

1 A bill to be entitled
2 An act relating to regulation of professions
3 and occupations; amending s. 455.213, F.S.,
4 relating to general licensing provisions;
5 providing for direct payment of
6 organization-related or vendor-related fees
7 associated with the examination to the
8 organization or vendor; providing that passing
9 a required examination does not entitle a
10 person to licensure if the person is not
11 otherwise qualified; amending s. 455.217, F.S.,
12 relating to examinations; authorizing the
13 contracting for examinations and services
14 related to examinations; providing requirements
15 with respect to examinations developed by the
16 department or a contracted vendor and to
17 national examinations; amending s. 455.225,
18 F.S.; providing that complaints or actions
19 against unlicensed persons or persons operating
20 outside their scope of practice are not
21 confidential; amending s. 489.109, F.S.;
22 revising language relating to fees applicable
23 to regulation of construction contracting, to
24 conform to changes authorizing contracted
25 examinations; amending s. 489.113, F.S.;
26 authorizing a local construction regulation
27 board to deny, suspend, or revoke the authority
28 of a certified contractor to obtain a building
29 permit or limit such authority to obtaining a
30 permit or permits with specific conditions;
31 providing for notices of noncompliance for

1 minor violations of regulatory law; amending s.
2 489.114, F.S., relating to evidence of workers'
3 compensation coverage; conforming terminology;
4 amending s. 489.115, F.S.; providing for
5 licensure by endorsement reciprocity with other
6 jurisdictions; providing for rules covering
7 requirements relating to the content of
8 continuing education courses and standards for
9 approval of continuing education providers;
10 requiring submission of a credit report
11 reflecting financial responsibility as a
12 prerequisite to the initial issuance of a
13 certificate; amending s. 489.119, F.S.;
14 requiring business organizations other than
15 sole proprietorships to secure a certificate of
16 authority rather than registration or
17 certification; amending s. 489.1195, F.S.;
18 specifying requirements for financially
19 responsible officers; amending s. 489.127,
20 F.S., relating to prohibitions and penalties;
21 including reference to certificates of
22 authority; specifying that a local occupational
23 license issued under authority of chapter 205,
24 F.S., is not a license for purposes of part I
25 of chapter 489, F.S., relating to construction
26 contracting; amending s. 489.129, F.S.,
27 relating to disciplinary proceedings; including
28 reference to certificates of authority;
29 prohibiting issuance or renewal of licensure
30 until restitution is paid in full, if
31 restitution has been ordered, or until all

1 terms and conditions of the final order have
2 been satisfied; amending s. 489.131, F.S.;
3 providing applicability of the part to the
4 authority of local authorities to issue and the
5 requirement of specified contractors to obtain
6 local occupational license tax certificates;
7 providing for payment of local bonds into the
8 Construction Industry Recovery Fund; providing
9 for issuance of notices of noncompliance for
10 minor violations of regulatory law; amending s.
11 489.132, F.S., relating to prohibited acts by
12 unlicensed principals; conforming terminology;
13 creating s. 489.1455, F.S.; providing
14 requirements for local reciprocity of licensed
15 journeymen; providing for a fee; creating s.
16 489.146, F.S.; requiring privatization of
17 services of the Department of Business and
18 Professional Regulation; providing requirements
19 and rulemaking authority for such purpose;
20 correcting a cross reference; providing
21 effective dates.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsections (1) and (2) of section 455.213,
26 Florida Statutes, are amended to read:

27 455.213 General licensing provisions -

28 (1) Any person desiring to be licensed shall apply to
29 the department in writing ~~to take the appropriate examination.~~
30 The application for licensure shall be made on a form prepared
31 and furnished by the department and shall be supplemented as

1 needed to reflect any material change in any circumstance or
2 condition stated in the application which takes place between
3 the initial filing of the application and the final grant or
4 denial of the license and which might affect the decision of
5 the agency. In cases where a person applies or schedules
6 directly with a national examination organization or
7 examination vendor to take an examination required for
8 licensure, any organization or vendor related fees associated
9 with the examination may be paid directly to the organization
10 or vendor.

11 (2) Before the issuance of any license, the department
12 may charge an initial license fee as determined by rule of the
13 applicable board or, if no such board exists, by rule of the
14 department. Upon receipt of the appropriate license fee,
15 except as provided in subsection (3), the department shall
16 issue a license to any person certified by the appropriate
17 board, or its designee, or the department when there is no
18 board, as having met the applicable requirements imposed by
19 law or rule. However, an applicant who is not otherwise
20 qualified for licensure is not entitled to licensure solely
21 based on a passing score on a required examination.

22 Section 2. Section 455.217, Florida Statutes, is
23 amended to read:

24 455.217 Examinations.-- This section shall be read in
25 conjunction with the appropriate practice act associated with
26 each regulated profession under this chapter.

27 (1) The Division of Technology, Licensure, and Testing
28 of the Department of Business and Professional Regulation
29 shall provide, contract or approve services for the
30 development, preparation, and administration, scoring, score
31 reporting and evaluation of all examinations. The division

1 shall seek the advice of the appropriate board in providing
 2 such services.

3 (a) The department, acting in conjunction with the
 4 Division of Technology, Licensure, and Testing and the
 5 Division of Real Estate, as appropriate, shall ensure that
 6 ~~the~~ examinations adequately and reliably measure an
 7 applicant's ability to practice the profession regulated by
 8 the department ~~and shall seek the advice of the appropriate~~
 9 ~~board in the preparation and administration of the~~
 10 examinations. After an examination developed or approved by
 11 the department has been administered, the board or department
 12 may reject any question which does not reliably measure the
 13 general areas of competency specified in the rules of the
 14 board or department, when there is no board. The department
 15 shall use professional testing services ~~to~~ for the
 16 development, preparation, and evaluation of ~~prepare,~~
 17 ~~administer, grade, and evaluate the~~ examinations, when such
 18 services are available and approved by the board.

19 (b) For each examination developed by the department
 20 or contracted vendor, to the extent not otherwise specified by
 21 statute, the board ~~or, when there is no board,~~ the department
 22 when there is no board, shall by rule specify the general
 23 areas of competency to be covered by the each examination, the
 24 relative weight to be assigned in grading each area tested,
 25 ~~and~~ the score necessary to achieve a passing grade, and the
 26 fees, where applicable, to cover the actual cost for any
 27 purchase, development and administration of the required
 28 examination. However, statutory fee caps in each practice act
 29 shall apply. This subsection does not apply to national
 30 examinations approved and administered pursuant to paragraph
 31 (d).

1 (c) If a practical examination is deemed to be
2 necessary, ~~the~~ rules shall specify the criteria by which
3 examiners are to be selected, the grading criteria to be used
4 by the examiner, the relative weight to be assigned in grading
5 each criterion, and the score necessary to achieve a passing
6 grade. When a mandatory standardization exercise for a
7 practical examination is required by law, the board may
8 conduct such exercise. Therefore, board members may serve as
9 examiners at a practical examination with the consent of the
10 board.

11 ~~(d)~~(c) A board, or the department when there is no
12 board, may approve by rule the use of any national examination
13 which the department has certified as meeting requirements of
14 national examinations and generally accepted testing standards
15 pursuant to department rules. Providers of examinations,
16 which may be either profit or non-profit entities, seeking
17 certification by the department shall pay the actual costs
18 incurred by the department in making a determination regarding
19 the certification.The department shall use any national
20 examination which is available, certified by the department,
21 and ~~which is~~ approved by the board. The name and number of a
22 candidate may be provided to a national contractor for the
23 limited purpose of preparing the grade tape and information to
24 be returned to the board or department or, to the extent
25 otherwise specified by rule, the candidate may apply directly
26 to the vendor of the national examination. The department may
27 delegate to the board the duty to provide and administer the
28 examination. Any national examination approved by a board, or
29 the department when there is no board, prior to October 1,
30 1997, is deemed certified under this paragraph. Any licensing
31 or certification examination that is not developed or

1 administered by the department in house or provided as a
2 national examination shall be competitively bid.

3 (e)~~(d)~~The department shall adopt rules regarding the
4 security and monitoring of examinations. In order to maintain
5 the security of examinations, the department may employ the
6 procedures set forth in s. 455.228 to seek fines and
7 injunctive relief against an examinee who violates the
8 provisions of s. 455.2175 or the rules adopted pursuant to
9 this paragraph. The department, or any agent thereof, may, for
10 the purposes of investigation, confiscate any written,
11 photographic, or recording material or device in the
12 possession of the examinee at the examination site which the
13 department deems necessary to enforce such provisions or
14 rules.

15 (f)~~(e)~~ If the professional board with jurisdiction
16 over an examination concurs, the department may, for a fee,
17 share with any other state's licensing authority an
18 examination developed by or for the department unless
19 prohibited by a contract entered into by the department for
20 development or purchase of the examination. The department,
21 with the concurrence of the appropriate board, shall establish
22 guidelines that ensure security of a shared exam and shall
23 require that any other state's licensing authority comply with
24 those guidelines. Those guidelines shall be approved by the
25 appropriate professional board. All fees paid by the user
26 shall be applied to the department's examination and
27 development program for professions regulated by this chapter.
28 All fees paid by the user for professions not regulated by
29 this chapter shall be applied to offset the fees for the
30 development and administration of that profession's
31 examination. If both a written and a practical examination

1 are given, an applicant shall be required to retake only the
 2 portion of the examination for ~~on~~ which he failed to achieve a
 3 passing grade, if he successfully passes that portion within a
 4 reasonable time of his passing the other portion.

5 (2) For each examination developed by the department
 6 or a contracted vendor, ~~the board, or the department,~~ when
 7 there is no board, ~~the department~~ shall make rules providing
 8 for reexamination of any applicants who fail an ~~have failed~~
 9 the examination developed by the department or a contracted
 10 vendor. If both a written and a practical examination are
 11 given, an applicant shall be required to retake only the
 12 portion of the examination for ~~on~~ which he failed to achieve
 13 a passing grade, if he successfully passes that portion within
 14 a reasonable time, as determined by rule of the board, or
 15 department when there is no board, of his passing the other
 16 portion.

17 (3) Except for national examinations approved and
 18 administered pursuant to paragraph(1)(d), the department
 19 shall provide procedures for applicants who have taken and
 20 failed an examination developed by the department or a
 21 contracted vendor to review their examination questions,
 22 answers, papers, grades and grading key for the questions the
 23 candidate answered incorrectly or, if not feasible, the parts
 24 of the examination failed. Applicants shall bear the actual
 25 cost for the department to provide examination review pursuant
 26 to this subsection. ~~The board or, when there is no board, the~~
 27 ~~department shall make available an examination review~~
 28 ~~procedure for applicants and charge an examination review fee~~
 29 ~~not to exceed \$75 per review. Unless prohibited or limited by~~
 30 ~~rules implementing security or access guidelines of national~~
 31 ~~examinations, the applicant is entitled to review his~~

1 ~~examination questions, answers, papers, grades, and grading~~
 2 ~~key.~~ An applicant may waive in writing the confidentiality of
 3 his examination grades.

4 (4)(3)For each examination developed or administered
 5 by the department or a contracted vendor, ~~The department shall~~
 6 ~~make~~ an accurate record of each applicant's examination
 7 questions, answers, papers, grades, and grading key. ~~The~~
 8 ~~department~~ shall be kept ~~keep such record~~ for a period of not
 9 less than 2 years immediately following the examination, and
 10 such record shall thereafter be maintained or destroyed as
 11 provided in chapters 119 and 257 . This subsection does not
 12 apply to national examinations approved and administered
 13 pursuant to paragraph (1)(d).

14 (5)(4)Meetings and records of meetings of any member
 15 of the department or of any board or commission within the
 16 department held for the exclusive purpose of creating or
 17 reviewing licensure examination questions or proposed
 18 examination questions are confidential and exempt from ss.
 19 119.07(1) and 286.011. However, this exemption shall not
 20 affect the right of any person to review an examination as
 21 provided in subsection (3)(2).

22 (6)(5)For examinations developed by the department or
 23 a contracted vendor, each board, or the department, when there
 24 is no board, may provide licensure examinations in an
 25 applicant's native language. Applicants for examination or
 26 reexamination pursuant to this subsection shall bear the full
 27 cost for the department's development, preparation,
 28 administration, grading, and evaluation of any examination in
 29 a language other than English. Requests for translated
 30 examinations must be on file in the board office, or with the
 31 department when there is no board, at least 6 months prior to

1 the scheduled examination. When determining whether it is in
2 the public interest to allow the examination to be translated
3 into a language other than English, the board, or the
4 department when there is no board, shall consider the
5 percentage of the population who speak the applicant's native
6 language.

7 (7)~~(6)~~In addition to meeting any other requirements
8 for licensure by examination or by endorsement, an applicant
9 may be required by a board, or by the department , if there is
10 no board, to pass an examination pertaining to state laws and
11 rules applicable to the practice of the profession regulated
12 by that board or by the department.

13 Section 3. Subsections (3), and (10) of section
14 455.225, Florida Statutes, 1996 Supplement, are amended to
15 read:

16 455.225 Disciplinary proceedings.--Disciplinary
17 proceedings for each board shall be within the jurisdiction of
18 the department or the Agency for Health Care Administration,
19 as appropriate.

20 (3)(a) As an alternative to the provisions of
21 subsections (1) and (2), when a complaint is received, the
22 department or the agency may provide a licensee with a notice
23 of noncompliance for an initial offense of a minor violation.
24 A violation is a minor violation if it does not demonstrate a
25 serious inability to practice the profession, result in
26 economic or physical harm to a person, or adversely affect the
27 public health, safety, or welfare or create a significant
28 threat of such harm.Each board, or the department or the
29 agency if there is no board, shall establish by rule those
30 ~~minor~~ violations which are minor violations under this
31 ~~provision which do not endanger the public health, safety, and~~

1 ~~welfare and which do not demonstrate a serious inability to~~
 2 ~~practice the profession.~~ Failure of a licensee to take action
 3 in correcting the violation within 15 days after notice may
 4 result in the institution of regular disciplinary proceedings.

5 (b) The department may issue a notice of noncompliance
 6 for an initial offense of a minor violation, notwithstanding a
 7 board's failure to designate a particular minor violation by
 8 rule as provided in paragraph (a).

9 (10) The complaint and all information obtained
 10 pursuant to the investigation by the department or the Agency
 11 for Health Care Administration are confidential and exempt
 12 from s. 119.07(1) until 10 days after probable cause has been
 13 found to exist by the probable cause panel or by the
 14 department or the agency, or until the regulated professional
 15 or subject of the investigation waives his privilege of
 16 confidentiality, whichever occurs first. However, this
 17 exemption does not apply to actions against unlicensed persons
 18 pursuant to s. 455.228 or the applicable practice act. Upon
 19 completion of the investigation and pursuant to a written
 20 request by the subject, the department or the agency shall
 21 provide the subject an opportunity to inspect the
 22 investigative file or, at the subject's expense, forward to
 23 the subject a copy of the investigative file. Notwithstanding
 24 s. 455.241, the subject may inspect or receive a copy of any
 25 expert witness report or patient record connected with the
 26 investigation, if the subject agrees in writing to maintain
 27 the confidentiality of any information received under this
 28 subsection until 10 days after probable cause is found and to
 29 maintain the confidentiality of patient records pursuant to s.
 30 455.241. The subject may file a written response to the
 31 information contained in the investigative file. Such

1 response must be filed within 20 days, unless an extension of
2 time has been granted by the department or the agency. This
3 subsection does not prohibit the department or the Agency for
4 Health Care Administration from providing such information to
5 any law enforcement agency or to any other regulatory agency.

6 Section 4. Subsection (1) of section 489.109, Florida
7 Statutes, is amended to read:

8 489.109 Fees.--

9 (1) The board, by rule, shall establish reasonable
10 fees to be paid for applications, ~~examination~~, certification
11 and renewal, registration and renewal, and recordmaking and
12 recordkeeping. The fees shall be established as follows:

13 (a) With respect to an applicant for a certificate,
14 the initial application ~~and examination~~ fee may not exceed
15 \$150, and, if an examination cost is included in the
16 application fee, the combined amount may not exceed \$350.7 ~~and~~
17 The initial certification fee and the renewal fee may not
18 exceed \$200. However, any applicant who seeks certification
19 under this part by taking a practical examination must pay as
20 an examination fee the actual cost incurred by the department
21 in developing, preparing, administering, scoring, score
22 reporting, and evaluating ~~in conducting~~ the examination, if
23 the examination is conducted by the department.

24 (b) With respect to an applicant for registration, the
25 initial application fee may not exceed \$100, and the initial
26 registration fee and the renewal fee may not exceed \$200.

27 (c) The board, by rule, may establish delinquency
28 fees, not to exceed the applicable renewal fee for renewal
29 applications made after the expiration date of the certificate
30 or registration.

31

1 (d) The board, by rule, may establish a fee for
2 transfer of a certificate of authority ~~or registration~~ from
3 one business organization to another, not to exceed the
4 applicable renewal fee.

5 (e) The board, by rule, shall impose a renewal fee for
6 an inactive status certificate or registration, not to exceed
7 the renewal fee for an active status certificate or
8 registration. Neither the inactive certification fee nor the
9 inactive registration fee may exceed \$50. The board, by rule,
10 may provide for a different fee for inactive status where such
11 status is sought by a building code administrator, plans
12 examiner, or inspector certified pursuant to part XIII of
13 chapter 468 who is employed by a local government and is not
14 allowed by the terms of such employment to maintain a
15 certificate on active status issued pursuant to this part.

16 (f) The board, by rule, shall impose an additional
17 late fee on a delinquent status certificateholder or
18 registrant when such certificateholder or registrant applies
19 for active or inactive status.

20 (g) The board, by rule, shall impose an additional
21 fee, not to exceed the applicable renewal fee, which
22 reasonably reflects the costs of processing a
23 certificateholder's or registrant's request to change
24 licensure status at any time other than at the beginning of a
25 licensure cycle.

26 Section 5. Section 489.111, Florida Statutes, is
27 amended to read:

28 489.111 Licensure by examination ~~Examinations~~.--

29 (1) Any person who desires to be certified shall apply
30 to the department in writing ~~to take the certification~~
31 ~~examination~~.

1 (2) A person shall be eligible for licensure by
2 ~~entitled to take the examination for the purpose of~~
3 ~~determining whether he is qualified to engage in contracting~~
4 ~~throughout this state~~ if the person:

5 (a) Is 18 years of age;

6 (b) Is of good moral character; and

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

9 1. Has received a baccalaureate degree from an
10 accredited 4-year college in the appropriate field of
11 engineering, architecture, or building construction and has 1
12 year of proven experience in the category in which the person
13 seeks to qualify. For the purpose of this part, a minimum of
14 2,000 man-hours shall be used in determining full-time
15 equivalency.

16 2. Has a total of at least 4 years of active
17 experience as a workman who has learned his trade by serving
18 an apprenticeship as a skilled workman who is able to command
19 the rate of a mechanic in his particular trade or as a foreman
20 who is in charge of a group of workmen and usually is
21 responsible to a superintendent or a contractor or his
22 equivalent, provided, however, that at least 1 year of active
23 experience shall be as a foreman.

24 3. Has a combination of not less than 1 year of
25 experience as a foreman and not less than 3 years of credits
26 for any accredited college-level courses; has a combination of
27 not less than 1 year of experience as a skilled workman, 1
28 year of experience as a foreman, and not less than 2 years of
29 credits for any accredited college-level courses; or has a
30 combination of not less than 2 years of experience as a
31 skilled workman, 1 year of experience as a foreman, and not

1 less than 1 year of credits for any accredited college-level
2 courses. For the number of years of credits for any
3 accredited college-level courses, the applicant shall show
4 completion of an equal number of courses in the appropriate
5 field of engineering, architecture, or building construction.
6 All junior college or community college-level courses shall be
7 considered accredited college-level courses.

8 4.a. An active certified residential contractor is
9 eligible to take the building contractors' examination if he
10 possesses a minimum of 3 years of proven experience in the
11 classification in which he is certified.

12 b. An active certified residential contractor is
13 eligible to take the general contractors' examination if he
14 possesses a minimum of 4 years of proven experience in the
15 classification in which he is certified.

16 c. An active certified building contractor is eligible
17 to take the general contractors' examination if he possesses a
18 minimum of 4 years of proven experience in the classification
19 in which he is certified.

20 5.a. An active certified air-conditioning Class C
21 contractor is eligible to take the air-conditioning Class B
22 contractors' examination if he possesses a minimum of 3 years
23 of proven experience in the classification in which he is
24 certified.

25 b. An active certified air-conditioning Class C
26 contractor is eligible to take the air-conditioning Class A
27 contractors' examination if he possesses a minimum of 4 years
28 of proven experience in the classification in which he is
29 certified.

30 c. An active certified air-conditioning Class B
31 contractor is eligible to take the air-conditioning Class A

1 contractors' examination if he possesses a minimum of 1 year
2 of proven experience in the classification in which he is
3 certified.

4 6.a. An active certified swimming pool servicing
5 contractor is eligible to take the residential swimming pool
6 contractors' examination if he possesses a minimum of 3 years
7 of proven experience in the classification in which he is
8 certified.

9 b. An active certified swimming pool servicing
10 contractor is eligible to take the swimming pool commercial
11 contractors' examination if he possesses a minimum of 4 years
12 of proven experience in the classification in which he is
13 certified.

14 c. An active certified residential swimming pool
15 contractor is eligible to take the commercial swimming pool
16 contractors' examination if he possesses a minimum of 1 year of
17 proven experience in the classification in which he is
18 certified.

19 (3)(a) The board may refuse to certify an applicant
20 for failure to satisfy the requirement of good moral character
21 only if:

22 1. There is a substantial connection between the lack
23 of good moral character of the applicant and the professional
24 responsibilities of a certified contractor; and

25 2. The finding by the board of lack of good moral
26 character is supported by clear and convincing evidence.

27 (b) When an applicant is found to be unqualified for a
28 certificate because of a lack of good moral character, the
29 board shall furnish the applicant a statement containing the
30 findings of the board, a complete record of the evidence upon
31

1 which the determination was based, and a notice of the rights
2 of the applicant to a rehearing and appeal.

3 (4) The department shall ensure that a sensitivity
4 review committee has been established including
5 representatives of various ethnic/minority groups. No
6 question found by this committee to be discriminatory against
7 any ethnic/minority group shall be included in the
8 examination.

9 Section 6. Subsections (1) and (4) of sections
10 489.113, Florida Statutes, are amended to read:

11 489.113 Qualifications for practice; restrictions.--

12 (1) Any person who desires to engage in contracting on
13 a statewide basis shall, as a prerequisite thereto, establish
14 his competency and qualifications to be certified pursuant to
15 this part. To establish his competency, a person shall pass
16 the appropriate examination approved by the board and
17 certified ~~administered~~ by the department. Any person who
18 desires to engage in contracting on other than a statewide
19 basis shall, as a prerequisite thereto, be registered pursuant
20 to this part, unless exempted by this part.

21 (4)(a) When a certificateholder desires to engage in
22 contracting in any area of the state, as a prerequisite
23 therefor, he shall be required only to exhibit to the local
24 building official, tax collector, or other person in charge of
25 the issuance of licenses and building permits in the area
26 evidence of holding a current certificate and to pay the fee
27 for the occupational license and building permit required of
28 other persons.

29 (b) Notwithstanding the provisions of paragraph (a), a
30 local construction regulation board may deny, suspend, or
31 revoke the authority of a certified contractor to obtain a

1 building permit or limit such authority to obtaining the
 2 ~~issuance of a building permit to a certified contractor, or~~
 3 ~~issue~~ a permit or permits with specific conditions, if the
 4 local construction regulation board has found such contractor,
 5 through the public hearing process, to be guilty of fraud or a
 6 willful building code violation within the county or
 7 municipality that the local construction regulation board
 8 represents or if the local construction regulation board has
 9 proof that such contractor, through the public hearing
 10 process, has been found guilty in another county or
 11 municipality within the past 12 months, of fraud or a willful
 12 building code violation and finds, after providing notice of
 13 an opportunity to be heard to the contractor, that such fraud
 14 or violation would have been fraud or a violation if committed
 15 in the county or municipality that the local construction
 16 board represents. Notification of and information concerning
 17 such permit denial shall be submitted to the department within
 18 15 days after the local construction regulation board decides
 19 to deny the permit.

20 (c) The local government may also deny issuance of, or
 21 may suspend, any outstanding building permit where a
 22 contractor fails or refuses to provide proof of public
 23 liability and property damage insurance coverage as required
 24 by s. 489.115(5) and workers' compensation insurance coverage
 25 as required by s. 489.114.

26 (d) It is the policy of the state that the purpose of
 27 regulation is to protect the public by attaining compliance
 28 with the policies established in law. Fines and other
 29 penalties are provided in order to ensure compliance; however,
 30 the collection of fines and the imposition of penalties are
 31 intended to be secondary to the primary goal of attaining

1 compliance with state laws and local jurisdiction ordinances.
 2 It is the intent of the Legislature that a local jurisdiction
 3 agency charged with enforcing regulatory laws shall issue a
 4 notice of noncompliance as its first response to a minor
 5 violation of a regulatory law in any instance in which it is
 6 reasonable to assume that the violator was unaware of such a
 7 law or unclear as to how to comply with it. A violation of a
 8 regulatory law is a "minor violation" if it does not result in
 9 economic or physical harm to a person or adversely affect the
 10 public health, safety, or welfare or create a significant
 11 threat of such harm. A "notice of noncompliance" is a
 12 notification by the local jurisdiction agency charged with
 13 enforcing the ordinance, which is issued to the licensee that
 14 is subject to the ordinance. A notice of noncompliance should
 15 not be accompanied with a fine or other disciplinary penalty.
 16 It should identify the specific ordinance that is being
 17 violated, provide information on how to comply with the
 18 ordinance, and specify a reasonable time for the violator to
 19 comply with the ordinance. Failure of a licensee to take
 20 action correcting the violation within a set period of time
 21 would then result in the institution of further disciplinary
 22 proceedings.

23 Section 7. Section 489.114, Florida Statutes, is
 24 amended to read:

25 489.114 Evidence of workers' compensation
 26 coverage.--Any person, business organization, or qualifying
 27 agent engaged in the business of contracting in this state and
 28 certified or registered under this part shall, as a condition
 29 precedent to the issuance or renewal of a certificate, ~~or~~
 30 registration, or certificate of authority of the contractor,
 31 provide to the Construction Industry Licensing Board, as

1 provided by board rule, evidence of workers' compensation
 2 coverage pursuant to chapter 440. In the event that the
 3 Division of Workers' Compensation of the Department of Labor
 4 and Employment Security receives notice of the cancellation of
 5 a policy of workers' compensation insurance insuring a person
 6 or entity governed by this section, the Division of Workers'
 7 Compensation shall certify and identify all persons or
 8 entities by certification or registration license number to
 9 the department after verification is made by the Division of
 10 Workers' Compensation that such cancellation has occurred or
 11 that persons or entities governed by this section are no
 12 longer covered by workers' compensation insurance. Such
 13 certification and verification by the Division of Workers'
 14 Compensation shall result solely from records furnished to the
 15 Division of Workers' Compensation by the persons or entities
 16 governed by this section. The department shall notify the
 17 persons or entities governed by this section who have been
 18 determined to be in noncompliance with chapter 440, and the
 19 persons or entities notified shall provide certification of
 20 compliance with chapter 440 to the department and pay an
 21 administrative fine as provided by rule. The failure to
 22 maintain workers' compensation coverage as required by law
 23 shall be grounds for the board to revoke, suspend, or deny the
 24 issuance or renewal of a certificate, or registration, or
 25 certificate of authority of the contractor under the
 26 provisions of s. 489.129.

27 Section 8. Subsections (3), (4), and (5) of section
 28 489.115, Florida Statutes, are amended to read:

29 489.115 Certification and registration; endorsement;
 30 reciprocity; renewals; continuing education.--

31

1 (3) The board shall certify as qualified for
2 certification by endorsement any applicant who:

3 (a) Meets the requirements for certification as set
4 forth in this section; has passed a national, regional, state,
5 or United States territorial licensing examination that is
6 substantially equivalent to the examination required by this
7 part; and has satisfied the requirements set forth in s.
8 489.111; ~~or~~

9 (b) Holds a valid license to practice contracting
10 issued by another state or territory of the United States, if
11 the criteria for issuance of such license were substantially
12 equivalent to Florida's current certification criteria; or

13 (c) Holds a valid, current license to practice
14 contracting issued by another state or territory of the United
15 States, if the state or territory has entered into a
16 reciprocal agreement with the board for the recognition of
17 contractor licenses issued in that state, based on criteria
18 for the issuance of such licenses that are substantially
19 equivalent to the criteria for certification in this state.

20 (4)(a) Each certificateholder or registrant who
21 desires to continue as a certificateholder or registrant shall
22 renew his certificate or registration every 2 years. The
23 department shall mail each certificateholder and registrant an
24 application for renewal.

25 (b)1. Each certificateholder or registrant shall
26 provide proof, in a form established by rule of the board,
27 that the certificateholder or registrant has completed at
28 least 14 classroom hours of at least 50 minutes each of
29 continuing education courses during each biennium since the
30 issuance or renewal of the certificate or registration. The
31 board shall establish by rule that a portion of the required

1 14 hours must deal with the subject of workers' compensation
2 and workplace safety. The board shall by rule establish
3 criteria for the approval of continuing education courses and
4 providers, including requirements relating to the content of
5 courses and standards for approval of providers,and may by
6 rule establish criteria for accepting alternative nonclassroom
7 continuing education on an hour-for-hour basis.

8 2. In addition, the board may approve specialized
9 continuing education courses on compliance with the wind
10 resistance provisions for one and two family dwellings
11 contained in the State Minimum Building Codes and any
12 alternate methodologies for providing such wind resistance
13 which have been approved for use by the Board of Building
14 Codes and Standards. Division I certificateholders or
15 registrants who demonstrate proficiency upon completion of
16 such specialized courses may certify plans and specifications
17 for one and two family dwellings to be in compliance with the
18 code or alternate methodologies, as appropriate, except for
19 dwellings located in floodways or coastal hazard areas as
20 defined in ss. 60.3D and E of the National Flood Insurance
21 Program.

22 (c) The certificateholder or registrant shall
23 complete, sign, and forward the renewal application to the
24 department, together with the appropriate fee. Upon receipt of
25 the application and fee, the department shall renew the
26 certificate or registration.

27 (5)(a) As a prerequisite to the initial issuance or
28 the renewal of a certificate or registration, the applicant
29 shall submit an affidavit on a form provided by the board
30 attesting to the fact that the applicant has obtained workers'
31 compensation insurance as required by chapter 440, public

1 liability insurance, and property damage insurance for the
2 safety and welfare of the public, in amounts determined by
3 rule of the board. The board shall by rule establish a
4 procedure to verify the accuracy of such affidavits based upon
5 a random sample method.

6 (b) In addition to the affidavit of insurance, as a
7 prerequisite to the initial issuance of a certificate, the
8 applicant shall furnish a credit report from a nationally
9 recognized credit agency that reflects the financial
10 responsibility of the applicant and evidence of financial
11 responsibility, credit, and business reputation of either
12 himself or the business organization he desires to qualify.
13 The board shall adopt rules defining financial responsibility
14 based upon the applicant's credit history, ability to be
15 bonded, and any history of bankruptcy or assignment of
16 receivers. Such rules shall specify the financial
17 responsibility grounds on which the board may refuse to
18 qualify an applicant for certification.

19 (c) If, within 60 days from the date the applicant is
20 notified that he has qualified, he does not provide the
21 evidence required, he shall apply to the department for an
22 extension of time which shall be granted upon a showing of
23 just cause.

24 Section 9. Section 489.119, Florida Statutes, 1996
25 Supplement, is amended to read:

26 489.119 Business organizations; qualifying agents.--

27 (1) If an individual proposes to engage in contracting
28 in the individual's own name, or a fictitious name where the
29 individual is doing business as a sole proprietorship,
30 registration or certification may be issued only to that
31 individual.

1 (2) If the applicant proposes to engage in contracting
2 as a business organization, including any partnership,
3 corporation, business trust, or other legal entity, or in any
4 name other than the applicant's legal name or a fictitious
5 name where the applicant is doing business as a sole
6 proprietorship, the business organization must apply for a
7 certificate of authority ~~certification or registration~~ through
8 a qualifying agent and under the fictitious name, if any.

9 (a) The application for a certificate of authority
10 must state the name of the partnership and of its partners;
11 the name of the corporation and of its officers and directors
12 and the name of each of its stockholders who is also an
13 officer or director; the name of the business trust and its
14 trustees; or the name of such other legal entity and its
15 members; and must state the fictitious name, if any, under
16 which the business organization is doing business.

17 1. The application for primary qualifying agent must
18 include an affidavit on a form provided by the board attesting
19 that the applicant has final approval authority for all
20 construction work performed by the entity and that the
21 applicant has final approval authority on all business
22 matters, including contracts, specifications, checks, drafts,
23 or payments, regardless of the form of payment, made by the
24 entity, except where a financially responsible officer is
25 approved.

26 2. The application for financially responsible officer
27 must include an affidavit on a form provided by the board
28 attesting that the applicant's approval is required for all
29 checks, drafts, or payments, regardless of the form of
30 payment, made by the entity and that the applicant has
31

1 authority to act for the business organization in all
2 financial matters.

3 3. The application for secondary qualifying agent must
4 include an affidavit on a form provided by the board attesting
5 that the applicant has authority to supervise all construction
6 work performed by the entity as provided in s. 489.1195(2).

7 (b) The applicant must furnish evidence of statutory
8 compliance if a fictitious name is used, the provisions of s.
9 865.09(7) notwithstanding.

10 (c) A joint venture, including a joint venture
11 composed of qualified business organizations, is itself a
12 separate and distinct organization that must be qualified and
13 obtain a certificate of authority in accordance with board
14 rules.

15 (d) A certificate of authority must be renewed every 2
16 years. ~~The registration or certification, when issued upon~~
17 ~~application of a business organization, must be in the name of~~
18 ~~the business organization.~~ If there is a change in any
19 information that is required to be stated on the application,
20 the business organization shall, within 45 days after such
21 change occurs, mail the correct information to the department.

22 (3)(a) The qualifying agent shall be certified or
23 registered under this part in order for the business
24 organization to be issued a certificate of authority ~~certified~~
25 ~~or registered~~ in the category of the business conducted for
26 which the qualifying agent is certified or registered. If any
27 qualifying agent ceases to be affiliated with such business
28 organization, he shall so inform the department. In addition,
29 if such qualifying agent is the only certified or registered
30 contractor affiliated with the business organization, the
31 business organization shall notify the department of the

1 termination of the qualifying agent and shall have 60 days
 2 from the termination of the qualifying agent's affiliation
 3 with the business organization in which to employ another
 4 qualifying agent. The business organization may not engage in
 5 contracting until a qualifying agent is employed, unless the
 6 executive director or chair of the board has granted a
 7 temporary nonrenewable certificate or registration to the
 8 financially responsible officer, the president, a partner, or,
 9 in the case of a limited partnership, the general partner, who
 10 assumes all responsibilities of a primary qualifying agent for
 11 the entity. This temporary certificate or registration shall
 12 only allow the entity to proceed with incomplete contracts as
 13 defined in s. 489.121.

14 (b) The qualifying agent shall inform the department
 15 in writing when he proposes to engage in contracting in his
 16 own name or in affiliation with another business organization,
 17 and he or such new business organization shall supply the same
 18 information to the department as required of applicants under
 19 this part.

20 (c) Upon a favorable determination by the board, after
 21 investigation of the financial responsibility, credit, and
 22 business reputation of the qualifying agent and the new
 23 business organization, the department shall issue, without an
 24 examination, a new certificate of authority ~~or registration~~ in
 25 the business organization's name.

26 (4) Disciplinary action against a business
 27 organization holding a certificate of authority shall be
 28 administered in the same manner and on the same grounds as
 29 disciplinary action against a contractor. The board may deny
 30 the certification of any person cited in subsection (2) if the
 31

1 person has been involved in past disciplinary actions or on
2 any grounds for which individual certification can be denied.

3 (5)~~(4)~~ When a certified qualifying agent, on behalf of
4 a business organization, makes application for an occupational
5 license in any municipality or county of this state, the
6 application shall be made with the tax collector in the name
7 of the business organization and the qualifying agent; and the
8 license, when issued, shall be issued to the business
9 organization, upon payment of the appropriate licensing fee
10 and exhibition to the tax collector of a valid certificate for
11 the qualifying agent and a valid certificate of authority for
12 the business organization issued by the department, and the
13 state license numbers ~~number~~ shall be noted thereon.

14 (6)~~(5)~~(a) Each registered or certified contractor
15 shall affix the number of his registration or certification to
16 each application for a building permit and on each building
17 permit issued and recorded. Each city or county building
18 department shall require, as a precondition for the issuance
19 of the building permit, that the contractor taking out the
20 permit must provide verification giving his Construction
21 Industry Licensing Board registration or certification number.

22 (b) The registration or certification number of each
23 contractor or certificate of authority number for each
24 business organization shall appear in each offer of services,
25 business proposal, bid, contract, or advertisement, regardless
26 of medium, as defined by board rule, used by that contractor
27 or business organization in the practice of contracting.

28 (c) If a vehicle bears the name of a contractor or
29 business organization, or any text or artwork which would lead
30 a reasonable person to believe that the vehicle is used for
31 contracting, the registration or certification number of the

1 contractor or certificate of authority number of the business
 2 organization must be conspicuously and legibly displayed with
 3 the name, text, or artwork. Local governments may also
 4 require that locally licensed contractors must also display
 5 their certificate of competency or license numbers. Nothing
 6 in this paragraph shall be construed to create a mandatory
 7 vehicle signage requirement.

8 (d) For the purposes of this part, the term
 9 "advertisement" does not include business stationery or any
 10 promotional novelties such as balloons, pencils, trinkets, or
 11 articles of clothing.

12 (e) The board shall issue a notice of noncompliance
 13 for the first offense, and may assess a fine or issue a
 14 citation for failure to correct the offense within 30 days or
 15 for any subsequent offense, to any contractor or business
 16 organization that fails to include the certification, or
 17 registration, or certificate of authority number as required
 18 by this part when submitting an advertisement for publication,
 19 broadcast, or printing or fails to display the certification,
 20 or registration, or certificate of authority number as
 21 required by this part.

22 ~~(7)(6)~~ Each qualifying agent shall pay the department
 23 an amount equal to the original fee for a certificate of
 24 authority ~~certification or registration~~ of a new business
 25 organization. If the qualifying agent for a business
 26 organization desires to qualify additional business
 27 organizations, the board shall require him to present evidence
 28 of ability and financial responsibility of each such
 29 organization. The issuance of such certificate of authority
 30 ~~certification or registration~~ is discretionary with the board.
 31

1 Section 10. Subsection (1) of section 489.127, Florida
2 Statutes, 1996 Supplement, is amended to read:

3 489.127 Prohibitions; penalties.--

4 (1) No person shall:

5 (a) Falsely hold himself or a business organization
6 out as a licensee, certificateholder, or registrant;

7 (b) Falsely impersonate a certificateholder or
8 registrant;

9 (c) Present as his own the certificate, ~~or~~
10 registration, or certificate of authority of another;

11 (d) Knowingly give false or forged evidence to the
12 board or a member thereof;

13 (e) Use or attempt to use a certificate, ~~or~~
14 registration, or certificate of authority which has been
15 suspended or revoked;

16 (f) Engage in the business or act in the capacity of a
17 contractor or advertise himself or a business organization as
18 available to engage in the business or act in the capacity of
19 a contractor without being duly registered or certified or
20 having a certificate of authority;

21 (g) Operate a business organization engaged in
22 contracting after 60 days following the termination of its
23 only qualifying agent without designating another primary
24 qualifying agent, except as provided in ss. 489.119 and
25 489.1195;

26 (h) Commence or perform work for which a building
27 permit is required pursuant to an adopted state minimum
28 building code without such building permit being in effect; or

29 (i) Willfully or deliberately disregard or violate any
30 municipal or county ordinance relating to uncertified or
31 unregistered contractors.

1
 2 For purposes of this subsection, a person or business
 3 organization operating on an inactive or suspended
 4 certificate,~~or registration, or certificate of authority or~~
 5 ~~operating beyond the scope of work or geographical scope of~~
 6 ~~the registration,~~is not duly certified or registered and is
 7 considered unlicensed. An occupational license certificate
 8 issued under the authority of chapter 205 is not a license for
 9 purposes of this part.

10 Section 11. Subsection (1) of section 489.1195,
 11 Florida Statutes, is amended to read:

12 489.1195 Responsibilities.--

13 (1) A qualifying agent is a primary qualifying agent
 14 unless he is a secondary qualifying agent under this section.

15 (a) All primary qualifying agents for a business
 16 organization are jointly and equally responsible for
 17 supervision of all operations of the business organization;
 18 for all field work at all sites; and for financial matters,
 19 both for the organization in general and for each specific
 20 job.

21 (b) Upon approval by the board, a business entity may
 22 designate a financially responsible officer for purposes of
 23 certification or registration. A financially responsible
 24 officer shall be responsible ~~assume personal responsibility~~
 25 for all financial aspects of the business organization and may
 26 not be designated as the primary qualifying agent. The
 27 designated financially responsible officer shall furnish
 28 evidence of the financial responsibility, credit, and business
 29 reputation of either himself, or the business organization he
 30 desires to qualify, as determined appropriate by the board.

31

1 (c) Where a business organization has a certified or
2 registered financially responsible officer, the primary
3 qualifying agent shall be responsible for all construction
4 activities of the business organization, both in general and
5 for each specific job.

6 Section 12. Paragraph (a) of subsection (6) and
7 subsections (1), (5), and (7) of section 489.129, Florida
8 Statutes, 1996 Supplement, are amended to read:

9 489.129 Disciplinary proceedings.--

10 (1) The board may take any of the following actions
11 against any certificateholder or registrant: place on
12 probation or reprimand the licensee, revoke, suspend, or deny
13 the issuance or renewal of the certificate, or registration,
14 or certificate of authority, require financial restitution to
15 a consumer for financial harm directly related to a violation
16 of a provision of this part, impose an administrative fine not
17 to exceed \$5,000 per violation, require continuing education,
18 or assess costs associated with investigation and prosecution,
19 if the contractor, financially responsible officer, or
20 business organization for which the contractor is a primary
21 qualifying agent, a financially responsible officer, or a
22 secondary qualifying agent responsible under s. 489.1195 is
23 found guilty of any of the following acts:

24 (a) Obtaining a certificate, or registration, or
25 certificate of authority by fraud or misrepresentation.

26 (b) Being convicted or found guilty of, or entering a
27 plea of nolo contendere to, regardless of adjudication, a
28 crime in any jurisdiction which directly relates to the
29 practice of contracting or the ability to practice
30 contracting.

31 (c) Violating any provision of chapter 455.

1 (d) Knowingly violating the applicable building codes
2 or laws of the state or of any municipalities or counties
3 thereof.

4 (e) Performing any act which assists a person or
5 entity in engaging in the prohibited uncertified and
6 unregistered practice of contracting, if the certificateholder
7 or registrant knows or has reasonable grounds to know that the
8 person or entity was uncertified and unregistered.

9 (f) Knowingly combining or conspiring with an
10 uncertified or unregistered person by allowing his
11 certificate,or registration, or certificate of authority to
12 be used by the uncertified or unregistered person with intent
13 to evade the provisions of this part. When a
14 certificateholder or registrant allows his certificate or
15 registration to be used by one or more business organizations
16 without having any active participation in the operations,
17 management, or control of such business organizations, such
18 act constitutes prima facie evidence of an intent to evade the
19 provisions of this part.

20 (g) Acting in the capacity of a contractor under any
21 certificate or registration issued hereunder except in the
22 name of the certificateholder or registrant as set forth on
23 the issued certificate or registration, or in accordance with
24 the personnel of the certificateholder or registrant as set
25 forth in the application for the certificate or registration,
26 or as later changed as provided in this part.

27 (h) Committing mismanagement or misconduct in the
28 practice of contracting that causes financial harm to a
29 customer. Financial mismanagement or misconduct occurs when:

30 1. Valid liens have been recorded against the property
31 of a contractor's customer for supplies or services ordered by

1 the contractor for the customer's job; the contractor has
2 received funds from the customer to pay for the supplies or
3 services; and the contractor has not had the liens removed
4 from the property, by payment or by bond, within 75 days after
5 the date of such liens;

6 2. The contractor has abandoned a customer's job and
7 the percentage of completion is less than the percentage of
8 the total contract price paid to the contractor as of the time
9 of abandonment, unless the contractor is entitled to retain
10 such funds under the terms of the contract or refunds the
11 excess funds within 30 days after the date the job is
12 abandoned; or

13 3. The contractor's job has been completed, and it is
14 shown that the customer has had to pay more for the contracted
15 job than the original contract price, as adjusted for
16 subsequent change orders, unless such increase in cost was the
17 result of circumstances beyond the control of the contractor,
18 was the result of circumstances caused by the customer, or was
19 otherwise permitted by the terms of the contract between the
20 contractor and the customer.

21 (i) Being disciplined by any municipality or county
22 for an act or violation of this part.

23 (j) Failing in any material respect to comply with the
24 provisions of this part or violating a rule or lawful order of
25 the board.

26 (k) Abandoning a construction project in which the
27 contractor is engaged or under contract as a contractor. A
28 project may be presumed abandoned after 90 days if the
29 contractor terminates the project without just cause or
30 without proper notification to the owner, including the reason
31

1 for termination, or fails to perform work without just cause
2 for 90 consecutive days.

3 (l) Signing a statement with respect to a project or
4 contract falsely indicating that the work is bonded; falsely
5 indicating that payment has been made for all subcontracted
6 work, labor, and materials which results in a financial loss
7 to the owner, purchaser, or contractor; or falsely indicating
8 that workers' compensation and public liability insurance are
9 provided.

10 (m) Committing fraud or deceit in the practice of
11 contracting.

12 (n) Committing incompetency or misconduct in the
13 practice of contracting.

14 (o) Committing gross negligence, repeated negligence,
15 or negligence resulting in a significant danger to life or
16 property.

17 (p) Proceeding on any job without obtaining applicable
18 local building department permits and inspections.

19 (q) Intimidating, threatening, coercing, or otherwise
20 discouraging the service of a notice to owner under part I of
21 chapter 713 or a notice to contractor under chapter 255 or
22 part I of chapter 713.

23 (r) Failing to satisfy within a reasonable time, the
24 terms of a civil judgment obtained against the licensee, or
25 the business organization qualified by the licensee, relating
26 to the practice of the licensee's profession.

27

28 For the purposes of this subsection, construction is
29 considered to be commenced when the contract is executed and
30 the contractor has accepted funds from the customer or lender.

31

1 (5) The board may not reinstate the certification, or
2 registration, or certificate of authority of, or cause a
3 certificate, or registration, or certificate of authority to
4 be issued to, a person who or business organization which the
5 board has determined is unqualified or whose certificate, or
6 registration, or certificate of authority the board has
7 suspended until it is satisfied that such person or business
8 organization has complied with all the terms and conditions
9 set forth in the final order and is capable of competently
10 engaging in the business of contracting.

11 (6)(a) The board may assess interest or penalties
12 ~~payments~~ on all fines imposed under this chapter against any
13 person or business organization which has not paid the imposed
14 fine by the due date established by rule or final order. The
15 provisions of chapter 120 do not apply to such assessment.
16 Interest rates to be imposed shall be established by rule and
17 shall not be usurious.

18 (7) The board shall not issue or renew a certificate,
19 ~~or registration, or certificate of authority~~ to any person or
20 business organization that ~~who~~ has been assessed a fine,
21 interest ~~payments~~, or costs associated with investigation and
22 prosecution, or has been ordered to pay restitution, until
23 such fine, interest ~~payments~~, or costs associated with
24 investigation and prosecution or restitution are paid in full
25 or until all terms and conditions of the final order have been
26 satisfied.

27 Section 13. Paragraphs (c) and (e) of subsection (3)
28 and subsection (7) of section 489.131, Florida Statutes, 1996
29 Supplement, are amended to read:

30 489.131 Applicability.--

31

1 (3) Nothing in this part limits the power of a
2 municipality or county:

3 (c) To collect occupational license taxes, subject to
4 s. 205.065, and inspection fees for engaging in contracting or
5 examination fees from persons who are registered with the
6 board pursuant to local examination requirements and issue
7 occupational license tax certificates. However, nothing in
8 this part shall be construed to require general contractors,
9 building contractors, or residential contractors to obtain
10 additional occupational license tax certificates ~~licenses~~ for
11 specialty work when such specialty work is performed by
12 employees of such contractors on projects for which they have
13 substantially full responsibility and such contractors do not
14 hold themselves out to the public as being specialty
15 contractors.

16 (e) To require one bond for each contractor in an
17 amount not to exceed \$5,000, which bond shall be conditioned
18 only upon compliance with the applicable state minimum
19 building code and applicable local building code requirements
20 adopted pursuant to s. 553.73. Any such bond must be equally
21 available to all contractors without regard to the period of
22 time a contractor has been certified or registered and without
23 regard to any financial responsibility requirements. Any such
24 bonds shall be payable to the Construction Industry Recovery
25 Fund ~~Governor~~ and filed in each county or municipality in
26 which a building permit is requested. Bond reciprocity shall
27 be granted statewide. All such bonds shall be included in
28 meeting any financial responsibility requirements imposed by
29 any statute or rule. Any contractor who provides a third
30 party insured warranty policy in connection with a new
31 building or structure for the benefit of the purchaser or

1 owner shall be exempt from the bond requirements under this
2 subsection with respect to such building or structure.

3 (7)(a) It is the policy of the state that the purpose
4 of regulation is to protect the public by attaining compliance
5 with the policies established in law. Fines and other
6 penalties are provided in order to ensure compliance; however,
7 the collection of fines and the imposition of penalties are
8 intended to be secondary to the primary goal of attaining
9 compliance with state laws and local jurisdiction ordinances.
10 It is the intent of the Legislature that a local jurisdiction
11 agency charged with enforcing regulatory laws shall issue a
12 notice of noncompliance as its first response to a minor
13 violation of a regulatory law in any instance in which it is
14 reasonable to assume that the violator was unaware of such a
15 law or unclear as to how to comply with it. A violation of a
16 regulatory law is a "minor violation" if it does not result in
17 economic or physical harm to a person or adversely affect the
18 public health, safety, or welfare or create a significant
19 threat of such harm. A "notice of noncompliance" is a
20 notification by the local jurisdiction agency charged with
21 enforcing the ordinance, which is issued to the licensee that
22 is subject to the ordinance. A notice of noncompliance should
23 not be accompanied with a fine or other disciplinary penalty.
24 It should identify the specific ordinance that is being
25 violated, provide information on how to comply with the
26 ordinance, and specify a reasonable time for the violator to
27 comply with the ordinance. Failure of a licensee to take
28 action correcting the violation within a set period of time
29 would then result in the institution of further disciplinary
30 proceedings.

31

1 (b)~~(a)~~ The local governing body of a county or
2 municipality, or its local enforcement body, is authorized to
3 enforce the provisions of this part as well as its local
4 ordinances against locally licensed or registered contractors,
5 as appropriate. The local jurisdiction enforcement body may
6 conduct disciplinary proceedings against a locally licensed or
7 registered contractor and may require restitution, impose a
8 suspension or revocation of his local license, or a fine not
9 to exceed \$5,000, or a combination thereof, against the
10 locally licensed or registered contractor, according to
11 ordinances which a local jurisdiction may enact. In addition,
12 the local jurisdiction may assess reasonable investigative and
13 legal costs for the prosecution of the violation against the
14 violator, according to such ordinances as the local
15 jurisdiction may enact.

16 (c)~~(b)~~ In addition to any action the local
17 jurisdiction enforcement body may take against the
18 individual's local license, and any fine the local
19 jurisdiction may impose, the local jurisdiction enforcement
20 body shall issue a recommended penalty for board action. This
21 recommended penalty may include a recommendation for no
22 further action, or a recommendation for suspension,
23 revocation, or restriction of the registration, or a fine to
24 be levied by the board, or a combination thereof. The local
25 jurisdiction enforcement body shall inform the disciplined
26 contractor and the complainant of the local license penalty
27 imposed, the board penalty recommended, his rights to appeal,
28 and the consequences should he decide not to appeal. The
29 local jurisdiction enforcement body shall, upon having reached
30 adjudication or having accepted a plea of nolo contendere,
31

1 immediately inform the board of its action and the recommended
2 board penalty.

3 (d)~~(c)~~ The department, the disciplined contractor, or
4 the complainant may challenge the local jurisdiction
5 enforcement body's recommended penalty for board action to the
6 Construction Industry Licensing Board. A challenge shall be
7 filed within 60 days after the issuance of the recommended
8 penalty to the board. If challenged, there is a presumptive
9 finding of probable cause and the case may proceed without the
10 need for a probable cause hearing.

11 (e)~~(d)~~ Failure of the department, the disciplined
12 contractor, or the complainant to challenge the local
13 jurisdiction's recommended penalty within the time period set
14 forth in this subsection shall constitute a waiver of the
15 right to a hearing before the board. A waiver of the right to
16 a hearing before the board shall be deemed an admission of the
17 violation, and the penalty recommended shall become a final
18 order according to procedures developed by board rule without
19 further board action. The disciplined contractor may appeal
20 this board action to the district court.

21 (f)~~(e)~~ The department may investigate any complaint
22 which is made with the department. However, if the department
23 determines that the complaint against a registered contractor
24 is for an action which a local jurisdiction enforcement body
25 has investigated and reached adjudication or accepted a plea
26 of nolo contendere, including a recommended penalty to the
27 board, the department shall not initiate prosecution for that
28 action, unless the secretary has initiated summary procedures
29 pursuant to s. 455.225(8).

30
31

1 ~~(g)(f)~~ Nothing in this subsection shall be construed
2 to allow local jurisdictions to exercise disciplinary
3 authority over certified contractors.

4 Section 14. Subsection (5) of section 489.132, Florida
5 Statutes, is amended to read:

6 489.132 Prohibited acts by unlicensed principals;
7 investigation; hearing; penalties.--

8 (5) The department may suspend, revoke, or deny
9 issuance or renewal of a certificate, ~~or~~ registration, or
10 certificate of authority for any individual or business
11 organization that associates a person as an officer, director,
12 or partner, or in a managerial or supervisory capacity, after
13 such person has been found under a final order to have
14 violated this section or was an officer, director, partner,
15 trustee, or manager of a business organization disciplined by
16 the board by revocation, suspension, or fine in excess of
17 \$2,500, upon finding reasonable cause that such person knew or
18 reasonably should have known of the conduct leading to the
19 discipline.

20 Section 15. Section 489.1455, Florida Statutes, is
21 created to read:

22 489.1455 Journeyman; reciprocity; standards.--

23 (1) An individual who holds a valid, active journeyman
24 license in the plumbing/pipe fitting, mechanical, or HVAC
25 trades issued by any county or municipality in this state may
26 work as a journeyman in the trade in which he or she is
27 licensed in any other county or municipality of this state
28 without taking an additional examination or paying an
29 additional license fee, if he or she:

30 (a) Has scored at least 70 percent, or after October
31 1, 1997, at least 75 percent, on a proctored journeyman Block

1 and Associates examination or other proctored examination
2 approved by the board for the trade in which he or she is
3 licensed;

4 (b) Has completed an apprenticeship program registered
5 with the Department of Labor and Employment Security and
6 demonstrates 4 years' verifiable practical experience in the
7 trade for which he or she is licensed, or demonstrates 6
8 years' verifiable practical experience in the trade for which
9 he or she is licensed; and

10 (c) Has not had a license suspended or revoked within
11 the last 5 years.

12 (2) A local government may charge a registration fee
13 for reciprocity, not to exceed \$25.

14 Section 16. Effective upon this act becoming a law,
15 section 489.146, Florida Statutes, is created to read:

16 489.146 Privatization of services.--Notwithstanding
17 any other provision of this part relating to the review of
18 licensure applications, issuance of licenses and renewals,
19 collection of revenues, fees, and fines, service of documents,
20 publications, and printing, and other ministerial functions of
21 the department relating to the regulation of contractors, the
22 department shall make all reasonable efforts to contract with
23 one or more private entities for provision of such services,
24 when such services can be provided in a more efficient manner
25 by private entities. The department or the board shall retain
26 final authority for licensure decisions and rulemaking,
27 including all appeals or other legal action resulting from
28 such licensure decisions or rulemaking. The department and
29 the board shall adopt rules to implement the provisions of
30 this section. The department shall report all progress and
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1 the status of privatization and privatization efforts to the
2 Legislature by March 1, 1998.

3 Section 17. Section 489.5335, Florida Statutes, is
4 created to read:

5 489.5335 Journeyman; reciprocity; standards.--

6 (1) An individual who holds a valid, active journeyman
7 license in the electrical trade issued by any county or
8 municipality in this state may work as a journeyman in any
9 other county or municipality of this state without taking an
10 additional examination or paying an additional license fee, if
11 he or she:

12 (a) Has scored at least 70 percent, or after October
13 1, 1997, at least 75 percent, on a proctored journeyman Block
14 and Associates examination or other proctored examination
15 approved by the board for the electrical trade;

16 (b) Has completed an apprenticeship program registered
17 with the Department of Labor and Employment Security and
18 demonstrates 4 years' verifiable practical experience in the
19 electrical trade, or demonstrates 6 years' verifiable
20 practical experience in the electrical trade; and

21 (c) Has not had a license suspended or revoked within
22 the last 5 years.

23 (2) A local government may charge a registration fee
24 for reciprocity, not to exceed \$25.

25 Section 18. Except as otherwise provided herein, this
26 act shall take effect July 1, 1997.

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