendment Barcode _____
(if applicable)

Job Title _____

Address 117 S. Gadsden St.
Street

Phone _____

Tallahassee FL
City State Zip

E-mail _____

Speaking: ☐ For ☐ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

BILL: SB 952

INTRODUCER: Senator Oelrich

SUBJECT: Recreation and Parks

DATE: January 27, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Favorable
2.	Pigott	DeLoach	BGA	Favorable
3.				
4.				
5.				
6.				

I. Summary:

The bill repeals duplicative statutes dealing with the authority that cities and counties have to set aside lands and/or buildings for use as playgrounds and recreation centers and to appropriate funds to conduct, equip, and maintain these facilities. The statutes also authorize the governing body of a city or a county to establish a system of supervised recreation. Cities and counties were able to finance these recreational lands and/or buildings through the issuance of bonds and levy of an annual ad valorem tax of up to 1 mill specifically designated as the “playground and recreation tax.” Since 1968, cities and counties under their home rule authority have been able to levy such taxes, subject to referendum, within their respective millage cap.¹

The bill repeals ss. 418.01, 418.02, 418.03, 418.04, 418.05, 418.06, 418.07, 418.08, 418.09, 418.10, 418.11, and 418.12, of the Florida Statutes.

II. Present Situation:

In 1925, part I, of chapter 418, F.S., was enacted authorizing cities and counties to set aside lands and/or buildings for use as playgrounds and recreation centers and to appropriate funds to conduct, equip, and maintain these facilities. The law also authorizes the governing body of a city or a county to establish a system of supervised recreation. Cities and counties were able to finance these recreational lands and/or buildings through the issuance of bonds and the levy of an annual ad valorem tax of up to 1 mill specifically designated as the “playground and recreation tax.” Since 1968, cities and counties under their home rule authority have been able to levy such taxes, subject to referendum, within their respective millage cap.

¹ S 200.001(1)(c), F.S., for counties and s. 200.001(2)(c), F.S., for municipalities.

Section 418.12, F.S., describes the duties and functions of the Division of Recreation and Parks within DEP. The most recent amendment to Part I of chapter 418, F.S., occurred in 1994, to s. 418.12, F.S., when the Department of Natural Resources was changed to the Department of Environmental Protection.

III. Effect of Proposed Changes:

Section 1 repeals ss. 418.01, 418.02, 418.03, 418.04, 418.05, 418.06, 418.07, 418.08, 418.09, 418.10, 418.11, and 418.12, F.S. Since 1968, cities and counties under their home rule authority have been able to levy such taxes, subject to referendum, within their respective millage cap for the creation of recreation facilities.

Section 2 provides an effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not appear to have a fiscal impact on state or local governments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Oelrich

14-00925-12

2012952__

A bill to be entitled

An act relating to recreation and parks; repealing s. 418.01, F.S., relating to scope of chapter and a definition; repealing s. 418.02, F.S., relating to recreation centers, use and acquisition of land, and equipment and maintenance; repealing s. 418.03, F.S., relating to supervision; repealing s. 418.04, F.S., relating to playground and recreation boards; repealing s. 418.05, F.S., relating to cooperation with other units and boards; repealing s. 418.06, F.S., relating to gifts, grants, devises, and bequests; repealing s. 418.07, F.S., relating to issuance of bonds; repealing s. 418.08, F.S., relating to petition for referendum; repealing s. 418.09, F.S., relating to resolution or ordinance providing for recreation system; repealing s. 418.10, F.S., relating to tax levy; repealing s. 418.11, F.S., relating to payment of expenses and custody of funds; repealing s. 418.12, F.S., relating to duties and functions of the Division of Recreation and Parks of the Department of Environmental Protection; providing an effective date.

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

Section 1. Sections 418.01, 418.02, 418.03, 418.04, 418.05, 418.06, 418.07, 418.08, 418.09, 418.10, 418.11, and 418.12, Florida Statutes, are repealed.

Section 2. This act shall take effect July 1, 2012.



The Florida Senate

Committee Agenda Request

To: Senator D. Alan Hays, Chair
Committee on General Government Appropriations

Subject: Committee Agenda Request

Date: January 26, 2012

I respectfully request that **Senate Bill # 952**, relating to Parks and Recreation, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in cursive script that reads "Steve Oelrich".

Senator Steve Oelrich
Florida Senate, District 14

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

BILL: CS/CS/SB 704

INTRODUCER: Budget Subcommittee on General Government Appropriations; Community Affairs Committee and Senator Bennett

SUBJECT: Building Construction and Inspection

DATE: February 3, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.	Howard	DeLoach	BGA	Fav/CS
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill amends a number of provisions related to building construction and inspection in Florida. The bill:

- modifies how local government code enforcement boards serve notices on property owners;
- revises definitions, outlines permitting measures, establishes title transfer procedures and provides for the applicability of rules governing on-site sewage treatment and disposal systems;
- authorizes building code administrators or building officials to accept electronically transmitted construction plans and related documents for permit approval purposes;
- includes certain fire safety inspectors among those eligible to take the building code inspector or plans examiner certification exam and shortens the time length of a provisional certificate for newly employed or promoted inspectors or examiners;
- includes landscape architecture in the mold assessment exemption;
- (1) creates a licensure exemption for property owners installing, uninstalling, or replacing solar panels; (2) requires electronic permit application to include disclosure statement as true and correct; (3) exempts solar projects from an owner's notarized signature or personal appearance to sign the permit application;

- expands the meaning of ‘demolish’ as it is used to define licensed contractors;
- modifies plumbing contractor scope of services to include water supply backflow prevention and drain cleaning and clearing, rainwater catchment systems;
- eliminates the glass and glazing contractor as a required licensed contractor;
- clarifies the remedial nature and retroactive application of contracts related to the sale of manufactured or factory-built buildings;
- increases the maximum civil penalty a local governing body may levy against an unlicensed contractor;
- changes how certain Florida Building Code permit fee surcharges are allocated;
- exempts specified hunting structures from the Florida Building Code;
- provides an expiration date related to a subsection in the Florida Building Code as it relates to exposed mechanical equipment or appliances fastened to a roof or installed on the ground;
- allows for electronic filing related to the Florida Fire Prevention Code;
- removes the notary requirement for certain solar project documents submitted electronically; and
- directs the Florida Building Commission to adopt a rule outlining an alternative method of screen enclosure design and establish a workgroup to assist the commission in developing a rule for implementing an alternative screen design.

The bill substantially amends sections 162.12, 381.0065, 468.604, 468.609, 468.841, 489.103, 489.105, 489.127, 489.531, 553.721, 553.73, 553.844, 633.0215, and 713.135, of the Florida Statutes and creates an undesignated section of law.

II. Present Situation:

Local Government Code Enforcement Board Notices

Code Enforcement Boards and Procedures

Chapter 162, Part I of the Florida Statutes governs local government code enforcement boards. These county and municipality administrative boards are authorized to impose fines and other noncriminal penalties to enforce local government code and ordinance violations.¹

The boards consist of five or seven members appointed by the local governing body.² An authorized agent or employee of the local government serves as a code inspector to assure code compliance and to initiate any enforcement proceedings.³ If a violation of the codes is found, the code inspector notifies the violator and gives the person a reasonable time to correct the transgression. If the violation persists beyond the time specified for correction, a hearing is requested and scheduled, and the code enforcement board provides notice pursuant to s. 162.12, F.S.⁴

¹ See sections 162.02 and 162.03, F.S. An alternative enforcement system utilizing special magistrates is also an option.

² Section 162.05, F.S. If the local governing body has a population of less than 5,000 persons, the code enforcement board may consist of five or seven members. If the population is 5,000 or more persons, the board must be seven members.

³ Section 162.04(2), F.S.

⁴ See section 162.06, F.S.

At the conclusion of a hearing, the enforcement board issues findings of fact and an order affording proper relief. The order may include a notice for compliance by a specified date and that a fine may be imposed.⁵ Fines may not exceed \$250 per day for a first violation and shall not exceed \$500 per day for a repeat violation.⁶

Code Enforcement Notices

Notices to alleged violators of local government codes and ordinances are governed by s. 162.12, F.S. There are four options cited in s. 162.12(1), F.S., by which notices are provided, including by:

certified mail, return receipt requested, provided if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, *and* at any other address provided to the local government by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraphs (2)(b)1. and 2. *and* by first class mail directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first class mailing.⁷

The other options for serving notices in s. 162.12(1), F.S., are:

- hand delivery by the sheriff, code inspector, or other designated person;
- leaving at the violator's residence with any person residing there above the age of 15; or
- for commercial premises, leaving the notice with the manager or other person in charge.⁸

There is currently no specific guidance in s. 162.12(1), F.S., for serving notices on property owned by a corporation.

In addition to providing notice as set forth in subsection (1) of s. 162.12, F.S., subsection (2) provides optional noticing by publication or posting as follows:

- published once during each week for four consecutive weeks in a newspaper of general circulation in the county where the code enforcement board is located;
- posted at least 10 days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which is at the property of the alleged violation and the other at the primary municipal or county government office.

Proof of posting is by affidavit of the person posting the notice. Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail.⁹ Evidence that an attempt has been made to hand deliver or mail a notice together with proof of publication or posting satisfies the notice requirements regardless of whether or not the alleged violator actually received such notice.¹⁰

⁵ See section 162.07, F.S.

⁶ See section 162.09, F.S.

⁷ Section 162.12(1)(a), F.S. *Italics* added.

⁸ See ss 162.12(b)-(d), F.S.

⁹ Section 162.12(2), F.S.

¹⁰ *Id.*

The Department of Health's Regulation of Septic Tanks

The Department of Health (DOH) oversees an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. One component of the program is administration of septic systems.¹¹

An "onsite sewage treatment and disposal system" is a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solid or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. The term does not include package sewage treatment facilities and other treatment works regulated under ch. 403, F.S.¹²

The DOH estimates there are approximately 2.67 million septic tanks in use statewide.¹³ The DOH's Bureau of Onsite Sewage (bureau) develops statewide rules and provides training and standardization for county health department employees responsible for permitting the installation and repair of septic systems within the state. The bureau also licenses septic system contractors, approves continuing education courses and courses provided for septic system contractors, funds a hands-on training center, and mediates septic system contracting complaints. The bureau manages a state-funded research program, prepares research grants, and reviews and approves innovative products and septic system designs.¹⁴

In 2008, the Legislature directed the DOH to submit a report to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives by no later than October 1, 2008, which identifies the range of costs to implement a mandatory statewide five-year septic tank inspection program to be phased in over 10 years pursuant to the DOH's procedure for voluntary inspection, including use of fees to offset costs.¹⁵ This resulted in the "Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program" (report).¹⁶ According to the report, three Florida counties, Charlotte, Escambia and Santa Rosa, have implemented mandatory septic tank inspections at a cost of \$83.93 to \$215 per inspection.

The report stated that 99 percent of septic tanks in Florida are not under any management or maintenance requirements. Also, the report found that while these systems were designed and

¹¹ See s. 381.006, F.S.

¹² Section 381.0065(2)(j), F.S.

¹³ Florida Dep't of Health, Bureau of Onsite Sewage, *Home*, <http://www.myfloridaeh.com/ostds/index.html> (last visited Dec. 19, 2011).

¹⁴ Florida Dep't of Health, Bureau of Onsite Sewage, *OSTDS Description*, <http://www.myfloridaeh.com/ostds/OSTDSdescription.html> (last visited Dec. 19, 2011).

¹⁵ See ch. 2008-152, Laws of Fla.

¹⁶ Florida Dep't of Health, Bureau of Onsite Sewage, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, October 1, 2008, available at <http://www.doh.state.fl.us/environment/ostds/pdfiles/forms/MSIP.pdf> (last visited Dec. 19, 2011).

installed in accordance with the regulations at the time of construction and installation, many are aging and may be under-designed by today's standards. The DOH's statistics indicate that approximately 2 million septic systems are 20 years or older, which is the average lifespan of a septic system in Florida.¹⁷ Because repairs of septic systems were not regulated or permitted by the DOH until March 1992, some septic systems may have been unlawfully repaired, modified or replaced. Furthermore, 1.3 million septic systems were installed prior to 1983. Pre-1983 septic systems were required to have a 6-inch separation from the bottom of the drainfield to the estimated seasonal high water table. The standard since 1983 for drainfield separation is 24 inches and is based on the 1982 Water Quality Assurance Act and on research findings compiled by the DOH that indicate for septic tank effluent, the presence of at least 24 inches of unsaturated fine sandy soil is needed to provide a relatively high degree of treatment for pathogens and most other septic system effluent constituents.¹⁸ Therefore, Florida's pre-1983 septic systems and any illegally repaired, modified or installed septic systems may not provide the same level of protection expected from systems permitted and installed under current construction standards.¹⁹

Flow and Septic System Design Determinations

For residences, domestic sewage flows are calculated using the number of bedrooms and the building area as criteria for consideration, including existing structures and any proposed additions.²⁰ Depending on the estimated sewage flow, the septic system may or may not be approved by the DOH. For example, a current three bedroom, 1,300 square foot home is able to add building area to have a total of 2,250 square feet of building area with no change in their approved system, provided no additional bedrooms are added.²¹

Minimum required treatment capacities for septic systems serving any structure, building or group of buildings are based on estimated daily sewage flows as determined below.²²

TABLE OF AEROBIC SYSTEMS PLANT SIZING RESIDENTIAL		
Number of Bedrooms	Building Area (ft ²)	Minimum Required Treatment Capacity(gallons per day)
1 or 2	Up to 1200	400
3	1201-2250	500
4	2251-3300	600

Minimum design flows for septic systems serving any structure, building or group of buildings are based on the estimated daily sewage flow. For residences, the flows are based on the number

¹⁷ Florida Dep't of Health, Bureau of Onsite Sewage, *Onsite Sewage Treatment and Disposal Systems in Florida* (2010), available at <http://www.doh.state.fl.us/Environment/ostds/statistics/newInstallations.pdf> (last visited Dec. 22, 2011). See also Florida Dep't of Health, Bureau of Onsite Sewage, *What's New?*, available at <http://www.doh.state.fl.us/environment/ostds/New.htm> (last visited on Dec. 22, 2011).

¹⁸ Florida Dep't of Health, Bureau of Onsite Sewage, *Bureau of Onsite Sewage Programs Introduction*, available at <http://www.doh.state.fl.us/Environment/learning/hses-intro-transcript.htm> (last visited Jan. 3, 2012).

¹⁹ *Id.*

²⁰ Rule 64E-6.001, F.A.C.

²¹ *Id.*

²² Table adapted from Rule 64E-6.012, F.A.C.

of bedrooms and square footage of building area. For a single- or multiple-family dwelling unit, the estimated sewage flows are: for 1 bedroom with 750 square feet or less building area, 100 gallons; for two bedrooms with 751-1,200 square feet, 200 gallons; for three bedrooms with 1,201-2,250 square feet, 300 gallons; and for four bedrooms with 2,251-3,300 square feet, 400 gallons. For each additional bedroom or each additional 750 square feet of building area or fraction thereof in a dwelling unit, system sizing is to be increased by 100 gallons.²³

Electronically Transmitted Construction Documents

Building Code Administrators and the Permitting Process

The Legislature deems it necessary in the interest of public health and safety to regulate the practice of building code administration and inspection in this state.²⁴ “Building code administrators” or “building officials” are the local government employees charged with building construction regulation responsibilities. These responsibilities are linked to the permitting process and include plan review, enforcement, and the inspection of building construction, remodeling, and demolition. Officials verify compliance with construction codes as required by state law or municipal or county ordinance relating to plumbing, mechanical, electrical, gas, fire prevention, energy, and accessibility.²⁵

Section 468.604 (1), F.S., requires that construction plans be reviewed by a building code administrator or building official before the issuance of any building, system installation, or other construction permit. In addition, the administrator or official must also inspect each phase of construction where a building or other construction permit has been issued.²⁶

To obtain a permit, the Florida Building Code provides that an applicant shall first file an application in writing on a form furnished by the appropriate building department for the intended purpose.²⁷ Permit application forms shall be in a format prescribed by a local administrative board, if applicable, and must comply with the requirements of s. 713.135(5) and (6), F.S.

Section 713.135(5), F.S., requires building permit applications to include the names and addresses of property owners and contractors and a description sufficient to identify the property. Section 713.135(6), F.S., delineates the format for building permit applications which include owner and contractor signatures as well as notarization.²⁸ The section also provides that an authority responsible for issuing building permits may accept a building permit application in an electronic format, as prescribed by the authority. Electronically submitted permits must contain an additional “owner’s electronic submission statement.”²⁹

²³ Rule 64E-6.008, F.A.C.

²⁴ Section 468.601, F.S.

²⁵ Section 468.603(1), F.S.

²⁶ Section 468.604(1), F.S.

²⁷ Section 105.3, Chap. 1, 2007 Florida Building Code: Building (including 2009 Supplement).

²⁸ Section 117.021(1), F.S., provides that “any document requiring notarization may be notarized electronically.”

²⁹ Section 713.135(6)b, F.S.

Construction documents outlining floor, site, and foundation plans, as well as other data, are submitted in one or more sets with each application for a permit. Electronic media versions of these documents are allowed to be submitted when approved by the building official.³⁰

Electronic Signatures

The intent of the “Electronic Signature Act of 1996,” is to facilitate economic development and efficient delivery of government services through electronic messages.³¹ The act also aims to foster the development of electronic commerce through the use of electronic signatures. Unless otherwise provided by law, an electronic signature may be used to sign a writing and shall have the same force and effect as a written signature.³²

Part II, ch. 668, F.S., contains the “Uniform Electronic Transaction Act” which sets forth requirements for the validation and effect of electronic records and electronic signatures. It also provides for agreement variation in order to facilitate, but not require, the use of electronic means in conducting transactions.³³

Statutorily Authorized Electronic Submission of Documents and Seals

Certain professions regulated by the state have statutory authority to electronically submit documents and to utilize electronic seals. These include:

- architects,³⁴
- engineers,³⁵
- interior designers,³⁶
- landscape architects,³⁷ and
- land surveyors and mappers.³⁸

In addition, in 2009, the Legislature required each clerk of court to implement an electronic filing process in an effort to reduce judicial costs, increase timeliness in the processing of cases, and improve judicial case management.³⁹

Certification Standards for Building Code Administration Personnel

A person 18 years of age and of good moral character may meet one of five eligibility requirements to take the building code inspector or plans examiner certification exam.⁴⁰ The eligibility requirement in s. 468.609(2)(c)(4), F.S., is to hold a standard certificate from the

³⁰ Sections 106.1.1 and 106.3.5, Chap. 1, 2007 Florida Building Code: Building (including 2009 Supplement).

³¹ See s. 668.002, F.S.

³² Section 668.004, F.S.

³³ See Comm. on Commerce and Economic Opportunities, The Florida Senate, *CS/CS/SB 1334 Electronic Commerce*, Florida Senate 2000 Session Summary, available at <http://archive.flsenate.gov/publications/2000/senate/reports/summaries/pdf/Comm.pdf>.

³⁴ Section 481.221(2), F.S.

³⁵ Section 471.025(1), F.S.

³⁶ Section 481.221(3), F.S.

³⁷ Section 481.321(1), F.S.

³⁸ Section 472.025(1), F.S.

³⁹ Section 28.22205, F.S.

⁴⁰ See s. 468.609, F.S.

Florida Building Code Administrators and Inspectors Board (board) and complete an inspector or examiner training program.

Section 468.609(7)(a), F.S., allows the board to issue provisional building code inspector or plans examiner certificates to newly employed or promoted inspectors or examiners. These provisional certificates are valid for not less than three years nor more than five years.

Construction Contracting and Licensure to Demolish

The legislature deems it necessary in the interest of public health, safety and welfare to regulate the construction industry.⁴¹ Chapter 489, part I of the Florida Statutes governs construction contracting in the state and establishes the Construction Industry Licensing Board (CILB) within the Department of Business and Professional Regulation (DBPR) to carry out chapter provisions.⁴²

The CILB meets regularly to consider applications for licensure, to review disciplinary cases, and to conduct informal hearings relating to licensure and discipline. The board engages in rulemaking to implement the provisions set forth in statutes and conducts other general business, as necessary.⁴³

Section 489.105(3), F.S., defines “contractor” as

a person, who for compensation undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, *demolish*, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others⁴⁴

Of the defined contractor activities, demolish is the sole act that receives additional clarification in the statute.

For the purposes of regulation under this part, “demolish” applies only to demolition of steel tanks over 50 feet in height; towers over 50 feet in height; other structures over 50 feet in height, other than buildings or residences over three stories tall; and buildings or residences over three stories tall.⁴⁵

Given the above qualifying language, demolition of buildings or residences that are *three stories in height or less* as well as steel tanks, towers and other structures *50 feet in height or less* do not require licensure pursuant to Chapter 489, Florida Statutes.⁴⁶ According to the DBPR, the

⁴¹ Section 489.101, F.S.

⁴² Section 489.107(1), F.S.

⁴³ Florida Department of Business and Professional Regulation, *Construction Industry Licensing Board*, <http://www.myfloridalicense.com/dbpr/pro/cilb/> (last visited Dec. 14, 2011).

⁴⁴ *Italics added.*

⁴⁵ Section 489.105(3), F.S.

⁴⁶ See Florida Department of Business and Professional Regulation, *Senate Bill 704 Analysis* (Nov. 2, 2011) (on file with the Senate Committee on Community Affairs).

number of unlicensed persons currently demolishing residences and buildings three stories or less or tanks and towers 50 feet or less is unknown.⁴⁷

Construction Contracting

Contracting is defined in the context of the regulation of construction contracting under ch. 489, F.S. Section 489.105(6) defines “contracting” with the following exemption:

. . . the term “contracting” shall not extend to an individual, partnership, corporation, trust, or other legal entity that offers to sell or sells completed residences on property on which the individual or business entity has any legal or equitable interest, or to the individual or business entity that offers to sell or sells manufactured or factory-built buildings that will be completed on site on property on which either party to a contract has any legal or equitable interest, if the services of a qualified contractor certified or registered pursuant to the requirements of this chapter have been or will be retained for the purpose of constructing or completing such residences.

Penalties for Unlicensed Contracting

Prohibitions and penalties for construction contracting and electrical and alarm system contracting are found in Part I, ch. 489, F.S., and Part II, ch. 489, F.S., respectively. The local governing body of a county or municipality is authorized to enforce codes and ordinances against unlicensed contractors. The local governing board may enact an ordinance establishing procedures for implementing codes, including a schedule of penalties to be assessed by the code enforcement officer.⁴⁸ The maximum civil penalty which may be levied shall not exceed \$500.⁴⁹

Florida Building Code Permit Fee Surcharge

Florida Building Code and Building Commission

In 2000, the Florida Legislature enacted chapter 2000-141, Laws of Florida, to provide for the adoption of the Florida Building Code (Code), a unified building code for the state. The Code consists of a single set of documents that apply to the design, construction, erection, alteration, modification, repair or demolition of public and private buildings or structures.⁵⁰ It is adopted and maintained by the Florida Building Commission (Commission) which is located within the DBPR. The Code is enforced by authorized state and local government enforcement agencies.⁵¹ The Commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, F.S., updates the Code every three years.⁵²

⁴⁷ *Id.*

⁴⁸ See s. 489.127(5)(c) and s. 489.531(4)(c), F.S.

⁴⁹ *Id.*

⁵⁰ Section 553.72(1), F.S.

⁵¹ Section 553.72(3), F.S. The Commission is composed of 25 members appointed by the Governor subject to confirmation by the Senate.

⁵² Section 553.73(7)(a), F.S.

Building Code Permit Fee Surcharges

The governing bodies of local governments may provide a schedule of fees to administer their responsibilities enforcing the Code.⁵³ In order for the Department of Business and Professional Regulation (DBPR) to administer and carry out the purposes of the Code and related activities, a surcharge is assessed at the rate of 1.5 percent of the permit fees associated with enforcement of the Code.⁵⁴ The minimum amount collected on any permit issued is \$2. Surcharge funds are electronically remitted to the DBPR on a quarterly calendar basis.

The unit of government collecting and remitting these funds retains 10 percent of the surcharge collected to fund the participation of building departments in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code. All funds remitted to DBPR are deposited in the Professional Regulation Trust Fund.⁵⁵ Funds collected from surcharges are used exclusively for the duties of the Florida Building Commission and the DBPR. Funds used by the DBPR as well as funds to be transferred to the Department of Health are prescribed in the annual General Appropriations Act.

Building Code Compliance and Mitigation Program

Created by Chapter 98-287, s. 52, Laws of Fla. as the Building Code Training Program, s. 553.841, F.S., governs what is now known as the Florida Building Code Compliance and Mitigation Program (Program). Administered by the DBPR, the Program develops, coordinates, and maintains education and outreach to persons required to comply with the Florida Building Code including methods for mitigation of hurricane and storm-related damage. All services and materials of the Program are provided by a private, nonprofit corporation under contract with the DBPR.⁵⁶ Program funding is provided by the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board pursuant to ss. 489.109(3) and 489.509(3), F.S.⁵⁷

Florida Building Code Amendments and Exemptions

Section 553.72(1), F.S., provides that the Florida Building Code (Code) is to be “applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.” Among the purposes of the Code is the intent to “establish minimum standards primarily for public health and lifesafety, and, secondarily, for protection of property as appropriate.”

While the Code is uniform in nature, s. 553.72(3)(d), F.S., states that the Florida Building Commission shall incorporate within sections of the Code provisions which address regional and local concerns and variations. In addition, local governments may adopt amendments to the technical provisions of the Florida Building Code which apply solely within the jurisdiction of

⁵³ See s. 553.80, F.S.

⁵⁴ See s. 553.721, F.S., for this and the remaining information provided in this subsection of the analysis. A similar 1.5% surcharge of permit fees is assessed pursuant to s. 468.631, F.S., to fund the Florida Homeowners' Construction Recovery Fund established by s. 489.140, F.S., and to fund the functions of the Building Code Administrators and Inspectors Board.

⁵⁵ Pursuant to s. 215.37, F.S., the Professional Regulation Trust Fund consists of fees, licenses, and other charges assessed to practitioners of professions, as defined in ch. 455, F.S. by the DBPR. Separate accounts are maintained for each profession.

⁵⁶ According to the DBPR, Building a Safer Florida, Inc., is the nonprofit corporation currently providing services and materials for the Program. Their website is available at <http://buildingasaferflorida.com/index.cfm?key=1>.

⁵⁷ Section 553.841(5), F.S. According to the DBPR *Senate Bill 704 Analysis*, the Program has historically received funds from the Florida Building Commission appropriation or one-time appropriations from the Residential Construction Mitigation Program.

such government and which provide for more stringent requirements than those specified in the Florida Building Code.⁵⁸

Permissive Exemptions for Single-Family Residences

Local governments and Code enforcement districts may adopt rules granting Code exemptions to owners of single-family residences.⁵⁹ These exemptions relate to:

- additions or repairs performed by the property owner which do not exceed 1,000 square feet or the square footage of the primary structure, whichever is less;
- additions or repairs by a non-owner within a specific cost limitation set by rule, provided the total cost does not exceed \$5,000 within any 12-month period;
- building and inspections fees.⁶⁰

Outright Exemptions for Buildings, Structures, and Facilities

The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:⁶¹

- Buildings and structures specifically regulated and preempted by the Federal Government.
- Railroads and ancillary facilities associated with the railroad.
- Nonresidential farm buildings on farms.
- Temporary buildings or sheds used exclusively for construction purposes.
- Mobile or modular structures used as temporary offices.⁶²
- Structures or facilities of electric utilities which are directly involved in the generation, transmission, or distribution of electricity.
- Temporary sets, assemblies, or structures used in motion picture or television production.
- Storage sheds that are not designed for human habitation.⁶³
- Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida.⁶⁴
- Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site.⁶⁵

The Florida Building Commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law.⁶⁶

⁵⁸ Section 553.73(4)(a).

⁵⁹ Section 553.80(3)(b)1., F.S.

⁶⁰ Section 553.80(3)(b)1.a.-c., F.S.

⁶¹ See s. 553.73(10)(a)-(j), F.S.

⁶² Provisions relating to accessibility by persons with disabilities apply to such structures.

⁶³ Sheds of 720 square feet or less are not required to comply with wind-borne-debris-impact standards. Sheds 400 square feet or less are not subject to door height and width requirements.

⁶⁴ “Chickee” means an open-sided wooden hut that has a thatched roof made of traditional materials that does not incorporate any electrical, plumbing, or other non-wood features.

⁶⁵ These mausoleums have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

⁶⁶ Section 553.72(10)(j), F.S.

Thermal Efficiency Standards for certain Hunting and Recreational Buildings

Section 553.901, F.S., requires the DBPR to prepare a thermal efficiency code which provides a statewide uniform standard for energy efficiency in the thermal design and operation of all buildings consistent with energy conservation goals. Buildings exempted from thermal efficiency provisions include those with a minimal peak rate of energy usage, those neither heated nor cooled by a mechanical system, buildings where federal standards preempt state codes, and certain historical buildings.⁶⁷ The thermal efficiency standards for new residential buildings outlined in s. 553.905, F.S., do not apply to a building of less than 1,000 square feet which is not primarily used as a principal residence and which is constructed and owned by a natural person for hunting or similar recreational purposes.⁶⁸

Federal Emergency Management Agency Flood Insurance Rate Maps

The Flood Insurance and Mitigation Administration (FIMA), a component of the Federal Emergency Management Agency (FEMA), manages the National Flood Insurance Program (NFIP). Nearly 20,000 communities across the United States and its territories participate in the NFIP by adopting and enforcing floodplain management ordinances to reduce future flood damage. In exchange, the NFIP makes federally backed flood insurance available to homeowners, renters, and business owners in these communities. Community participation in the NFIP is voluntary.⁶⁹

In addition to providing flood insurance and reducing flood damages through floodplain management regulations, the NFIP identifies and maps the Nation's floodplains. The official map of a community on which FEMA has delineated special hazard areas and the risk premium zones applicable to a community is known as a Flood Insurance Rate Map (FIRM).⁷⁰ Special flood hazard areas are defined as areas that will be inundated by a flood event having a one-percent chance of being equaled or exceeded in any given year. The one-percent annual chance flood is also referred to as the base flood or 100-year flood.⁷¹

Screen Enclosures

A screen enclosure is defined in the Florida Building Code as:

a building or part thereof, in whole or in part self-supporting, and having walls of insect screening with or without removable vinyl or acrylic wind break panels and a roof of insect screening, plastic, aluminum or similar lightweight material.⁷²

⁶⁷ See s. 553.902, F.S.

⁶⁸ These standards relate to heating, ventilating, and air conditioning as well as insulation. Persons may not construct more than one exempt hunting or recreational building in any 12-month period.

⁶⁹ Federal Emergency Management Agency, United States Department of Homeland Security, *National Flood Insurance Program*, <http://www.fema.gov/about/programs/nfip/index.shtm> (last visited Dec. 14, 2011).

⁷⁰ FEMA provides map servicing information at <https://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>.

⁷¹ Federal Emergency Management Agency, United States Department of Homeland Security, *Flood Zones*, http://www.fema.gov/plan/prevent/floodplain/nfipkeywords/flood_zones.shtm (last visited Dec. 14, 2011).

⁷² Section 202, 2007 Florida Building Code: Building (First Printing), Includes 2009 Supplement.

Removable vinyl and acrylic panels shall be identified as removable by a decal. The identification decal shall essentially state "Removable panel SHALL be removed when wind speeds exceed 75 mph (34 m/s)." Decals shall be placed such that the decal is visible when the panel is installed.⁷³

U.S Department of Energy SunShot Initiative

The SunShot Initiative is a collaborative national effort to make the United States a leader in the global clean energy race by fueling solar energy technology development. SunShot will enable widespread, large-scale adoption of solar across America by making solar energy systems cost-competitive with other forms of energy by the end of the decade.

The SunShot Initiative vision is to make the total cost of solar energy economically viable for everyday use, so that all Americans will benefit from this clean renewable energy resource.

The SunShot Initiative aims to reduce the total installed cost of solar energy systems by 75%. This can be accomplished by reducing solar technology costs, reducing grid integration costs, and accelerating solar deployment nationwide. The identified strategies include:

- Increasing PV solar cell efficiency, reducing production costs, and opening new markets for solar energy;
- Shortening the amount of time it takes to move promising new solar technologies from development to commercialization and strengthening the U.S. supply chain for solar manufacturing and commercialization of cutting-edge photovoltaic technologies;
- Driving down the cost of concentrating solar power (CSP), fostering collaboration for utility-scale solutions, and integrating solar into the electric grid, clearing the way for high-penetration solar;
- Investing in education, policy analysis, and technical assistance to remove critical barriers and speed rapid penetration; and
- Developing a well-trained workforce to foster U.S. job creation in the solar industry.

Current Contractor designations

Glass and glazing is currently defined as a Division II contractor under the current contractor designation.

III. Effect of Proposed Changes:

Section 1 amends s. 162.12, F.S., to modify how local government code enforcement boards serve notices to alleged violators of local codes and ordinances. The bill allows for mail notices to be sent by certified mail *either* to an address listed in the tax collector's office *or* to any other address provided by the property owner. Currently, if mailing notices, local governments are required to send to the tax collector address *and* any other addresses.

⁷³ Section 2002.3.3, 2007 Florida Building Code: Building (First Printing), Includes 2009 Supplement.

In addition, this section of the bill establishes a corporation's registered agent as the recipient of certified mail notices for property owned by a corporation.

The bill also amends s. 162.12, F.S., to permit local government code enforcement boards to proceed with service by publication or posting pursuant to s. 162.12(2)(b), F.S., if a notice sent by certified mail is not signed as received within 30 days of mailing. Enforcement boards would no longer be required to wait until the return receipt is returned as undeliverable or refused by the United States Postal Service.

Finally, the bill eliminates a requirement to provide notices by first class mail when exercising the publishing or posting options and removes a return receipt requested provision of notices sent via certified mail.

Section 2 amends definitions as used in ss. 381.0065-381.0067, F.S., related to onsite sewage and treatment disposal systems. The bill defines "bedroom" as a room that can be used for sleeping that, for site-built dwellings, has a minimum 70 square feet of conditioned space; or for manufactured homes, constructed to HUD standards having a minimum of 50 square feet of floor area. The room must be located along an exterior wall, have a closet and a door or an entrance where a door could be reasonably installed. It also must have an emergency means of escape and rescue opening to the outside. A room may not be considered a bedroom if it is used to access another room, unless the room that is accessed is a bathroom or closet. The term does not include a hallway, bathroom, kitchen, living room, family room, dining room, den, breakfast nook, pantry, laundry room, sunroom, recreation room, media/video room, or exercise room.

The bill provides that a permit issued and approved by the DOH for the installation, modification, or repair of a septic system transfers with the title to the property. A title is not encumbered when transferred by new permit requirements that differ from the original permit requirements in effect when the septic system was permitted, modified or repaired.

The bill specifies a septic system serving a foreclosed property is not considered abandoned. It also specifies a septic system is not considered "abandoned" if it was properly functioning when disconnected from a structure made unusable or destroyed following a disaster, and the septic system was not adversely affected by the disaster. The septic system may be reconnected to a rebuilt structure if:

- reconnection of the septic system is to the same type of structure that existed prior to the disaster;
- has the same number of bedrooms or less than the structure that existed prior to the disaster;
- is within 110 percent of the size of the structure that existed prior to the disaster;
- the septic system is not a sanitary nuisance; and
- the septic system has not been altered without prior authorization.

The bill provides that the rules applicable and in effect at the time of approval for construction apply at the time of the final approval of the septic system if fundamental site conditions have not changed between the time of construction approval and final approval.

The bill provides that a modification, replacement, or upgrade of a septic system is not required for a remodeling addition to a single-family home if a bedroom is not added.

Section 3 creates subsection (4) of s. 468.604, F.S., specifying that should a building code administrator or building official provide for electronic filing, then construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee may be dated and electronically signed and sealed by the licensee in accordance with part I of chapter 668 and transmitted electronically to the building code administrator or building official for approval.

Section 4 amends s. 468.609(2)(c) and 468.609(7)(a), F.S., on certification of building code administration and inspection personnel. The bill adds provisions for existing fire safety inspectors among the eligibility requirements persons can meet to take the building code inspector or plans examiner certification exam. Currently, the requirement in s. 468.609(2)(c)(4), F.S., is to hold a standard certificate from the Florida Building Code Administrators and Inspectors Board and complete an inspector or examiner training program. The bill would allow a standard certificate *or* a fire safety inspector license issued pursuant to chapter 633 and two years of verifiable experience in inspection or plan review along with the training program.

The bill also shortens the time length of a building code inspector or plans examiner provisional certificate issued to newly employed or promoted inspectors or examiners to one year. Provisional licenses may be renewed by the Florida Building Code Administrators and Inspectors Board for just cause though for not more than three years.

Section 5 amends s. 468.841(1)(d), F.S., to include part II of chapter 481, Landscape Architecture in the exemption to comply with any provisions of s. 468.841, F.S., relating to mold assessment.

Section 6 creates subsection 3 of s. 489.103(7)(a), F.S., which creates a licensure exemption for property owners for the installment, uninstalment, or replacement of solar panels on one-family, two-family, or three-family residences for the occupancy or use of such owner or tenant of the owner.

The bill also amends s. 489.103(7)(c) to not require an owner's notarized signature or personal appearance to sign the permit application for a solar project if the building permit application is submitted electronically to the permitting authority and the owner certifies the application and disclosure statement using the permitting authority's electronic confirmation system.

The bill also creates subsection (d) in s. 489.103(7), F.S., requiring a building permit application and disclosure statement electronically submitted by an owner to the authority for a solar project. It must also contain a statement that all the information contained in the building permit application and the representations made in the required disclosure statement is true and correct as described in s. 489.103(7)(a)3.

In addition, subsection (e) is created in s. 489.103(7), F.S., stating that a permitting authority that accepts a building permit application and disclosure statement in an electronic format from an owner who is exempt pursuant to this subsection and who applies for a permit relating to a solar project is not liable in any civil action for inaccurate information submitted by the owner using the authority's electronic confirmation system.

Section 7 amends s. 489.105, F.S., to expand the definition of “contractor” to include those persons or businesses that contract to demolish any residence or building. Currently, contractor licensure to demolish buildings and residences only applies when these particular structures are over three stories tall.

Also amends s. 489.105(3)(m), F.S., to include in the scope of services of a plumbing contractor, water supply backflow prevention and drain cleaning and clearing, rainwater catchment systems without obtaining an additional license.

In addition, subsection (q) of s. 489.105(3), F.S., is removed eliminating the glass and glazing contractor as a Division II contractor.

Section 8 creates an undesignated section of law to delineate that the amendments to s. 489.105(6), F.S., as enacted by s. 30 of chapter 2008-240, Laws of Florida, were intended to protect the sanctity of contracts for the sale of manufactured or factory-built buildings that will be completed on site and to ensure that those contracts are legal and enforceable contracts under state law. The bill further provides that the amendments were intended to be remedial in nature, clarify existing law, and apply retroactively to any contract for the sale of manufactured or factory-built buildings that will be completed on site and otherwise comply with state law.

Section 9 amends prohibitions and penalties in Part I of Chapter 489, F.S., on construction contracting. The maximum civil penalty a local governing body may levy against an unlicensed contractor in s. 489.127(5)(c), F.S., rises from the \$500 to \$2,000.

Section 10 amends prohibitions and penalties in Part II of Chapter 489, F.S., on electrical and alarm systems contracting. The maximum civil penalty a local governing body may levy against an unlicensed contractor in s. 489.531(4)(c), F.S., rises from the \$500 to \$2,000.

Section 11 amends s. 553.721, F.S., to change how certain building code permit fee surcharges are allocated. Currently, funds collected from these surcharges are used exclusively for the duties of the Florida Building Commission and the Department of Business and Professional Regulation which includes the Florida Building Code Compliance and Mitigation Program. This section of the bill amends this to specifically earmark \$925,000 annually for the Florida Building Code Compliance and Mitigation Program.

Section 12 amends s. 553.73, F.S., to exempt specified hunting structures from the Florida Building Code. Buildings or structures less than 1,000 square feet, constructed and owned by a natural person for hunting, and repaired or constructed to the same dimension and condition as existed on January 1, 2011, are eligible for the exemption if:

- the buildings or structures are not rented or leased or used as principal residences;
- they are not located within the 100-year floodplain; and
- they are not connected to an off-site electric power or water supply.

Section 13 amends s. 553.844(4), F.S. to establish the adoption date of the 2013 Florida Building Code as the effective expiration for the windstorm loss mitigation provisions for roofs and opening protection in s. 553.844, F.S.

Section 14 creates s. 633.0215(15), F.S., to allow the fire code administrator or fire official to provide that electronic filing, any construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee may be dated and electronically signed and sealed by the licensee in accordance with part I of chapter 668, and may be transmitted electronically to the fire code administrator or fire official for approval.

Section 15 amends s. 713.135(6)(b), F.S., removing the notary requirement for certain solar project documents submitted electronically. Section 713.135(d) is created to require a declaration statement by the owner that the issuing authority is not liable for inaccurate information submitted by the owner using the electronic permitting system.

Section 16 allows the Florida Building Commission to establish a workgroup to assist the commission in developing a rule for implementing an alternative design method for screen enclosures which allows for the removal of a section of the screen to accommodate high-wind events consistent with the provisions of the Florida Building Code.

The Florida Building Commission shall appoint the workgroup no later than August 1, 2012, complete the draft rule by November 1, 2012, and adopt the rule by January 1, 2013. The Florida Building Commission shall incorporate the alternative screen enclosure design method requirements into the next version of the Florida Building Code. This section expires upon adoption and implementation of the requirements into the Florida Building Code.

Section 17 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 8 of the bill may raise an impairment of contract constitutional issue. Both the Federal and Florida State Constitutions contain limitations on the State's right to alter or impair existing contracts.⁷⁴ Article I, Section 10 of the State Constitution and the Contract Clause of the United States Constitution prohibit laws impairing contractual obligations. Retrospective operation is not favored by courts, and a law is not construed

⁷⁴ See U.S. Const., Art. I, Sec. 10, clause 1; Fla. Const., Art. I, Sec. 10.

as retroactive unless the act clearly, by express language or necessary implication, indicates that the Legislature intended a retroactive application.⁷⁵ These provisions allow courts to strike laws which retroactively burden or alter contractual obligations.⁷⁶

The framework courts use to determine whether a law has impaired a contract is similar to a rational basis review. The United States Supreme Court set forth a three part test for whether a law violates a private contract under the Contract Clause in *Energy Reserves Group v. Kansas Power & Light*.⁷⁷ First, the state regulation must substantially impair a contractual relationship. If it doesn't substantially impair a contractual obligation then the inquiry ends, as the Contract Clause applies only to laws which *substantially* impair contract rights. Second, the State "must have a significant and legitimate purpose behind the regulation, such as the remedying of a broad and general social or economic problem."⁷⁸ Third, the law must be reasonable and appropriate for its intended purpose.

Florida's Contract Clause interpretations have generally mirrored the United States Supreme Court's interpretation of the Contract Clause of the Constitution of the United States.⁷⁹

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons or businesses engaged in various phases of building construction, repair, remodeling or demolition may experience cost savings as a result of efficiencies accruing from electronic filing. Costs associated with the production and delivery of hard copy documents could be reduced.

Unlicensed persons currently demolishing residences and buildings three stories or less in height will be required to obtain a contractor license from the DBPR.

Unlicensed contractors will be subject to higher civil penalties.

Specified buildings designed for hunting purposes will be exempt from the Florida Building Code. Persons who own these buildings will encounter fewer building code regulation fees and requirements.

⁷⁵ See *Heberle v. P.R.O. Liquidating Co.*, 186 So. 2d 280, 282 (1st DCA 1966) ("A strict rule of statutory construction indulged in by the courts is the presumption that the legislature, in the absence of a positive expression, intended statutes or amendments enacted by it to operate prospectively only, not retroactively.").

⁷⁶ See *In re Advisory Opinion to the Governor*, 509 So. 2d 292 (Fla. 1987); *Daytona Beach Racing & Recreational Facilities District v. Volusia County*, 372 So. 2d 419 (Fla. 1979).

⁷⁷ 459 U.S. 400 (1983).

⁷⁸ *Id.* at 411-13.

⁷⁹ See generally *Pomponio v. Cladridge of Pompano Condominium, Inc.*, 378 So. 2d 774 (Fla. 1980); *Brevard County v. Florida Power and Light*, 693 So. 2d 77 (Fla. 5th DCA 1997).

C. Government Sector Impact:

Local government code enforcement boards may realize postage cost savings as a result of the optional noticing provisions.

Local authorities that provide for and accept electronic transmissions of various construction documents may realize procedural and document storage efficiencies and improve the timeliness of permit processing. The bill does not require electronic filing; therefore, any expenditures to facilitate this option would be discretionary.

There may be an increase in the number of contractor licenses issued due to the new requirement for persons demolishing residences or buildings. According to the DBPR, the number of unlicensed persons currently demolishing residences and buildings three stories or less is unknown.⁸⁰ It is unknown how many of these unlicensed persons will qualify for licensure as a contractor; therefore, the amount of revenue resulting from the potential increase in the number of licenses is indeterminate. The costs of issuing the potential licenses can be managed within current departmental resources.

Local governing bodies may issue higher civil penalties against unlicensed contractors.

The Florida Building Code Compliance and Mitigation Program will have a set funding amount of \$925,000 annually.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the DBPR, section 12 of the bill indicates that certain buildings used for hunting will not be required to meet minimum construction standards necessary to ensure such structures are structurally stable with adequate means of egress, light and ventilation providing a minimum acceptable level of protection to life and property from fire.⁸¹ However, the DBPR states that this impact will be minimal due to the occasional use of such facilities and the specific safeguards outlined in the bill.⁸²

⁸⁰ Florida Department of Business and Professional Regulation, *Senate Bill 704 Analysis* (Nov. 2, 2011) (on file with the Senate Committee on Community Affairs).

⁸¹ *Id.*

⁸² *Id.*

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Budget Subcommittee on General Government Appropriations on February 1, 2012:**

- includes landscape architecture in the mold assessment exemption.
- (1) creates a licensure exemption for property owners installing, uninstalling, or replacing solar panels; (2) requires electronic permit application to include disclosure statement as true and correct; (3) exempts solar projects from an owner's notarized signature or personal appearance to sign the permit application;
- modifies plumbing contractor scope of services to include water supply backflow prevention and drain cleaning and clearing, rainwater catchment systems without obtaining an additional local regulatory license.
- eliminates the glass and glazing contractor as a required Division II licensed contractor.
- allows electronic filing of construction documents to the fire code official.
- removes notary requirement for certain solar project documents submitted electronically.
- allows the Florida Building Commission to establish a workgroup to assist with design methods for screen enclosures.

CS by Community Affairs on January 12, 2012:

Revises definitions, outlines permitting procedures, establishes title transfer procedures and provides for the applicability of rules governing on-site sewage treatment and disposal systems.

- Adds provisions for existing fire safety inspectors to take the building code inspector or plans examiner certification exam and shortens the time length of certain provisional certificates for inspectors and examiners.
- Clarifies the remedial nature and retroactive application of contracts related to the sale of manufactured or factory-built buildings.
- Increases the maximum civil penalty a local governing body may levy against an unlicensed contractor.
- Directs the Florida Building Commission to adopt a rule outlining an alternative method of screen enclosure design.
- Makes other technical and clarifying changes.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2012	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on General Government Appropriations (Jones) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 162.12, Florida
Statutes, is amended to read:

162.12 Notices.—

(1) All notices required by this part must ~~shall~~ be
provided to the alleged violator by:

(a) Certified mail to, ~~return receipt requested, provided
if such notice is sent under this paragraph to the owner of the
property in question at the address listed in the tax~~



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collector's office for tax notices, or to and at any other
address provided by the property owner in writing to the local
government for the purpose of receiving notices. For property
owned by a corporation, notices may be provided by certified
mail to the registered agent of the corporation. If any notice
sent by certified mail is not signed as received within 30 days
after the date of mailing by such owner and is returned as
unclaimed or refused, notice may be provided by posting as
described in subparagraphs (2)(b)1. and 2. ~~and by first class~~
~~mail directed to the addresses furnished to the local government~~
~~with a properly executed proof of mailing or affidavit~~
~~confirming the first class mailing;~~

(b) Hand delivery by the sheriff or other law enforcement
officer, code inspector, or other person designated by the local
governing body;

(c) Leaving the notice at the violator's usual place of
residence with any person residing therein who is above 15 years
of age and informing such person of the contents of the notice;
or

(d) In the case of commercial premises, leaving the notice
with the manager or other person in charge.

Evidence that an attempt has been made to hand deliver or mail
notice as provided in subsection (1), together with proof of
publication or posting as provided in subsection (2), shall be
sufficient to show that the notice requirements of this part
have been met, without regard to whether or not the alleged
violator actually received such notice.

Section 2. Present paragraphs (b) through (p) of subsection



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(2) of section 381.0065, Florida Statutes, are redesignated as paragraphs (c) through (q), respectively, a new paragraph (b) is added to that subsection, paragraph (n) of subsection (4) is amended, and paragraphs (w) through (z) are added to that subsection, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(2) DEFINITIONS.—As used in ss. 381.0065–381.0067, the term:

(b)1. "Bedroom" means a room that can be used for sleeping and that:

a. For site-built dwellings, has a minimum of 70 square feet of conditioned space;

b. For manufactured homes, is constructed according to the standards of the United States Department of Housing and Urban Development and has a minimum of 50 square feet of floor area;

c. Is located along an exterior wall;

d. Has a closet and a door or an entrance where a door could be reasonably installed; and

e. Has an emergency means of escape and rescue opening to the outside in accordance with the Florida Building Code.

2. A room may not be considered a bedroom if it is used to access another room except a bathroom or closet.

3. "Bedroom" does not include a hallway, bathroom, kitchen, living room, family room, dining room, den, breakfast nook, pantry, laundry room, sunroom, recreation room, media/video room, or exercise room.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage



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71 treatment and disposal system without first obtaining a permit
72 approved by the department. The department may issue permits to
73 carry out this section, but shall not make the issuance of such
74 permits contingent upon prior approval by the Department of
75 Environmental Protection, except that the issuance of a permit
76 for work seaward of the coastal construction control line
77 established under s. 161.053 shall be contingent upon receipt of
78 any required coastal construction control line permit from the
79 Department of Environmental Protection. A construction permit is
80 valid for 18 months from the issuance date and may be extended
81 by the department for one 90-day period under rules adopted by
82 the department. A repair permit is valid for 90 days from the
83 date of issuance. An operating permit must be obtained prior to
84 the use of any aerobic treatment unit or if the establishment
85 generates commercial waste. Buildings or establishments that use
86 an aerobic treatment unit or generate commercial waste shall be
87 inspected by the department at least annually to assure
88 compliance with the terms of the operating permit. The operating
89 permit for a commercial wastewater system is valid for 1 year
90 from the date of issuance and must be renewed annually. The
91 operating permit for an aerobic treatment unit is valid for 2
92 years from the date of issuance and must be renewed every 2
93 years. If all information pertaining to the siting, location,
94 and installation conditions or repair of an onsite sewage
95 treatment and disposal system remains the same, a construction
96 or repair permit for the onsite sewage treatment and disposal
97 system may be transferred to another person, if the transferee
98 files, within 60 days after the transfer of ownership, an
99 amended application providing all corrected information and



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proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise,



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as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(j) ~~(2)(i)~~. The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(w) A permit that is approved by the department and issued for the installation, modification, or repair of an onsite sewage treatment and disposal system shall be transferred along with the title to the property in a real estate transaction. A title may not be encumbered at the time of transfer by new permit requirements by a governmental entity for an onsite sewage treatment and disposal system which differ from the permitting requirements in effect at the time the system was permitted, modified, or repaired.

(x)1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and was properly functioning at the time of disconnection and was not adversely affected by the disaster. The onsite sewage treatment and disposal system may be reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, provided that the square footage of the structure is less than or equal to 110 percent of the original square footage of the structure that existed before the disaster;



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158 b. The system is not a sanitary nuisance; and
159 c. The system has not been altered without prior
160 authorization.

161 2. An onsite sewage treatment and disposal system that
162 serves a property that is foreclosed upon is not considered
163 abandoned.

164 (y) If an onsite sewage treatment and disposal system
165 permittee receives, relies upon, and undertakes construction of
166 a system based upon a validly issued construction permit under
167 rules applicable at the time of construction but a change to a
168 rule occurs after the approval of the system for construction
169 but before the final approval of the system, the rules
170 applicable and in effect at the time of construction approval
171 apply at the time of final approval if fundamental site
172 conditions have not changed between the time of construction
173 approval and final approval.

174 (z) A modification, replacement, or upgrade of an onsite
175 sewage treatment and disposal system is not required for a
176 remodeling addition to a single-family home if a bedroom is not
177 added.

178 Section 3. Section 468.604, Florida Statutes, is amended to
179 read:

180 468.604 Responsibilities of building code administrators,
181 plans examiners, and inspectors.—

182 (1) It is the responsibility of the building code
183 administrator or building official to administrate, supervise,
184 direct, enforce, or perform the permitting and inspection of
185 construction, alteration, repair, remodeling, or demolition of
186 structures and the installation of building systems within the



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boundaries of their governmental jurisdiction, when permitting is required, to ensure compliance with the Florida Building Code and any applicable local technical amendment to the Florida Building Code. The building code administrator or building official shall faithfully perform these responsibilities without interference from any person. These responsibilities include:

(a) The review of construction plans to ensure compliance with all applicable sections of the code. The construction plans must be reviewed before the issuance of any building, system installation, or other construction permit. The review of construction plans must be done by the building code administrator or building official or by a person having the appropriate plans examiner license issued under this chapter.

(b) The inspection of each phase of construction where a building or other construction permit has been issued. The building code administrator or building official, or a person having the appropriate building code inspector license issued under this chapter, shall inspect the construction or installation to ensure that the work is performed in accordance with applicable sections of the code.

(2) It is the responsibility of the building code inspector to conduct inspections of construction, alteration, repair, remodeling, or demolition of structures and the installation of building systems, when permitting is required, to ensure compliance with the Florida Building Code and any applicable local technical amendment to the Florida Building Code. Each building code inspector must be licensed in the appropriate category as defined in s. 468.603. The building code inspector's responsibilities must be performed under the direction of the



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building code administrator or building official without interference from any unlicensed person.

(3) It is the responsibility of the plans examiner to conduct review of construction plans submitted in the permit application to assure compliance with the Florida Building Code and any applicable local technical amendment to the Florida Building Code. The review of construction plans must be done by the building code administrator or building official or by a person licensed in the appropriate plans examiner category as defined in s. 468.603. The plans examiner's responsibilities must be performed under the supervision and authority of the building code administrator or building official without interference from any unlicensed person.

(4) The Legislature finds that the electronic filing of construction plans will increase government efficiency, reduce costs, and increase timeliness of processing permits. If the building code administrator or building official provides for electronic filing, the construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee may be dated and electronically signed and sealed by the licensee in accordance with part I of chapter 668 and may be transmitted electronically to the building code administrator or building official for approval.

Section 4. Paragraph (c) of subsection (2) and paragraph (a) of subsection (7) of section 468.609, Florida Statutes, are amended to read:

468.609 Administration of this part; standards for certification; additional categories of certification.—

(2) A person may take the examination for certification as



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a building code inspector or plans examiner pursuant to this part if the person:

(c) Meets eligibility requirements according to one of the following criteria:

1. Demonstrates 5 years' combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought;

2. Demonstrates a combination of postsecondary education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review;

3. Demonstrates a combination of technical education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review;

4. Currently holds a standard certificate as issued by the board, or a fire safety inspector license issued pursuant to chapter 633, has a minimum of 5 years' verifiable full-time experience in inspection or plan review, and satisfactorily completes a building code inspector or plans examiner training program of not less than 200 hours in the certification category sought. The board shall establish by rule criteria for the development and implementation of the training programs; or

5. Demonstrates a combination of the completion of an approved training program in the field of building code inspection or plan review and a minimum of 2 years' experience in the field of building code inspection, plan review, fire code



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inspections and fire plans review of new buildings as a firesafety inspector certified under s. 633.081(2), or construction. The approved training portion of this requirement shall include proof of satisfactory completion of a training program of not less than 300 hours which is approved by the board in the chosen category of building code inspection or plan review in the certification category sought with not less than 20 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder. The board shall coordinate with the Building Officials Association of Florida, Inc., to establish by rule the development and implementation of the training program.

(7) (a) The board may provide for the issuance of provisional certificates valid for 1 year ~~such period, not less than 3 years nor more than 5 years~~, as specified by board rule, to any newly employed or promoted building code inspector or plans examiner who meets the eligibility requirements described in subsection (2) and any newly employed or promoted building code administrator who meets the eligibility requirements described in subsection (3). The provisional license may be renewed by the board for just cause; however, a provisional license is not valid for a period longer than 3 years.

Section 5. Paragraph (d) of subsection (1) of section 468.841, Florida Statutes, is amended to read:

468.841 Exemptions.—

(1) The following persons are not required to comply with any provisions of this part relating to mold assessment:

(d) Persons or business organizations acting within the



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scope of the respective licenses required under part XV of this chapter, chapter 471, part I or part II of chapter 481, chapter 482, or chapter 489 are acting on behalf of an insurer under part VI of chapter 626, or are persons in the manufactured housing industry who are licensed under chapter 320, except when any such persons or business organizations hold themselves out for hire to the public as a "certified mold assessor," "registered mold assessor," "licensed mold assessor," "mold assessor," "professional mold assessor," or any combination thereof stating or implying licensure under this part.

Section 6. 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 occupancy or use of such owners and not offered for sale or lease, or building or improving commercial buildings, at a cost not to exceed \$75,000, on such property for the occupancy or use of such owners and not offered for sale or lease. In an action brought under this part, proof of the sale or lease, or offering for sale or lease, of any such structure by the owner-builder within 1 year after completion of same creates a presumption that the construction was undertaken for purposes of sale or lease.

2. ~~(b)~~ When repairing or replacing wood shakes or asphalt or fiberglass shingles on one-family, two-family, or three-family



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residences for the occupancy or use of such owner or tenant of the owner and not offered for sale within 1 year after completion of the work and when the property has been damaged by natural causes from an event recognized as an emergency situation designated by executive order issued by the Governor declaring the existence of a state of emergency as a result and consequence of a serious threat posed to the public health, safety, and property in this state.

3. After the local building official approves implementation of the United States Department of Energy Solar SunShot Initiative, when installing, uninstalling, or replacing solar panels on one-family, two-family, or three-family residences for the occupancy or use of such owner or tenant of the owner.

(b) This subsection does not exempt any person who is employed by or has a contract with such owner and who acts in the capacity of a contractor. The owner may not delegate the owner's responsibility to directly supervise all work to any other person unless that person is registered or certified under this part and the work being performed is within the scope of that person's license. For the purposes of this subsection, the term "owners of property" includes the owner of a mobile home situated on a leased lot.

(c) To qualify for exemption under this subsection, an owner must personally appear and sign the building permit application and must satisfy local permitting agency requirements, if any, proving that the owner has a complete understanding of the owner's obligations under the law as specified in the disclosure statement in this section. An



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owner's notarized signature or personal appearance to sign the
permit application is not required for a solar project, as
described in subparagraph (a)3., if the building permit
application is submitted electronically to the permitting
authority and the owner certifies the application and disclosure
statement using the permitting authority's electronic
confirmation system. If any person violates the requirements of
this subsection, the local permitting agency shall withhold
final approval, revoke the permit, or pursue any action or
remedy for unlicensed activity against the owner and any person
performing work that requires licensure under the permit issued.
The local permitting agency shall provide the person with a
disclosure statement in substantially the following form:

DISCLOSURE STATEMENT

1. I understand that state law requires construction
to be done by a licensed contractor and have applied
for an owner-builder permit under an exemption from
the law. The exemption specifies that I, as the owner
of the property listed, may act as my own contractor
with certain restrictions even though I do not have a
license.

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



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

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

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

6. I understand that I may not hire an unlicensed person to act as my contractor or to supervise persons working on my building or residence. It is my responsibility to ensure that the persons whom I



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employ have the licenses required by law and by county or municipal ordinance.

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

8. I understand that I may not delegate the responsibility for supervising work to a licensed contractor who is not licensed to perform the work being done. Any person working on my building who is not licensed must work under my direct supervision and must be employed by me, which means that I must comply with laws requiring the withholding of federal income tax and social security contributions under the Federal Insurance Contributions Act (FICA) and must provide workers' compensation for the employee. I understand that my failure to follow these laws may subject me to serious financial risk.



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

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

11. I am aware of, and consent to, an owner-builder building permit applied for in my name and understand that I am the party legally and financially responsible for the proposed construction activity at the following address: ...(address of property)....

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



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

Before a building permit can be issued, this disclosure statement must be completed and signed by the property owner and returned to the local permitting agency responsible for issuing the permit. A copy of the property owner's driver license, the notarized signature of the property owner, or other type of verification acceptable to the local permitting agency is required when the permit is issued.

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



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Date: ...(date)....

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

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

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

Section 7. Subsection (3) of section 489.105, Florida Statutes, is amended, and subsection (6) of that section is reenacted, to read:

489.105 Definitions.—As used in this part:

(3) "Contractor" means the person who is qualified for, and is only responsible for, the project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add



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to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others; and whose job scope is substantially similar to the job scope described in one of the ~~subsequent~~ paragraphs of this subsection. For the purposes of regulation under this part, the term "demolish" applies only to demolition of steel tanks more than ~~over~~ 50 feet in height; towers more than ~~over~~ 50 feet in height; other structures more than ~~over~~ 50 feet in height; and all, other than buildings or residences ~~over three stories tall; and buildings or residences over three stories tall~~. Contractors are subdivided into two divisions, Division I, consisting of those contractors defined in paragraphs (a)-(c), and Division II, consisting of those contractors defined in paragraphs (d)-(q) ~~(d)-(r)~~:

(a) "General contractor" means a contractor whose services are unlimited as to the type of work which he or she may do, who may contract for any activity requiring licensure under this part, and who may perform any work requiring licensure under this part, except as otherwise expressly provided in s. 489.113.

(b) "Building contractor" means a contractor whose services are limited to construction of commercial buildings and single-dwelling or multiple-dwelling residential buildings, which do not exceed three stories in height, and accessory use structures in connection therewith or a contractor whose services are limited to remodeling, repair, or improvement of any size building if the services do not affect the structural members of the building.

(c) "Residential contractor" means a contractor whose services are limited to construction, remodeling, repair, or



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improvement of one-family, two-family, or three-family residences not exceeding two habitable stories above no more than one uninhabitable story and accessory use structures in connection therewith.

(d) "Sheet metal contractor" means a contractor whose services are unlimited in the sheet metal trade and who has the experience, knowledge, and skill necessary for the manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, insulation, alteration, repair, servicing, or design, if not prohibited by law, of ferrous or nonferrous metal work of U.S. No. 10 gauge or its equivalent or lighter gauge and of other materials, including, but not limited to, fiberglass, used in lieu thereof and of air-handling systems, including the setting of air-handling equipment and reinforcement of same, the balancing of air-handling systems, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system.

(e) "Roofing contractor" means a contractor whose services are unlimited in the roofing trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, if not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of all kinds of roofing, waterproofing, and coating, except when coating is not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof. The scope of work of a roofing contractor also includes required roof-deck attachments and any repair or replacement of wood roof sheathing or fascia as needed during roof repair or replacement.

(f) "Class A air-conditioning contractor" means a



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contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, test, evaluate, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system if such duct work is performed by the contractor as necessary to complete an air-distribution system, boiler and unfired pressure vessel systems, and all appurtenances, apparatus, or equipment used in connection therewith, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, and pneumatic control piping; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as liquefied petroleum or natural gas fuel lines within buildings, except for disconnecting or reconnecting changeouts of liquefied petroleum or natural gas appliances within buildings; potable water lines or connections thereto; sanitary sewer lines; swimming pool piping and filters; or electrical power wiring.



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(g) "Class B air-conditioning contractor" means a contractor whose services are limited to 25 tons of cooling and 500,000 Btu of heating in any one system in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, test, evaluate, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as necessary to complete an air-distribution system being installed under this classification, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping and insulation of pipes, vessels, and ducts; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as liquefied petroleum or natural gas fuel lines within buildings, except for disconnecting or reconnecting changeouts of liquefied petroleum or natural gas appliances within buildings; potable water lines or connections thereto; sanitary sewer lines; swimming pool piping and filters; or electrical power wiring.



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(h) "Class C air-conditioning contractor" means a contractor whose business is limited to the servicing of air-conditioning, heating, or refrigeration systems, including any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system, and whose certification or registration, issued pursuant to this part, was valid on October 1, 1988. Only a person who was registered or certified as a Class C air-conditioning contractor as of October 1, 1988, shall be so registered or certified after October 1, 1988. However, the board shall continue to license and regulate those Class C air-conditioning contractors who held Class C licenses before October 1, 1988.

(i) "Mechanical contractor" means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, test, evaluate, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system if such duct work is performed by the contractor as necessary to complete an air-distribution system, boiler and unfired pressure vessel systems, lift station equipment and piping, and all appurtenances, apparatus, or equipment used in connection therewith, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, pneumatic control piping, gasoline tanks and pump installations and piping for same, standpipes, air piping,



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vacuum line piping, oxygen lines, nitrous oxide piping, ink and chemical lines, fuel transmission lines, liquefied petroleum gas lines within buildings, and natural gas fuel lines within buildings; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(j) "Commercial pool/spa contractor" means a contractor whose scope of work involves, but is not limited to, the construction, repair, and servicing of any swimming pool, or hot tub or spa, whether public, private, or otherwise, regardless of use. The scope of work includes the installation, repair, or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior finishes, the installation of package pool heaters, the installation of all perimeter piping and filter piping, and the construction of equipment rooms or housing for pool/spa equipment, and also includes the scope of work of a swimming pool/spa servicing contractor. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction,



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modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. In addition, a license is not required for the cleaning of the pool or spa in a way that does not affect the structural integrity of the pool or spa or its associated equipment.

(k) "Residential pool/spa contractor" means a contractor whose scope of work involves, but is not limited to, the construction, repair, and servicing of a residential swimming pool, or hot tub or spa, regardless of use. The scope of work includes the installation, repair, or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior finishes, the installation of package pool heaters, the installation of all perimeter piping and filter piping, and the construction of equipment rooms or housing for pool/spa equipment, and also includes the scope of work of a swimming pool/spa servicing contractor. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the



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usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. In addition, a license is not required for the cleaning of the pool or spa in a way that does not affect the structural integrity of the pool or spa or its associated equipment.

(1) "Swimming pool/spa servicing contractor" means a contractor whose scope of work involves, but is not limited to, the repair and servicing of a swimming pool, or hot tub or spa, whether public or private, or otherwise, regardless of use. The scope of work includes the repair or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior refinishing, the reinstallation or addition of pool heaters, the repair or replacement of all perimeter piping and filter piping, the repair of equipment rooms or housing for pool/spa equipment, and the substantial or complete draining of a swimming pool, or hot tub or spa, for the purpose of repair or renovation. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, substantial or complete disassembly, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the



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usage involves construction, modification, substantial or complete disassembly, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. In addition, a license is not required for the cleaning of the pool or spa in a way that does not affect the structural integrity of the pool or spa or its associated equipment.

(m) "Plumbing contractor" means a contractor whose services are unlimited in the plumbing trade and includes ~~contracting business consists of~~ the execution of contracts requiring the experience, financial means, knowledge, and skill to install, maintain, repair, alter, extend, or, if not prohibited by law, design plumbing. A plumbing contractor may install, maintain, repair, alter, extend, or, if not prohibited by law, design the following without obtaining an additional local regulatory license, certificate, or registration: sanitary drainage or storm drainage facilities, water and sewer plants and substations, ~~+~~ venting systems, water supply backflow prevention, ~~+~~ public or private water supply systems, ~~+~~ septic tanks, ~~+~~ drainage and supply wells, drain cleaning and clearing, rainwater catchment systems, ~~+~~ swimming pool piping, ~~+~~ irrigation systems, ~~and,~~ ~~or~~ solar heating water systems, and all appurtenances, apparatus, or equipment used in connection therewith, including boilers and pressure process piping and including the installation of water, natural gas, liquefied petroleum gas and related venting, and storm and sanitary sewer lines; ~~and water and sewer plants and substations.~~ The scope of work of the plumbing contractor also includes the design, if not prohibited by law, and installation, maintenance, repair,



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alteration, or extension of air-piping, vacuum line piping, oxygen line piping, nitrous oxide piping, and all related medical gas systems; fire line standpipes and fire sprinklers if authorized by law; ink and chemical lines; fuel oil and gasoline piping and tank and pump installation, except bulk storage plants; and pneumatic control piping systems, all in a manner that complies with all plans, specifications, codes, laws, and regulations applicable. The scope of work of the plumbing contractor applies to private property and public property, including any excavation work incidental thereto, and includes the work of the specialty plumbing contractor. Such contractor shall subcontract, with a qualified contractor in the field concerned, all other work incidental to the work but which is specified as being the work of a trade other than that of a plumbing contractor. This definition does not limit the scope of work of any specialty contractor certified pursuant to s. 489.113(6), and does not require certification or registration under this part of any authorized employee of a public natural gas utility or of a private natural gas utility regulated by the Public Service Commission when disconnecting and reconnecting water lines in the servicing or replacement of an existing water heater.

(n) "Underground utility and excavation contractor" means a contractor whose services are limited to the construction, installation, and repair, on public or private property, whether accomplished through open excavations or through other means, including, but not limited to, directional drilling, auger boring, jacking and boring, trenchless technologies, wet and dry taps, grouting, and slip lining, of main sanitary sewer



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collection systems, main water distribution systems, storm sewer collection systems, and the continuation of utility lines from the main systems to a point of termination up to and including the meter location for the individual occupancy, sewer collection systems at property line on residential or single-occupancy commercial properties, or on multioccupancy properties at manhole or wye lateral extended to an invert elevation as engineered to accommodate future building sewers, water distribution systems, or storm sewer collection systems at storm sewer structures. However, an underground utility and excavation contractor may install empty underground conduits in rights-of-way, easements, platted rights-of-way in new site development, and sleeves for parking lot crossings no smaller than 2 inches in diameter if each conduit system installed is designed by a licensed professional engineer or an authorized employee of a municipality, county, or public utility and the installation of such conduit does not include installation of any conductor wiring or connection to an energized electrical system. An underground utility and excavation contractor may not install piping that is an integral part of a fire protection system as defined in s. 633.021 beginning at the point where the piping is used exclusively for such system.

(o) "Solar contractor" means a contractor whose services consist of the installation, alteration, repair, maintenance, relocation, or replacement of solar panels for potable solar water heating systems, swimming pool solar heating systems, and photovoltaic systems and any appurtenances, apparatus, or equipment used in connection therewith, whether public, private, or otherwise, regardless of use. A contractor, certified or



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registered pursuant to this chapter, is not required to become a certified or registered solar contractor or to contract with a solar contractor in order to provide services enumerated in this paragraph that are within the scope of the services such contractors may render under this part.

(p) "Pollutant storage systems contractor" means a contractor whose services are limited to, and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, if not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of, pollutant storage tanks. Any person installing a pollutant storage tank shall perform such installation in accordance with the standards adopted pursuant to s. 376.303.

~~(q) "Glass and glazing contractor" means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, attach, maintain, repair, fabricate, alter, extend, or design, in residential and commercial applications without any height restrictions, all types of windows, glass, and mirrors, whether fixed or movable; swinging or sliding glass doors attached to existing walls, floors, columns, or other structural members of the building; glass holding or supporting mullions or horizontal bars; structurally anchored impact-resistant opening protection attached to existing building walls, floors, columns, or other structural members of the building; prefabricated glass, metal, or plastic curtain walls; storefront frames or panels; shower and tub enclosures; metal fascias; and caulking incidental to such work and assembly.~~



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883 (g)~~(r)~~ "Specialty contractor" means a contractor whose
884 scope of work and responsibility is limited to a particular
885 phase of construction established in a category adopted by board
886 rule and whose scope is limited to a subset of the activities
887 described in one of the paragraphs of this subsection.

888 (6) "Contracting" means, except as exempted in this part,
889 engaging in business as a contractor and includes, but is not
890 limited to, performance of any of the acts as set forth in
891 subsection (3) which define types of contractors. The attempted
892 sale of contracting services and the negotiation or bid for a
893 contract on these services also constitutes contracting. If the
894 services offered require licensure or agent qualification, the
895 offering, negotiation for a bid, or attempted sale of these
896 services requires the corresponding licensure. However, the term
897 "contracting" shall not extend to an individual, partnership,
898 corporation, trust, or other legal entity that offers to sell or
899 sells completed residences on property on which the individual
900 or business entity has any legal or equitable interest, or to
901 the individual or business entity that offers to sell or sells
902 manufactured or factory-built buildings that will be completed
903 on site on property on which either party to a contract has any
904 legal or equitable interest, if the services of a qualified
905 contractor certified or registered pursuant to the requirements
906 of this chapter have been or will be retained for the purpose of
907 constructing or completing such residences.

908 Section 8. The amendments to s. 489.105(6), Florida
909 Statutes, as enacted by s. 30 of chapter 2008-240, Laws of
910 Florida, were intended to protect the sanctity of contracts for
911 the sale of manufactured or factory-built buildings that will be



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completed on site and to ensure that those contracts are legal and enforceable contracts under state law. The amendments were intended to be remedial in nature, clarify existing law, and apply retroactively to any contract for the sale of manufactured or factory-built buildings that will be completed on site and otherwise comply with state law.

Section 9. Paragraph (c) of subsection (5) of section 489.127, Florida Statutes, is amended to read:

489.127 Prohibitions; penalties.—

(5) Each county or municipality may, at its option, designate one or more of its code enforcement officers, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of subsection (1) and s. 489.132(1) against persons who engage in activity for which a county or municipal certificate of competency or license or state certification or registration is required.

(c) The local governing body of the county or municipality is authorized to enforce codes and ordinances against unlicensed contractors under the provisions of this subsection and may enact an ordinance establishing procedures for implementing this subsection, including a schedule of penalties to be assessed by the code enforcement officer. The maximum civil penalty which may be levied shall not exceed \$2,000 ~~\$500~~. Moneys collected pursuant to this subsection shall be retained locally, as provided for by local ordinance, and may be set aside in a specific fund to support future enforcement activities against unlicensed contractors.

Section 10. Paragraph (c) of subsection (4) of section 489.531, Florida Statutes, is amended to read:



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489.531 Prohibitions; penalties.—

(4) Each county or municipality may, at its option, designate one or more of its code enforcement officers, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of subsection (1) against persons who engage in activity for which county or municipal certification is required.

(c) The local governing body of the county or municipality is authorized to enforce codes and ordinances against unlicensed contractors under the provisions of this section and may enact an ordinance establishing procedures for implementing this section, including a schedule of penalties to be assessed by the code enforcement officers. The maximum civil penalty which may be levied shall not exceed \$2,000 ~~\$500~~. Moneys collected pursuant to this section shall be retained locally as provided for by local ordinance and may be set aside in a specific fund to support future enforcement activities against unlicensed contractors.

Section 11. Section 553.721, Florida Statutes, is amended to read:

553.721 Surcharge.—In order for the Department of Business and Professional Regulation to administer and carry out the purposes of this part and related activities, there is ~~hereby~~ created a surcharge, to be assessed at the rate of 1.5 percent of the permit fees associated with enforcement of the Florida Building Code as defined by the uniform account criteria and specifically the uniform account code for building permits adopted for local government financial reporting pursuant to s. 218.32. The minimum amount collected on any permit issued shall



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be \$2. The unit of government responsible for collecting a permit fee pursuant to s. 125.56(4) or s. 166.201 shall collect ~~the such~~ surcharge and electronically remit the funds collected to the department on a quarterly calendar basis ~~beginning not later than December 31, 2010,~~ for the preceding quarter, and continuing each third month thereafter. ~~The, and such~~ unit of government shall retain 10 percent of the surcharge collected to fund the participation of building departments in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code. All funds remitted to the department pursuant to this section shall be deposited in the Professional Regulation Trust Fund. Funds collected from ~~the such~~ surcharge shall be allocated to fund used exclusively for the duties of the Florida Building Commission and the Florida Building Code Compliance and Mitigation Program under s. 553.841. Funds allocated to the Florida Building Code Compliance and Mitigation Program shall be \$925,000 each fiscal year. The funds collected from the surcharge may and the Department of Business and Professional Regulation under this chapter and shall not be used to fund research on techniques for mitigation of radon in existing buildings. Funds used by the department as well as funds to be transferred to the Department of Health shall be as prescribed in the annual General Appropriations Act. The department shall adopt rules governing the collection and remittance of surcharges pursuant to in accordance with chapter 120.

Section 12. Subsection (10) of section 553.73, Florida Statutes, is amended to read:

553.73 Florida Building Code.—



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(10) The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:

(a) Buildings and structures specifically regulated and preempted by the Federal Government.

(b) Railroads and ancillary facilities associated with the railroad.

(c) Nonresidential farm buildings on farms.

(d) Temporary buildings or sheds used exclusively for construction purposes.

(e) Mobile or modular structures used as temporary offices, except that the provisions of part II relating to accessibility by persons with disabilities ~~shall~~ apply to such mobile or modular structures.

(f) Those structures or facilities of electric utilities, as defined in s. 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

(g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.

(h) Storage sheds that are not designed for human habitation and that have a floor area of 720 square feet or less are not required to comply with the mandatory wind-borne-debris-impact standards of the Florida Building Code. In addition, such buildings that are 400 square feet or less and that are intended for use in conjunction with one- and two-family residences are not subject to the door height and width requirements of the



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Florida Building Code.

(i) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other nonwood features.

(j) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

(k) A building or structure having less than 1,000 square feet which is constructed and owned by a natural person for hunting and which is repaired or reconstructed to the same dimension and condition as existed on January 1, 2011, if the building or structure:

1. Is not rented or leased or used as a principal residence;

2. Is not located within the 100-year floodplain according to the Federal Emergency Management Agency's current Flood Insurance Rate Map; and

3. Is not connected to an off-site electric power or water supply.

With the exception of paragraphs (a), (b), (c), and (f), in order to preserve the health, safety, and welfare of the public, the Florida Building Commission may, by rule adopted pursuant to chapter 120, provide for exceptions to the broad categories of buildings exempted in this section, including exceptions for



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application of specific sections of the code or standards adopted therein. The Department of Agriculture and Consumer Services shall have exclusive authority to adopt by rule, pursuant to chapter 120, exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to preserve public health, safety, and welfare. The exceptions must be based upon specific criteria, such as under-roof floor area, aggregate electrical service capacity, HVAC system capacity, or other building requirements. Further, the commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law. The Florida Building Code does not apply to temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

Section 13. Subsection (4) of section 553.844, Florida Statutes, is amended to read:

553.844 Windstorm loss mitigation; requirements for roofs and opening protection.—

(4) Notwithstanding the provisions of this section, exposed mechanical equipment or appliances fastened to a roof or installed on the ground in compliance with the code using rated stands, platforms, curbs, slabs, or other means are deemed to comply with the wind resistance requirements of the 2007 Florida Building Code, as amended. Further support or enclosure of such mechanical equipment or appliances is not required by a state or local official having authority to enforce the Florida Building Code. This subsection expires on the effective date of the 2013 ~~2010~~ Florida Building Code.



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Section 14. Subsection (15) is added to section 633.0215, Florida Statutes, to read:

633.0215 Florida Fire Prevention Code.—

(15) The Legislature finds that the electronic filing of construction plans will increase governmental efficiency, reduce costs, and increase timeliness of processing permits. If the fire code administrator or fire official provides for electronic filing, any construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee may be dated and electronically signed and sealed by the licensee in accordance with part I of chapter 668, and may be transmitted electronically to the fire code administrator or fire official for approval.

Section 15. Paragraph (b) of subsection (6) of section 713.135, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

713.135 Notice of commencement and applicability of lien.—

(6)

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

OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty



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of perjury, I declare that all the information contained in this building permit application is true and correct.

2. An owner or contractor is not required to personally appear and provide a notarized signature when filing a building permit application for a solar project as described in s. 489.103(7)(a)3. if the building permit application is electronically submitted to the permitting authority and the owner or contractor certifies that the application is consistent with this paragraph using the permitting authority's electronic confirmation system.

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

Section 16. The Florida Building Commission shall establish a workgroup to assist the commission in developing a rule for implementing an alternative design method for screen enclosures which allows for the removal of a section of the screen to accommodate high-wind events consistent with the provisions of the Florida Building Code.

(1) The workgroup shall be comprised of the following representatives:

(a) Two members who represent the screen enclosure manufacturing industry;

(b) Two members who represent the aluminum contractors



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industry;

(c) One member who represents the Florida Home Builders Association;

(d) One member who represents the Florida Swimming Pool Association;

(e) Three members who represent the Building Officials Association of Florida;

(f) One member who represents the building products industry; and

(g) One member who is employed as a structural engineer.

(2) The workgroup shall address the following factors to be included in the rule:

(a) An alternative design method for a screen enclosure that is site-specific engineered;

(b) A screen enclosure design using the alternative method that serves as a barrier that is required for a swimming pool and remains in place at the minimum height required for the barrier;

(c) A screen enclosure design using clear, highly visible labels for panels that can be cut, retracted, or removed when winds are forecasted to exceed 75 mph;

(d) A design for a screen that can be removed, cut, or retracted without the use of a ladder or scaffolding;

(e) A requirement that the contractor provide replacement screen at the initial point of sale to repair the screen enclosure for designs that require cutting; and

(f) An alternative design for a screen enclosure that requires the contractor to provide notice to the homeowner and the local building department that the homeowner must cut,



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retract, or remove a panel or panels of the screen enclosure in
accordance with engineering or manufacturer's instructions when
wind speeds are expected to exceed 75 mph.

(3) The Florida Building Commission shall appoint the
workgroup no later than August 1, 2012, complete the draft rule
by November 1, 2012, and adopt the rule by January 1, 2013. The
Florida Building Commission shall incorporate the alternative
screen enclosure design method requirements into the next
version of the Florida Building Code. This section expires upon
adoption and implementation of the requirements into the Florida
Building Code.

Section 17. This act shall take effect July 1, 2012.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to building construction and
inspection; amending s. 162.12, F.S.; revising the
authorized methods of sending notices to violators of
local codes; amending s. 381.0065, F.S.; revising the
definition of the term "bedroom" for purposes of
requirements governing onsite sewage treatment and
disposal systems; conforming a cross-reference;
providing that a permit for the installation,
modification, or repair of an onsite sewage treatment
and disposal system approved by the Department of
Health transfers along with the title to the property



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1202 in a real estate transaction; prohibiting the
1203 transferred title from being encumbered by new permit
1204 requirements; providing criteria for an abandoned
1205 onsite sewage treatment and disposal system; providing
1206 guidelines for the reconnection of an abandoned
1207 system; providing for the applicability of rules to
1208 the construction of an onsite sewage treatment and
1209 disposal system; providing certain exemptions for a
1210 remodeled single-family home; amending s. 468.604,
1211 F.S.; authorizing a building code administrator or
1212 building official to approve the electronic filing of
1213 building plans and related documents; amending s.
1214 468.609, F.S.; revising the eligibility requirements
1215 of a building code inspector or plans examiner;
1216 revising criteria for the issuance of provisional
1217 certificates; amending s. 468.841, F.S.; including a
1218 person or a business organization acting within the
1219 scope of a landscape architecture license in the
1220 exemption from certain provisions related to mold
1221 assessment; amending s. 489.103, F.S.; providing an
1222 exemption from construction contracting requirements
1223 for an owner who installs, removes, or replaces solar
1224 panels on certain residences while acting as the
1225 contractor; providing for an electronic signature on
1226 the permit application; requiring the building permit
1227 application and disclosure statement to include a
1228 declaration statement by the owner; providing that the
1229 issuing authority is not liable in any civil action
1230 for inaccurate information submitted by the owner



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using the authority's electronic permitting system;
amending s. 489.105, F.S.; revising the definition of
the term "demolish" for purposes of describing the
scope of work of a contractor to include all buildings
or residences of certain heights; clarifying the
definition of the term "plumbing contractor"; removing
the term "glazing contractor" from within the
definition of the term "contractor" for purposes of
licensing by the Department of Business and
Professional Regulation; reenacting s. 489.105(6),
F.S., relating to the definition of the term
"contracting"; clarifying the intent of the
Legislature in the adoption of certain amendments to
s. 489.105(6), F.S., and specifying that the
amendments were intended to be remedial in nature,
clarify existing law, and apply retroactively to any
contract for the sale of manufactured or factory-built
buildings that will be completed on site and otherwise
comply with the requirements under state law; amending
ss. 489.127 and 489.531, F.S.; increasing the maximum
civil penalties that may be assessed against
unlicensed contractors; amending s. 553.721, F.S.;
allocating a portion of the funds derived from a
surcharge on permit fees to the Florida Building Code
Compliance and Mitigation Program; making technical
and grammatical changes; amending s. 553.73, F.S.;
exempting certain buildings or structures used for
hunting from the Florida Building Code; amending s.
553.844, F.S.; extending the expiration date to 2013



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1260 for exemption of certain equipment installation
1261 meeting the 2007 building code; amending s. 633.0215,
1262 F.S.; authorizing the electronic filing of certain
1263 construction plans for approval by the fire code
1264 administrator or fire official; amending s. 713.135,
1265 F.S.; providing that an owner or contractor is not
1266 required to personally appear and provide a notarized
1267 signature when filing a building permit application
1268 for a solar project if certain conditions are met;
1269 providing that the issuing authority is not liable in
1270 any civil action for inaccurate information submitted
1271 by the owner using the authority's electronic
1272 permitting system; requiring the Florida Building
1273 Commission to establish a workgroup to assist in the
1274 development of rules for an alternative design method
1275 for screen enclosures; providing for membership of the
1276 workgroup; providing factors that must be included in
1277 the rule; providing dates for appointment of the
1278 workgroup and adoption of a rule; requiring the
1279 commission to incorporate the alternative design
1280 method for screen enclosures into the Florida Building
1281 Code; providing conditions for expiration of the
1282 provision; providing an effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/01/2012	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on General Government
Appropriations (Jones) recommended the following:

Senate Amendment to Amendment (538762)

Delete line 168
and insert:
rule occurs within 5 years after the approval of the system for
construction

By the Committee on Community Affairs; and Senator Bennett

578-01861-12

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1 A bill to be entitled
 2 An act relating to building construction and
 3 inspection; amending s. 162.12, F.S.; revising the
 4 authorized methods of sending notices to violators of
 5 local codes; amending s. 381.0065, F.S.; revising the
 6 definition of the term "bedroom" for purposes of
 7 requirements governing onsite sewage treatment and
 8 disposal systems; conforming a cross-reference;
 9 providing that a permit for the installation,
 10 modification, or repair of an onsite sewage treatment
 11 and disposal system approved by the Department of
 12 Health transfers along with the title to the property
 13 in a real estate transaction; prohibiting the
 14 transferred title from being encumbered by new permit
 15 requirements; providing criteria for an abandoned
 16 onsite sewage treatment and disposal system; providing
 17 guidelines for the reconnection of an abandoned
 18 system; providing for the applicability of rules to
 19 the construction of an onsite sewage treatment and
 20 disposal system; providing certain exemptions for a
 21 remodeled single-family home; amending s. 468.604,
 22 F.S.; authorizing a building code administrator or
 23 building official to approve the electronic filing of
 24 building plans and related documents; amending s.
 25 468.609, F.S.; revising the eligibility requirements
 26 of a building code inspector or plans examiner;
 27 revising criteria for the issuance of provisional
 28 certificates; amending s. 489.105, F.S.; revising the
 29 definition of the term "demolish" for purposes of

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 describing the scope of work of a contractor to
 31 include all buildings or residences, rather than
 32 buildings or residences of certain heights; reenacting
 33 s. 489.105(6), F.S., relating to the definition of the
 34 term "contracting"; clarifying the intent of the
 35 Legislature in the adoption of certain amendments to
 36 s. 489.105(6), F.S., and specifying that the
 37 amendments were intended to be remedial in nature,
 38 clarify existing law, and apply retroactively to any
 39 contract for the sale of manufactured or factory-built
 40 buildings that will be completed on site and otherwise
 41 comply with the requirements under state law; amending
 42 ss. 489.127 and 489.531, F.S.; increasing the maximum
 43 civil penalties that may be assessed against
 44 unlicensed contractors; amending s. 553.721, F.S.;
 45 allocating a portion of the funds derived from a
 46 surcharge on permit fees to the Florida Building Code
 47 Compliance and Mitigation Program; making technical
 48 and grammatical changes; amending s. 553.73, F.S.;
 49 exempting certain buildings or structures used for
 50 hunting from the Florida Building Code; requiring the
 51 Florida Building Commission to adopt by rule a method
 52 of alternative screen enclosure design to accommodate
 53 wind resistance and to keep the screen enclosure
 54 intact; requiring the contractor to provide certain
 55 notice to the homeowner and the local building
 56 department; requiring the rules to be incorporated
 57 into the Florida Building Code; providing for
 58 expiration of the requirement upon incorporation into

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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the Florida Building Code; providing an effective date.

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

Section 1. Subsection (1) of section 162.12, Florida Statutes, is amended to read:

162.12 Notices.—

(1) All notices required by this part must ~~shall~~ be provided to the alleged violator by:

- (a) Certified mail ~~to, return receipt requested, provided if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, or to and at any other address provided by the property owner in writing to the local government for the purpose of receiving notices. For property owned by a corporation, notices may be provided by certified mail, return receipt requested, to the registered agent of the corporation. If any notice sent by certified mail is not signed as received within 30 days after the date of mailing by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraphs (2)(b)1. and 2. and by first class mail directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first class mailing;~~
- (b) Hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body;
- (c) Leaving the notice at the violator's usual place of

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residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or

(d) In the case of commercial premises, leaving the notice with the manager or other person in charge.

Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (1), together with proof of publication or posting as provided in subsection (2), shall be sufficient to show that the notice requirements of this part have been met, without regard to whether or not the alleged violator actually received such notice.

Section 2. Present paragraphs (b) through (p) of subsection (2) of section 381.0065, Florida Statutes, are redesignated as paragraphs (c) through (q), respectively, a new paragraph (b) is added to that subsection, and paragraphs (w) through (z) are added to subsection (4) of that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the term:

(b)1. "Bedroom" means a room that can be used for sleeping and that:

a. For site-built dwellings, has a minimum of 70 square feet of conditioned space;

b. For manufactured homes, is constructed according to the standards of the United States Department of Housing and Urban Development and has a minimum of 50 square feet of floor area;

c. Is located along an exterior wall;

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d. Has a closet and a door or an entrance where a door could be reasonably installed; and

e. Has an emergency means of escape and rescue opening to the outside.

2. A room may not be considered a bedroom if it is used to access another room except a bathroom or closet.

3. "Bedroom" does not include a hallway, bathroom, kitchen, living room, family room, dining room, den, breakfast nook, pantry, laundry room, sunroom, recreation room, media/video room, or exercise room.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the Department of Environmental Protection. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit must be obtained prior to the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure

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compliance with the terms of the operating permit. The operating permit for a commercial wastewater system is valid for 1 year from the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years from the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not

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authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(j) (2)(i). The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(w) A permit that is approved by the department and issued for the installation, modification, or repair of an onsite sewage treatment and disposal system shall be transferred along with the title to the property in a real estate transaction. A title may not be encumbered at the time of transfer by new permit requirements by a governmental entity for an onsite sewage treatment and disposal system which differ from the permitting requirements in effect at the time the system was permitted, modified, or repaired.

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(x)1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and was properly functioning at the time of disconnection and was not adversely affected by the disaster. The onsite sewage treatment and disposal system may be reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, provided that the square footage of the structure is less than or equal to 110 percent of the original square footage of the structure that existed before the disaster;

b. The system is not a sanitary nuisance; and

c. The system has not been altered without prior authorization.

2. An onsite sewage treatment and disposal system that serves a property that is foreclosed upon is not considered abandoned.

(y) If an onsite sewage treatment and disposal system permittee receives, relies upon, and undertakes construction of a system based upon a validly issued construction permit under rules applicable at the time of construction but a change to a rule occurs after the approval of the system for construction but before the final approval of the system, the rules applicable and in effect at the time of construction approval apply at the time of final approval if fundamental site conditions have not changed between the time of construction approval and final approval.

(z) A modification, replacement, or upgrade of an onsite

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233 sewage treatment and disposal system is not required for a
 234 remodeling addition to a single-family home if a bedroom is not
 235 added.

236 Section 3. Section 468.604, Florida Statutes, is amended to
 237 read:

238 468.604 Responsibilities of building code administrators,
 239 plans examiners, and inspectors.—

240 (1) It is the responsibility of the building code
 241 administrator or building official to administrate, supervise,
 242 direct, enforce, or perform the permitting and inspection of
 243 construction, alteration, repair, remodeling, or demolition of
 244 structures and the installation of building systems within the
 245 boundaries of their governmental jurisdiction, when permitting
 246 is required, to ensure compliance with the Florida Building Code
 247 and any applicable local technical amendment to the Florida
 248 Building Code. The building code administrator or building
 249 official shall faithfully perform these responsibilities without
 250 interference from any person. These responsibilities include:

251 (a) The review of construction plans to ensure compliance
 252 with all applicable sections of the code. The construction plans
 253 must be reviewed before the issuance of any building, system
 254 installation, or other construction permit. The review of
 255 construction plans must be done by the building code
 256 administrator or building official or by a person having the
 257 appropriate plans examiner license issued under this chapter.

258 (b) The inspection of each phase of construction where a
 259 building or other construction permit has been issued. The
 260 building code administrator or building official, or a person
 261 having the appropriate building code inspector license issued

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262 under this chapter, shall inspect the construction or
 263 installation to ensure that the work is performed in accordance
 264 with applicable sections of the code.

265 (2) It is the responsibility of the building code inspector
 266 to conduct inspections of construction, alteration, repair,
 267 remodeling, or demolition of structures and the installation of
 268 building systems, when permitting is required, to ensure
 269 compliance with the Florida Building Code and any applicable
 270 local technical amendment to the Florida Building Code. Each
 271 building code inspector must be licensed in the appropriate
 272 category as defined in s. 468.603. The building code inspector's
 273 responsibilities must be performed under the direction of the
 274 building code administrator or building official without
 275 interference from any unlicensed person.

276 (3) It is the responsibility of the plans examiner to
 277 conduct review of construction plans submitted in the permit
 278 application to assure compliance with the Florida Building Code
 279 and any applicable local technical amendment to the Florida
 280 Building Code. The review of construction plans must be done by
 281 the building code administrator or building official or by a
 282 person licensed in the appropriate plans examiner category as
 283 defined in s. 468.603. The plans examiner's responsibilities
 284 must be performed under the supervision and authority of the
 285 building code administrator or building official without
 286 interference from any unlicensed person.

287 (4) The Legislature finds that the electronic filing of
 288 construction plans will increase government efficiency, reduce
 289 costs, and increase timeliness of processing permits. If the
 290 building code administrator or building official provides for

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291 electronic filing, the construction plans, drawings,
 292 specifications, reports, final documents, or documents prepared
 293 or issued by a licensee may be dated and electronically signed
 294 and sealed by the licensee in accordance with ss. 668.001-
 295 668.006 and may be transmitted electronically to the building
 296 code administrator or building official for approval.

297 Section 4. Paragraph (c) of subsection (2) and paragraph
 298 (a) of subsection (7) of section 468.609, Florida Statutes, are
 299 amended to read:

300 468.609 Administration of this part; standards for
 301 certification; additional categories of certification.-

302 (2) A person may take the examination for certification as
 303 a building code inspector or plans examiner pursuant to this
 304 part if the person:

305 (c) Meets eligibility requirements according to one of the
 306 following criteria:

307 1. Demonstrates 5 years' combined experience in the field
 308 of construction or a related field, building code inspection, or
 309 plans review corresponding to the certification category sought;

310 2. Demonstrates a combination of postsecondary education in
 311 the field of construction or a related field and experience
 312 which totals 4 years, with at least 1 year of such total being
 313 experience in construction, building code inspection, or plans
 314 review;

315 3. Demonstrates a combination of technical education in the
 316 field of construction or a related field and experience which
 317 totals 4 years, with at least 1 year of such total being
 318 experience in construction, building code inspection, or plans
 319 review;

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320 4. Currently holds a standard certificate as issued by the
 321 board, or a fire safety inspector license issued pursuant to
 322 chapter 633, and has a minimum of 2 years' verifiable full-time
 323 experience in inspection or plan review and satisfactorily
 324 completes a building code inspector or plans examiner training
 325 program of not less than 200 hours in the certification category
 326 sought. The board shall establish by rule criteria for the
 327 development and implementation of the training programs; or

328 5. Demonstrates a combination of the completion of an
 329 approved training program in the field of building code
 330 inspection or plan review and a minimum of 2 years' experience
 331 in the field of building code inspection, plan review, fire code
 332 inspections and fire plans review of new buildings as a
 333 firesafety inspector certified under s. 633.081(2), or
 334 construction. The approved training portion of this requirement
 335 shall include proof of satisfactory completion of a training
 336 program of not less than 300 hours which is approved by the
 337 board in the chosen category of building code inspection or plan
 338 review in the certification category sought with not less than
 339 20 hours of instruction in state laws, rules, and ethics
 340 relating to professional standards of practice, duties, and
 341 responsibilities of a certificateholder. The board shall
 342 coordinate with the Building Officials Association of Florida,
 343 Inc., to establish by rule the development and implementation of
 344 the training program.

345 (7) (a) The board may provide for the issuance of
 346 provisional certificates valid for 1 year ~~such period, not less~~
 347 ~~than 3 years nor more than 5 years~~, as specified by board rule,
 348 to any newly employed or promoted building code inspector or

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plans examiner who meets the eligibility requirements described in subsection (2) and any newly employed or promoted building code administrator who meets the eligibility requirements described in subsection (3). The provisional license may be renewed by the board for just cause; however, a provisional license is not valid for a period longer than 3 years.

Section 5. Subsection (3) of section 489.105, Florida Statutes, is amended, and subsection (6) of that section is reenacted, to read:

489.105 Definitions.—As used in this part:

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

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(a) "General contractor" means a contractor whose services are unlimited as to the type of work which he or she may do, who may contract for any activity requiring licensure under this part, and who may perform any work requiring licensure under this part, except as otherwise expressly provided in s. 489.113.

(b) "Building contractor" means a contractor whose services are limited to construction of commercial buildings and single-dwelling or multiple-dwelling residential buildings, which do not exceed three stories in height, and accessory use structures in connection therewith or a contractor whose services are limited to remodeling, repair, or improvement of any size building if the services do not affect the structural members of the building.

(c) "Residential contractor" means a contractor whose services are limited to construction, remodeling, repair, or improvement of one-family, two-family, or three-family residences not exceeding two habitable stories above no more than one uninhabitable story and accessory use structures in connection therewith.

(d) "Sheet metal contractor" means a contractor whose services are unlimited in the sheet metal trade and who has the experience, knowledge, and skill necessary for the manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, insulation, alteration, repair, servicing, or design, if not prohibited by law, of ferrous or nonferrous metal work of U.S. No. 10 gauge or its equivalent or lighter gauge and of other materials, including, but not limited to, fiberglass, used in lieu thereof and of air-handling systems, including the setting of air-handling

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equipment and reinforcement of same, the balancing of air-handling systems, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system.

(e) "Roofing contractor" means a contractor whose services are unlimited in the roofing trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, if not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of all kinds of roofing, waterproofing, and coating, except when coating is not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof. The scope of work of a roofing contractor also includes required roof-deck attachments and any repair or replacement of wood roof sheathing or fascia as needed during roof repair or replacement.

(f) "Class A air-conditioning contractor" means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system if such duct work is performed by the contractor as necessary to complete an air-distribution system, boiler and unfired pressure vessel systems, and all appurtenances, apparatus, or equipment used in connection therewith, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, and

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pneumatic control piping; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as liquefied petroleum or natural gas fuel lines within buildings, except for disconnecting or reconnecting changeouts of liquefied petroleum or natural gas appliances within buildings; potable water lines or connections thereto; sanitary sewer lines; swimming pool piping and filters; or electrical power wiring.

(g) "Class B air-conditioning contractor" means a contractor whose services are limited to 25 tons of cooling and 500,000 Btu of heating in any one system in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as necessary to complete an air-distribution system being installed under this classification, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping and insulation of pipes,

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465 vessels, and ducts; to replace, disconnect, or reconnect power
 466 wiring on the load side of the dedicated existing electrical
 467 disconnect switch; to install, disconnect, and reconnect low
 468 voltage heating, ventilating, and air-conditioning control
 469 wiring; and to install a condensate drain from an air-
 470 conditioning unit to an existing safe waste or other approved
 471 disposal other than a direct connection to a sanitary system.
 472 The scope of work for such contractor also includes any
 473 excavation work incidental thereto, but does not include any
 474 work such as liquefied petroleum or natural gas fuel lines
 475 within buildings, except for disconnecting or reconnecting
 476 changeouts of liquefied petroleum or natural gas appliances
 477 within buildings; potable water lines or connections thereto;
 478 sanitary sewer lines; swimming pool piping and filters; or
 479 electrical power wiring.

480 (h) "Class C air-conditioning contractor" means a
 481 contractor whose business is limited to the servicing of air-
 482 conditioning, heating, or refrigeration systems, including any
 483 duct cleaning and equipment sanitizing that requires at least a
 484 partial disassembling of the system, and whose certification or
 485 registration, issued pursuant to this part, was valid on October
 486 1, 1988. Only a person who was registered or certified as a
 487 Class C air-conditioning contractor as of October 1, 1988, shall
 488 be so registered or certified after October 1, 1988. However,
 489 the board shall continue to license and regulate those Class C
 490 air-conditioning contractors who held Class C licenses before
 491 October 1, 1988.

492 (i) "Mechanical contractor" means a contractor whose
 493 services are unlimited in the execution of contracts requiring

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494 the experience, knowledge, and skill to install, maintain,
 495 repair, fabricate, alter, extend, or design, if not prohibited
 496 by law, central air-conditioning, refrigeration, heating, and
 497 ventilating systems, including duct work in connection with a
 498 complete system if such duct work is performed by the contractor
 499 as necessary to complete an air-distribution system, boiler and
 500 unfired pressure vessel systems, lift station equipment and
 501 piping, and all appurtenances, apparatus, or equipment used in
 502 connection therewith, and any duct cleaning and equipment
 503 sanitizing that requires at least a partial disassembling of the
 504 system; to install, maintain, repair, fabricate, alter, extend,
 505 or design, if not prohibited by law, piping, insulation of
 506 pipes, vessels and ducts, pressure and process piping, pneumatic
 507 control piping, gasoline tanks and pump installations and piping
 508 for same, standpipes, air piping, vacuum line piping, oxygen
 509 lines, nitrous oxide piping, ink and chemical lines, fuel
 510 transmission lines, liquefied petroleum gas lines within
 511 buildings, and natural gas fuel lines within buildings; to
 512 replace, disconnect, or reconnect power wiring on the load side
 513 of the dedicated existing electrical disconnect switch; to
 514 install, disconnect, and reconnect low voltage heating,
 515 ventilating, and air-conditioning control wiring; and to install
 516 a condensate drain from an air-conditioning unit to an existing
 517 safe waste or other approved disposal other than a direct
 518 connection to a sanitary system. The scope of work for such
 519 contractor also includes any excavation work incidental thereto,
 520 but does not include any work such as potable water lines or
 521 connections thereto, sanitary sewer lines, swimming pool piping
 522 and filters, or electrical power wiring.

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523 (j) "Commercial pool/spa contractor" means a contractor
 524 whose scope of work involves, but is not limited to, the
 525 construction, repair, and servicing of any swimming pool, or hot
 526 tub or spa, whether public, private, or otherwise, regardless of
 527 use. The scope of work includes the installation, repair, or
 528 replacement of existing equipment, any cleaning or equipment
 529 sanitizing that requires at least a partial disassembling,
 530 excluding filter changes, and the installation of new pool/spa
 531 equipment, interior finishes, the installation of package pool
 532 heaters, the installation of all perimeter piping and filter
 533 piping, and the construction of equipment rooms or housing for
 534 pool/spa equipment, and also includes the scope of work of a
 535 swimming pool/spa servicing contractor. The scope of such work
 536 does not include direct connections to a sanitary sewer system
 537 or to potable water lines. The installation, construction,
 538 modification, or replacement of equipment permanently attached
 539 to and associated with the pool or spa for the purpose of water
 540 treatment or cleaning of the pool or spa requires licensure;
 541 however, the usage of such equipment for the purposes of water
 542 treatment or cleaning does not require licensure unless the
 543 usage involves construction, modification, or replacement of
 544 such equipment. Water treatment that does not require such
 545 equipment does not require a license. In addition, a license is
 546 not required for the cleaning of the pool or spa in a way that
 547 does not affect the structural integrity of the pool or spa or
 548 its associated equipment.

549 (k) "Residential pool/spa contractor" means a contractor
 550 whose scope of work involves, but is not limited to, the
 551 construction, repair, and servicing of a residential swimming

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552 pool, or hot tub or spa, regardless of use. The scope of work
 553 includes the installation, repair, or replacement of existing
 554 equipment, any cleaning or equipment sanitizing that requires at
 555 least a partial disassembling, excluding filter changes, and the
 556 installation of new pool/spa equipment, interior finishes, the
 557 installation of package pool heaters, the installation of all
 558 perimeter piping and filter piping, and the construction of
 559 equipment rooms or housing for pool/spa equipment, and also
 560 includes the scope of work of a swimming pool/spa servicing
 561 contractor. The scope of such work does not include direct
 562 connections to a sanitary sewer system or to potable water
 563 lines. The installation, construction, modification, or
 564 replacement of equipment permanently attached to and associated
 565 with the pool or spa for the purpose of water treatment or
 566 cleaning of the pool or spa requires licensure; however, the
 567 usage of such equipment for the purposes of water treatment or
 568 cleaning does not require licensure unless the usage involves
 569 construction, modification, or replacement of such equipment.
 570 Water treatment that does not require such equipment does not
 571 require a license. In addition, a license is not required for
 572 the cleaning of the pool or spa in a way that does not affect
 573 the structural integrity of the pool or spa or its associated
 574 equipment.

575 (l) "Swimming pool/spa servicing contractor" means a
 576 contractor whose scope of work involves, but is not limited to,
 577 the repair and servicing of a swimming pool, or hot tub or spa,
 578 whether public or private, or otherwise, regardless of use. The
 579 scope of work includes the repair or replacement of existing
 580 equipment, any cleaning or equipment sanitizing that requires at

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581 least a partial disassembling, excluding filter changes, and the
 582 installation of new pool/spa equipment, interior refinishing,
 583 the reinstallation or addition of pool heaters, the repair or
 584 replacement of all perimeter piping and filter piping, the
 585 repair of equipment rooms or housing for pool/spa equipment, and
 586 the substantial or complete draining of a swimming pool, or hot
 587 tub or spa, for the purpose of repair or renovation. The scope
 588 of such work does not include direct connections to a sanitary
 589 sewer system or to potable water lines. The installation,
 590 construction, modification, substantial or complete disassembly,
 591 or replacement of equipment permanently attached to and
 592 associated with the pool or spa for the purpose of water
 593 treatment or cleaning of the pool or spa requires licensure;
 594 however, the usage of such equipment for the purposes of water
 595 treatment or cleaning does not require licensure unless the
 596 usage involves construction, modification, substantial or
 597 complete disassembly, or replacement of such equipment. Water
 598 treatment that does not require such equipment does not require
 599 a license. In addition, a license is not required for the
 600 cleaning of the pool or spa in a way that does not affect the
 601 structural integrity of the pool or spa or its associated
 602 equipment.

603 (m) "Plumbing contractor" means a contractor whose
 604 contracting business consists of the execution of contracts
 605 requiring the experience, financial means, knowledge, and skill
 606 to install, maintain, repair, alter, extend, or, if not
 607 prohibited by law, design plumbing. A plumbing contractor may
 608 install, maintain, repair, alter, extend, or, if not prohibited
 609 by law, design the following without obtaining an additional

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610 local regulatory license, certificate, or registration: sanitary
 611 drainage or storm drainage facilities; venting systems; public
 612 or private water supply systems; septic tanks; drainage and
 613 supply wells; swimming pool piping; irrigation systems; or solar
 614 heating water systems and all appurtenances, apparatus, or
 615 equipment used in connection therewith, including boilers and
 616 pressure process piping and including the installation of water,
 617 natural gas, liquefied petroleum gas and related venting, and
 618 storm and sanitary sewer lines; and water and sewer plants and
 619 substations. The scope of work of the plumbing contractor also
 620 includes the design, if not prohibited by law, and installation,
 621 maintenance, repair, alteration, or extension of air-piping,
 622 vacuum line piping, oxygen line piping, nitrous oxide piping,
 623 and all related medical gas systems; fire line standpipes and
 624 fire sprinklers if authorized by law; ink and chemical lines;
 625 fuel oil and gasoline piping and tank and pump installation,
 626 except bulk storage plants; and pneumatic control piping
 627 systems, all in a manner that complies with all plans,
 628 specifications, codes, laws, and regulations applicable. The
 629 scope of work of the plumbing contractor applies to private
 630 property and public property, including any excavation work
 631 incidental thereto, and includes the work of the specialty
 632 plumbing contractor. Such contractor shall subcontract, with a
 633 qualified contractor in the field concerned, all other work
 634 incidental to the work but which is specified as being the work
 635 of a trade other than that of a plumbing contractor. This
 636 definition does not limit the scope of work of any specialty
 637 contractor certified pursuant to s. 489.113(6), and does not
 638 require certification or registration under this part of any

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639 authorized employee of a public natural gas utility or of a
 640 private natural gas utility regulated by the Public Service
 641 Commission when disconnecting and reconnecting water lines in
 642 the servicing or replacement of an existing water heater.

643 (n) "Underground utility and excavation contractor" means a
 644 contractor whose services are limited to the construction,
 645 installation, and repair, on public or private property, whether
 646 accomplished through open excavations or through other means,
 647 including, but not limited to, directional drilling, auger
 648 boring, jacking and boring, trenchless technologies, wet and dry
 649 taps, grouting, and slip lining, of main sanitary sewer
 650 collection systems, main water distribution systems, storm sewer
 651 collection systems, and the continuation of utility lines from
 652 the main systems to a point of termination up to and including
 653 the meter location for the individual occupancy, sewer
 654 collection systems at property line on residential or single-
 655 occupancy commercial properties, or on multioccupancy properties
 656 at manhole or wye lateral extended to an invert elevation as
 657 engineered to accommodate future building sewers, water
 658 distribution systems, or storm sewer collection systems at storm
 659 sewer structures. However, an underground utility and excavation
 660 contractor may install empty underground conduits in rights-of-
 661 way, easements, platted rights-of-way in new site development,
 662 and sleeves for parking lot crossings no smaller than 2 inches
 663 in diameter if each conduit system installed is designed by a
 664 licensed professional engineer or an authorized employee of a
 665 municipality, county, or public utility and the installation of
 666 such conduit does not include installation of any conductor
 667 wiring or connection to an energized electrical system. An

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668 underground utility and excavation contractor may not install
 669 piping that is an integral part of a fire protection system as
 670 defined in s. 633.021 beginning at the point where the piping is
 671 used exclusively for such system.

672 (o) "Solar contractor" means a contractor whose services
 673 consist of the installation, alteration, repair, maintenance,
 674 relocation, or replacement of solar panels for potable solar
 675 water heating systems, swimming pool solar heating systems, and
 676 photovoltaic systems and any appurtenances, apparatus, or
 677 equipment used in connection therewith, whether public, private,
 678 or otherwise, regardless of use. A contractor, certified or
 679 registered pursuant to this chapter, is not required to become a
 680 certified or registered solar contractor or to contract with a
 681 solar contractor in order to provide services enumerated in this
 682 paragraph that are within the scope of the services such
 683 contractors may render under this part.

684 (p) "Pollutant storage systems contractor" means a
 685 contractor whose services are limited to, and who has the
 686 experience, knowledge, and skill to install, maintain, repair,
 687 alter, extend, or design, if not prohibited by law, and use
 688 materials and items used in the installation, maintenance,
 689 extension, and alteration of, pollutant storage tanks. Any
 690 person installing a pollutant storage tank shall perform such
 691 installation in accordance with the standards adopted pursuant
 692 to s. 376.303.

693 (q) "Glass and glazing contractor" means a contractor whose
 694 services are unlimited in the execution of contracts requiring
 695 the experience, knowledge, and skill to install, attach,
 696 maintain, repair, fabricate, alter, extend, or design, in

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residential and commercial applications without any height restrictions, all types of windows, glass, and mirrors, whether fixed or movable; swinging or sliding glass doors attached to existing walls, floors, columns, or other structural members of the building; glass holding or supporting mullions or horizontal bars; structurally anchored impact-resistant opening protection attached to existing building walls, floors, columns, or other structural members of the building; prefabricated glass, metal, or plastic curtain walls; storefront frames or panels; shower and tub enclosures; metal fascias; and caulking incidental to such work and assembly.

(r) "Specialty contractor" means a contractor whose scope of work and responsibility is limited to a particular phase of construction established in a category adopted by board rule and whose scope is limited to a subset of the activities described in one of the paragraphs of this subsection.

(6) "Contracting" means, except as exempted in this part, engaging in business as a contractor and includes, but is not limited to, performance of any of the acts as set forth in subsection (3) which define types of contractors. The attempted sale of contracting services and the negotiation or bid for a contract on these services also constitutes contracting. If the services offered require licensure or agent qualification, the offering, negotiation for a bid, or attempted sale of these services requires the corresponding licensure. However, the term "contracting" shall not extend to an individual, partnership, corporation, trust, or other legal entity that offers to sell or sells completed residences on property on which the individual or business entity has any legal or equitable interest, or to

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the individual or business entity that offers to sell or sells manufactured or factory-built buildings that will be completed on site on property on which either party to a contract has any legal or equitable interest, if the services of a qualified contractor certified or registered pursuant to the requirements of this chapter have been or will be retained for the purpose of constructing or completing such residences.

Section 6. The amendments to s. 489.105(6), Florida Statutes, as enacted by s. 30 of chapter 2008-240, Laws of Florida, were intended to protect the sanctity of contracts for the sale of manufactured or factory-built buildings that will be completed on site and to ensure that those contracts are legal and enforceable contracts under state law. The amendments were intended to be remedial in nature, clarify existing law, and apply retroactively to any contract for the sale of manufactured or factory-built buildings that will be completed on site and otherwise comply with state law.

Section 7. Paragraph (c) of subsection (5) of section 489.127, Florida Statutes, is amended to read:

489.127 Prohibitions; penalties.—

(5) Each county or municipality may, at its option, designate one or more of its code enforcement officers, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of subsection (1) and s. 489.132(1) against persons who engage in activity for which a county or municipal certificate of competency or license or state certification or registration is required.

(c) The local governing body of the county or municipality is authorized to enforce codes and ordinances against unlicensed

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contractors under the provisions of this subsection and may enact an ordinance establishing procedures for implementing this subsection, including a schedule of penalties to be assessed by the code enforcement officer. The maximum civil penalty which may be levied shall not exceed \$2,000 ~~\$500~~. Moneys collected pursuant to this subsection shall be retained locally, as provided for by local ordinance, and may be set aside in a specific fund to support future enforcement activities against unlicensed contractors.

Section 8. Paragraph (c) of subsection (4) of section 489.531, Florida Statutes, is amended to read:

489.531 Prohibitions; penalties.—

(4) Each county or municipality may, at its option, designate one or more of its code enforcement officers, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of subsection (1) against persons who engage in activity for which county or municipal certification is required.

(c) The local governing body of the county or municipality is authorized to enforce codes and ordinances against unlicensed contractors under the provisions of this section and may enact an ordinance establishing procedures for implementing this section, including a schedule of penalties to be assessed by the code enforcement officers. The maximum civil penalty which may be levied shall not exceed \$2,000 ~~\$500~~. Moneys collected pursuant to this section shall be retained locally as provided for by local ordinance and may be set aside in a specific fund to support future enforcement activities against unlicensed contractors.

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Section 9. Section 553.721, Florida Statutes, is amended to read:

553.721 Surcharge.—In order for the Department of Business and Professional Regulation to administer and carry out the purposes of this part and related activities, there is ~~hereby~~ created a surcharge, to be assessed at the rate of 1.5 percent of the permit fees associated with enforcement of the Florida Building Code as defined by the uniform account criteria and specifically the uniform account code for building permits adopted for local government financial reporting pursuant to s. 218.32. The minimum amount collected on any permit issued shall be \$2. The unit of government responsible for collecting a permit fee pursuant to s. 125.56(4) or s. 166.201 shall collect the such surcharge and electronically remit the funds collected to the department on a quarterly calendar basis ~~beginning not later than December 31, 2010,~~ for the preceding quarter, and continuing each third month thereafter. ~~The, and such~~ unit of government shall retain 10 percent of the surcharge collected to fund the participation of building departments in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code. All funds remitted to the department pursuant to this section shall be deposited in the Professional Regulation Trust Fund. Funds collected from ~~the such~~ surcharge shall be allocated to fund used exclusively for the duties of the Florida Building Commission and the Florida Building Code Compliance and Mitigation Program under s. 553.841. Funds allocated to the Florida Building Code Compliance and Mitigation Program shall be \$925,000 each fiscal year. The funds collected from the

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813 ~~surcharge may and the Department of Business and Professional~~
 814 ~~Regulation under this chapter and shall~~ not be used to fund
 815 research on techniques for mitigation of radon in existing
 816 buildings. Funds used by the department as well as funds to be
 817 transferred to the Department of Health shall be as prescribed
 818 in the annual General Appropriations Act. The department shall
 819 adopt rules governing the collection and remittance of
 820 surcharges pursuant to in accordance with chapter 120.

821 Section 10. Subsection (10) of section 553.73, Florida
 822 Statutes, is amended, and subsection (18) is added to that
 823 section, to read:

824 553.73 Florida Building Code.—

825 (10) The following buildings, structures, and facilities
 826 are exempt from the Florida Building Code as provided by law,
 827 and any further exemptions shall be as determined by the
 828 Legislature and provided by law:

829 (a) Buildings and structures specifically regulated and
 830 preempted by the Federal Government.

831 (b) Railroads and ancillary facilities associated with the
 832 railroad.

833 (c) Nonresidential farm buildings on farms.

834 (d) Temporary buildings or sheds used exclusively for
 835 construction purposes.

836 (e) Mobile or modular structures used as temporary offices,
 837 except that the provisions of part II relating to accessibility
 838 by persons with disabilities ~~shall~~ apply to such mobile or
 839 modular structures.

840 (f) Those structures or facilities of electric utilities,
 841 as defined in s. 366.02, which are directly involved in the

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842 generation, transmission, or distribution of electricity.

843 (g) Temporary sets, assemblies, or structures used in
 844 commercial motion picture or television production, or any
 845 sound-recording equipment used in such production, on or off the
 846 premises.

847 (h) Storage sheds that are not designed for human
 848 habitation and that have a floor area of 720 square feet or less
 849 are not required to comply with the mandatory wind-borne-debris-
 850 impact standards of the Florida Building Code. In addition, such
 851 buildings that are 400 square feet or less and that are intended
 852 for use in conjunction with one- and two-family residences are
 853 not subject to the door height and width requirements of the
 854 Florida Building Code.

855 (i) Chickees constructed by the Miccosukee Tribe of Indians
 856 of Florida or the Seminole Tribe of Florida. As used in this
 857 paragraph, the term "chickee" means an open-sided wooden hut
 858 that has a thatched roof of palm or palmetto or other
 859 traditional materials, and that does not incorporate any
 860 electrical, plumbing, or other nonwood features.

861 (j) Family mausoleums not exceeding 250 square feet in area
 862 which are prefabricated and assembled on site or preassembled
 863 and delivered on site and have walls, roofs, and a floor
 864 constructed of granite, marble, or reinforced concrete.

865 (k) A building or structure having less than 1,000 square
 866 feet which is constructed and owned by a natural person for
 867 hunting and which is repaired or reconstructed to the same
 868 dimension and condition as existed on January 1, 2011, if the
 869 building or structure:

870 1. Is not rented or leased or used as a principal

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871 residence;

872 2. Is not located within the 100-year floodplain according
 873 to the Federal Emergency Management Agency's current Flood
 874 Insurance Rate Map; and

875 3. Is not connected to an off-site electric power or water
 876 supply.

877
 878 With the exception of paragraphs (a), (b), (c), and (f), in
 879 order to preserve the health, safety, and welfare of the public,
 880 the Florida Building Commission may, by rule adopted pursuant to
 881 chapter 120, provide for exceptions to the broad categories of
 882 buildings exempted in this section, including exceptions for
 883 application of specific sections of the code or standards
 884 adopted therein. The Department of Agriculture and Consumer
 885 Services shall have exclusive authority to adopt by rule,
 886 pursuant to chapter 120, exceptions to nonresidential farm
 887 buildings exempted in paragraph (c) when reasonably necessary to
 888 preserve public health, safety, and welfare. The exceptions must
 889 be based upon specific criteria, such as under-roof floor area,
 890 aggregate electrical service capacity, HVAC system capacity, or
 891 other building requirements. Further, the commission may
 892 recommend to the Legislature additional categories of buildings,
 893 structures, or facilities which should be exempted from the
 894 Florida Building Code, to be provided by law. The Florida
 895 Building Code does not apply to temporary housing provided by
 896 the Department of Corrections to any prisoner in the state
 897 correctional system.

898 (18) The Florida Building Commission shall adopt by rule a
 899 method of alternative screen enclosure design that requires the

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900 removal of a section of the screen in order to accommodate wind
 901 resistance and keep the screen enclosure intact. The rules for
 902 an alternative screen enclosure design must require that the
 903 contractor provide notice to the homeowner and local building
 904 department that the homeowner must cut, retract, or remove a
 905 panel of the screen from the enclosure in accordance with
 906 engineering instructions when wind speeds are expected to exceed
 907 75 miles per hour and that the contractor will provide a
 908 replacement screen at the initial point of sale to repair the
 909 screen enclosure for designs that require cutting. The Florida
 910 Building Commission shall adopt the method before October 1,
 911 2012, and incorporate the requirements into the next version of
 912 the Florida Building Code. This subsection expires upon adoption
 913 and implementation of the requirements of this subsection into
 914 the Florida Building Code.

915 Section 11. This act shall take effect July 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-1-12

Meeting Date

Topic

BUILDING CODES

Bill Number

SB 704

(if applicable)

Name

CHRIS FENTRIS

Amendment Barcode

STRIKE ALL

(if applicable)

Job Title

LEG. COUNSEL

Address

1400 VILAGE SQ # 3-243

Street

TALL

City

FL

State

32312

Zip

Phone

850-222-2772

E-mail

AFENTRIS@AOL.COM

Speaking:

☒ For

☐ Against

☐ Information

Representing

FLA REFRIGERATION & AC CONTRACTORS, HEATING COOLING CONTRACTORS

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature:

☒ Yes

☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/12
Meeting Date

Topic Building Construction

Bill Number SB 704
(if applicable)

Name Bruce Kershner

Amendment Barcode 538762
(if applicable)

Job Title _____

Address 231 West Bay Avenue
Street
Longwood FL 32750
City State Zip

Phone 407-830-1882

E-mail BruceKershner@att.net

Speaking: ☐ For ☐ Against ☒ Information

Representing Southeast Glass Association, Underground Utility Contractors of FL

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-1-12

Meeting Date

Topic BUILDING CODE & Construction

Bill Number SB 704

Name KARI HEBRANK

Amendment Barcode "STRIKE-ALL"
(if applicable)

Job Title _____

Address 120 S. MONROE ST.
Street
Tallahassee FL 32317
City State Zip

Phone 566-7824

E-mail Khebrank@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Building Officials Assoc. of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic

Bill Number

Name

Amendment Barcode

Job Title

Address

Phone

City

State

Zip

E-mail

Speaking:

☒ For

☐ Against

 Information

Representing

Appearing at request of Chair:

☐ Yes☐ No

Lobbyist registered with Legislature:

☒☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-1-2012

Meeting Date

Topic

Bldg Const.

Bill Number

SB 704

(if applicable)

Name

Richard Gentry

Amendment Barcode

(if applicable)

Job Title

Address

2305 Braeburn Cir.

Street

TH

City

State

32309

Zip

Phone

251-1837

E-mail

RGentry@comcast.net

Speaking:



For



Against



Information

Representing

AIF

Appearing at request of Chair:



Yes



No

Lobbyist registered with Legislature:



Yes



No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/1/12

Meeting Date

Topic Building Construction

Bill Number 704
(if applicable)

Name David Shepp

Amendment Barcode _____
(if applicable)

Job Title Consultant

Address P.O. Box 3739
Street

Phone 863 581-4256

Lakeland FL 33802
City State Zip

E-mail daveefsg-llc.net

Speaking: ☒ For ☐ Against ☐ Information

Representing Independent Electrical Contractors + FL Assoc Code Enforcement

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

✓
COMMITTEES:
Community Affairs, *Chair*
Banking and Insurance
Budget - Subcommittee on Criminal and Civil Justice
Appropriations
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Criminal Justice
Military Affairs, Space, and Domestic Security

SENATOR MICHAEL S. "MIKE" BENNETT

President Pro Tempore
21st District

January 23, 2012

The Honorable Alan Hayes
Chair, General Government Apps Committee
201 The Capitol
404 S. Monroe St.
Tallahassee, FL 32399

Dear Chairman Hayes:

I am requesting that you place S704, relating to Building Codes, on your committee agenda for the week of January 30 or as soon thereafter as possible.

If you have any questions, please let me know. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Bennett", with a stylized flourish at the end.

Michael S. "Mike" Bennett
/cre
Cc:

- Jamie DeLoach,
Staff Director
- Lisa Waddell,
- Administrative Assistant

REPLY TO:

- ☐ Wildewood Professional Park, Suite 90, 3653 Cortez Road West, Bradenton, Florida 34210 (941) 727-6349
- ☐ 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5078

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

CourtSmart Tag Report

Room: SB 401

Case:

Caption: Budget Subcommittee on General Government Appropriations

Type:

Judge:

Started: 2/1/2012 10:17:43 AM

Ends: 2/1/2012 10:42:12 AM

Length: 00:24:30

10:17:49 AM Meeting called to order
10:18:16 AM Sen. Hays (Chair)
10:18:40 AM SB 952
10:18:52 AM Daniel Bruno, aide to Senator Oelrich
10:19:32 AM Sen Hays
10:19:32 AM D. Bruno
10:20:36 AM SB 538
10:20:50 AM Aaron Nivens, aide to Sen. Bogdanoff
10:20:53 AM Ryan West, Florida Chamber of Commerce, waives in support.
10:25:25 AM Harry Duncanson, Chairman Government Affairs, Printing Association of Florida
10:28:37 AM Stephen Hogge, Florida League of Cities
10:29:01 AM A. Nivens
10:29:16 AM SB 704
10:30:18 AM Sen. Bennett
10:30:40 AM Am. 5538762
10:30:44 AM Am. to Am. 330460
10:31:34 AM Cam Fentriss, Legal Counsel, Fla Refrigeration and AC Contractors, Heating Cooling Contractors
10:33:43 AM Bruce Kershner, Southeast Glass Assoc., Underground Utility Contractors of Fl.
10:35:22 AM Sen Hays
10:35:33 AM Keri Hebrank, Building Officials Assoc. of Florida, waives in support
10:36:15 AM Sen. Gibson
10:36:38 AM Sen. Bennett
10:36:40 AM Doug Buck, Florida Home Builder's Association, waives in support
10:36:46 AM Richard Gentry, AIF, waive in support
10:36:58 AM David Shepp, Independent Electrical Contractors and Fl. Assoc. Code Enforcement, waives in support
10:37:37 AM Sen Bennett
10:37:56 AM Sen. Hays
10:38:05 AM SB 154
10:38:19 AM Sen. Latvala
10:39:57 AM Sen. Hays
10:40:00 AM Traveling Am. 268380
10:40:22 AM Sen. Latvala
10:40:59 AM Sen. Benacquisto
10:41:26 AM Sen Gibson
10:41:36 AM Sen. Braynon
10:41:57 AM Sen. Hays