

By Representative Wise

1 A bill to be entitled
2 An act relating to contracting; amending ss.
3 489.1455 and 489.5335, F.S.; providing local
4 reciprocity authority, requirements, and
5 restrictions for journeyman plumbers and
6 journeyman electricians; providing for fees;
7 amending ss. 489.113 and 489.516, F.S.;
8 revising local practice requirements, to
9 conform; providing for disciplinary action
10 relating to violation of journeyman onsite
11 requirements and for appeal of that action;
12 providing penalties; providing an effective
13 date.
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15 Be It Enacted by the Legislature of the State of Florida:
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17 Section 1. Section 489.1455, Florida Statutes, is
18 amended to read:
19 489.1455 Journeyman; reciprocity; standards; fees;
20 onsite requirements.--
21 (1) An individual who holds a valid, active journeyman
22 license in the plumbing/pipe fitting, mechanical, or HVAC
23 trades issued by any county or municipality in this state may
24 work as a journeyman in the trade in which he or she is
25 licensed in any other county or municipality of this state
26 without taking an additional examination or paying an
27 additional license fee, if he or she:
28 (a) Has scored at least 70 percent, or after October
29 1, 1997, at least 75 percent, on a proctored journeyman Block
30 and Associates examination or other proctored examination
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1 approved by the board for the trade in which he or she is
2 licensed;

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

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

11 (2) A county or municipal ~~local~~ government may charge
12 a registration fee for reciprocity, not to exceed \$25. In
13 addition, the county or municipal government may charge an
14 additional \$15 annual fee for subsequent investigations and
15 tracking.

16 (3)(a) No county or municipal government may require
17 professional licensing or any other training, education,
18 testing, or professional qualification of a contractor
19 certified pursuant to this part, except as expressly provided
20 by this part.

21 (b) No county or municipal government may require
22 professional licensing or any other training, education,
23 testing, or professional qualification of an employee of a
24 contractor certified pursuant to this part, except as
25 expressly provided by this part.

26 (c) A county or municipal government may enact and
27 enforce, upon registered and certified contractors, ordinances
28 relating to journeyman plumbers, including journeyman plumber
29 qualifications and requirements for journeyman plumbers being
30 present on each job site. However, on or after October 1,
31 1998, if a local government enacts a requirement for a

1 journeyman plumber to be present on a job site, or if the
2 local government increases its existing requirement to require
3 the presence of journeyman plumbers in a different number or
4 proportion than that required prior to October 1, 1998, then
5 the enacting body must make a finding that it has been shown
6 that, to meet the requirements the ordinance imposes, an
7 adequate licensed manpower exists and is available in the
8 region comprised of that jurisdiction plus any directly
9 adjacent jurisdiction, and the enacting body must also make a
10 finding that such an ordinance is necessary to protect the
11 safety, health, and welfare of the public.

12 (d) On residential construction, the term "job site,"
13 as used in this section, may be construed as all the
14 one-family or two-family dwellings constructed in one planned
15 unit project by one contractor.

16 (e) Any certified or registered contractor shall be
17 considered fully qualified as a journeyman plumber for
18 purposes of any ordinance requiring a journeyman plumber to be
19 present on a job site.

20 (4) This section may not be construed as requiring a
21 county or municipal government to pass any ordinance
22 initiating or expanding provisions relating to journeymen. In
23 any instance in which a journeyman licensee or journeyman
24 applicant wishes to have the board, pursuant to paragraph
25 (1)(a), approve an examination the licensee or applicant has
26 taken, the board shall review such examination within 120 days
27 after having received the request. The board shall approve any
28 examination that is substantially similar to other
29 examinations allowable under paragraph (1)(a).

30 Section 2. Subsection (4) of section 489.113, Florida
31 Statutes, is amended to read:

1 489.113 Qualifications for practice; restrictions.--
2 (4)(a) When a certificateholder desires to engage in
3 contracting in any area of the state, as a prerequisite
4 therefor, he or she shall be required only to exhibit to the
5 local building official, tax collector, or other person in
6 charge of the issuance of licenses and building permits in the
7 area evidence of holding a current certificate and to pay the
8 fee for the occupational license and building permit required
9 of other persons.

10 (b) Notwithstanding the provisions of paragraph (a), a
11 local construction regulation board may deny, suspend, or
12 revoke the authority of a certified contractor to obtain a
13 building permit or limit such authority to obtaining a permit
14 or permits with specific conditions, if the local construction
15 regulation board has found such contractor, through the public
16 hearing process, to be guilty of fraud, of violating the local
17 jurisdiction's requirements for journeyman plumbers being
18 present on the job site, or of a willful building code
19 violation within the county or municipality that the local
20 construction regulation board represents or if the local
21 construction regulation board has proof that such contractor,
22 through the public hearing process, has been found guilty in
23 another county or municipality within the past 12 months, of
24 fraud, of violating the local jurisdiction's requirements for
25 journeyman plumbers being present on the job site, or of a
26 willful building code violation and finds, after providing
27 notice of an opportunity to be heard to the contractor, that
28 such fraud or violation would have been fraud or a violation
29 if committed in the county or municipality that the local
30 construction board represents. Notification of and information
31 concerning such permit denial shall be submitted to the

1 department within 15 days after the local construction
2 regulation board decides to deny the permit.

3 (c)1. When a local jurisdiction takes disciplinary
4 action against a certified contractor for violation of its
5 ordinance requiring journeyman plumbers to be on the job site,
6 the contractor may appeal that decision to the board. If the
7 contractor appeals, the appeal must be filed within 14 days
8 after the issuance of the penalty by the local jurisdiction.
9 If the contractor appeals, there shall be a presumptive
10 finding of probable cause by the board and the case may
11 proceed without the need for a probable cause hearing. The
12 contractor appealing the local jurisdiction action must
13 provide notice to the local jurisdiction upon filing the
14 appeal. Upon the provision of this notice to the local
15 jurisdiction, the local jurisdiction's action is stayed. The
16 board may uphold, reverse, or modify the penalty imposed by
17 the local jurisdiction. In its consideration of an appeal, in
18 addition to any penalty imposed by the local jurisdiction, the
19 board shall consider failure to comply with the local
20 jurisdiction's journeyman plumber onsite requirements an
21 offense subject to discipline under s. 489.129 and may, in
22 addition, impose penalties pursuant to that section. Upon
23 conclusion of the appeal process, the penalty imposed by the
24 local jurisdiction shall take effect, unless reversed or
25 modified by the board. The board shall notify the appropriate
26 local jurisdiction of its action.

27 2. Failure of the disciplined contractor to challenge
28 the local jurisdiction's penalty for violating its journeyman
29 plumber onsite requirement within the time period set forth in
30 this paragraph shall constitute a waiver of the right to
31 appeal before the board. This waiver shall be deemed an

1 admission of the violation, and the penalty by the local
2 jurisdiction may be imposed. The disciplined contractor may
3 appeal this local jurisdiction action to the district court.

4 3. It is legislative intent that any ordinance which
5 imposes requirements for a licensed journeyman plumber to be
6 on the job site shall in its content and enforcement be
7 reasonable in requiring the presence of the journeyman plumber
8 on the site on a daily basis, but not necessarily on an
9 uninterrupted basis, and should provide for and allow
10 reasonable interruptions to that presence so long as the
11 supervisory goal of the ordinance is not endangered.

12 (d)~~(c)~~ The local government may also deny issuance of,
13 or may suspend, any outstanding building permit where a
14 contractor fails or refuses to provide proof of public
15 liability and property damage insurance coverage as required
16 by s. 489.115(5) and workers' compensation insurance coverage
17 as required by s. 489.114.

18 (e)~~(d)~~ It is the policy of the state that the purpose
19 of regulation is to protect the public by attaining compliance
20 with the policies established in law. Fines and other
21 penalties are provided in order to ensure compliance; however,
22 the collection of fines and the imposition of penalties are
23 intended to be secondary to the primary goal of attaining
24 compliance with state laws and local jurisdiction ordinances.
25 It is the intent of the Legislature that a local jurisdiction
26 agency charged with enforcing regulatory laws shall issue a
27 notice of noncompliance as its first response to a minor
28 violation of a regulatory law in any instance in which it is
29 reasonable to assume that the violator was unaware of such a
30 law or unclear as to how to comply with it. A violation of a
31 regulatory law is a "minor violation" if it does not result in

1 economic or physical harm to a person or adversely affect the
2 public health, safety, or welfare or create a significant
3 threat of such harm. A "notice of noncompliance" is a
4 notification by the local jurisdiction agency charged with
5 enforcing the ordinance, which is issued to the licensee that
6 is subject to the ordinance. A notice of noncompliance should
7 not be accompanied with a fine or other disciplinary penalty.
8 It should identify the specific ordinance that is being
9 violated, provide information on how to comply with the
10 ordinance, and specify a reasonable time for the violator to
11 comply with the ordinance. Failure of a licensee to take
12 action correcting the violation within a set period of time
13 would then result in the institution of further disciplinary
14 proceedings.

15 Section 3. Section 489.5335, Florida Statutes, is
16 amended to read:

17 489.5335 Journeyman; reciprocity; standards; fees;
18 onsite requirements.--

19 (1) An individual who holds a valid, active journeyman
20 license in the electrical trade issued by any county or
21 municipality in this state may work as a journeyman in any
22 other county or municipality of this state without taking an
23 additional examination or paying an additional license fee, if
24 he or she:

25 (a) Has scored at least 70 percent, or after October
26 1, 1997, at least 75 percent, on a proctored journeyman Block
27 and Associates examination or other proctored examination
28 approved by the board for the electrical trade;

29 (b) Has completed an apprenticeship program registered
30 with the Department of Labor and Employment Security and
31 demonstrates 4 years' verifiable practical experience in the

1 electrical trade, or demonstrates 6 years' verifiable
2 practical experience in the electrical trade; and

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

5 (2) A county or municipal ~~local~~ government may charge
6 a registration fee for reciprocity, not to exceed \$25. In
7 addition, the county or municipal government may charge an
8 additional \$15 annual fee for subsequent investigations and
9 tracking.

10 (3)(a) No county or municipal government may require
11 professional licensing or any other training, education,
12 testing, or professional qualification of a contractor
13 certified pursuant to this part, except as expressly provided
14 by this part.

15 (b) No county or municipal government may require
16 professional licensing or any other training, education,
17 testing, or professional qualification of an employee of a
18 contractor certified pursuant to this part, except as
19 expressly provided by this part.

20 (c) A county or municipal government may enact and
21 enforce, upon registered and certified contractors, ordinances
22 relating to journeyman electricians, including journeyman
23 electrician qualifications and requirements for journeyman
24 electricians being present on each job site. However, on or
25 after October 1, 1998, if a local government enacts a
26 requirement for journeyman electricians to be present on a job
27 site, or if the local government increases its existing
28 requirement to require the presence of journeyman electricians
29 in a different number or proportion than that required prior
30 to October 1, 1998, then the enacting body must make a finding
31 that it has been shown that, to meet the requirement the

1 ordinance imposes, an adequate licensed manpower exists and is
2 available in the region comprised of that jurisdiction plus
3 any directly adjacent jurisdiction, and the enacting body must
4 also make a finding that such an ordinance is necessary to
5 protect the safety, health, and welfare of the public.

6 (d) On residential construction, the term "job site,"
7 as used in this section, may be construed as all the
8 one-family or two-family dwellings constructed in one planned
9 unit project by one contractor.

10 (e) Any certified or registered electrical contractor
11 shall be considered fully qualified as a journeyman
12 electrician for purposes of any ordinance requiring a
13 journeyman electrician to be present on a job site.

14 (4) This section may not be construed as requiring a
15 county or municipal government to pass any ordinance
16 initiating or expanding provisions relating to journeymen. In
17 any instance in which a journeyman licensee or journeyman
18 applicant wishes to have the board, pursuant to paragraph
19 (1)(a), approve an examination the licensee or applicant has
20 taken, the board shall review such examination within 120 days
21 after having received the request. The board shall approve any
22 examination that is substantially similar to other
23 examinations allowable under paragraph (1)(a).

24 Section 4. Subsection (3) of section 489.516, Florida
25 Statutes, is amended to read:

26 489.516 Qualifications to practice; restrictions;
27 prerequisites.--

28 (3)(a) When a certificateholder desires to engage in
29 contracting in any area of the state, as a prerequisite
30 therefor, he or she shall only be required to exhibit to the
31 local building official, tax collector, or other authorized

1 person in charge of the issuance of licenses and building or
2 electrical permits in the area evidence of holding a current
3 certificate, and to pay the fee for the occupational license
4 and permit required of other persons. However, a local
5 construction regulation board may deny the issuance of an
6 electrical permit to a certified contractor, or issue a permit
7 with specific conditions, if the local construction regulation
8 board has found such contractor, through the public hearing
9 process, to be guilty of fraud, of violating the local
10 jurisdiction's requirements for journeyman electricians being
11 present on the job site, or of a willful building code
12 violation within the county or municipality that the local
13 construction regulation board represents, or if the local
14 construction regulation board has proof that such contractor,
15 through the public hearing process, has been found guilty, in
16 another county or municipality within the past 12 months, of
17 fraud, of violating the local jurisdiction's requirements for
18 journeyman electricians being present on the job site, or of a
19 willful building code violation and finds, after providing
20 notice to the contractor, that such fraud or violation would
21 have been fraud or a violation if committed in the county or
22 municipality that the local construction board represents.
23 Notification of and information concerning such permit denial
24 shall be submitted to the Department of Business and
25 Professional Regulation within 15 days after the local
26 construction regulation board decides to deny the permit.
27 (b)1. When a local jurisdiction takes disciplinary
28 action against a certified contractor for violation of its
29 ordinance requiring journeyman electricians to be on the job
30 site, the contractor may appeal that decision to the board. If
31 the contractor appeals, the appeal must be filed within 14

1 days after the issuance of the penalty by the local
2 jurisdiction. If the contractor appeals, there is a
3 presumptive finding of probable cause by the board and the
4 case may proceed without the need for a probable cause
5 hearing. The contractor appealing the local jurisdiction
6 action must provide notice to the local jurisdiction upon
7 filing the appeal. Upon the provision of this notice to the
8 local jurisdiction, the local jurisdiction's action is stayed.
9 The board may uphold, reverse, or modify the penalty imposed
10 by the local jurisdiction. In its consideration of an appeal,
11 in addition to any penalty imposed by the local jurisdiction,
12 the board shall consider failure to comply with the local
13 jurisdiction's journeyman electrician onsite requirements an
14 offense subject to discipline under s. 489.533 and may, in
15 addition, impose penalties pursuant to that section. Upon
16 conclusion of the appeal process, the penalty imposed by the
17 local jurisdiction shall take effect, unless reversed or
18 modified by the board. The board shall notify the appropriate
19 local jurisdiction of its action.

20 2. Failure of the disciplined contractor to challenge
21 the local jurisdiction's penalty for violating its journeyman
22 electrician onsite requirement within the time period set
23 forth in this paragraph shall constitute a waiver of the right
24 to appeal before the board. This waiver shall be deemed an
25 admission of the violation, and the penalty by the local
26 jurisdiction may be imposed. The disciplined contractor may
27 appeal this local jurisdiction action to the district court.

28 3. It is legislative intent that any ordinance which
29 imposes requirements for a licensed journeyman electrician to
30 be on the job site shall in its content and enforcement be
31 reasonable in requiring the presence of the journeyman on the

1 site on a daily basis, but not necessarily on an uninterrupted
2 basis, and should provide for and allow reasonable
3 interruptions to that presence so long as the supervisory goal
4 of the ordinance is not endangered.

5 Section 5. This act shall take effect October 1, 1998.

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8 HOUSE SUMMARY

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10 Provides local reciprocity authority, requirements, and
11 restrictions for journeyman plumbers and journeyman
12 electricians. Provides for fees. Revises local practice
13 requirements, to conform. Provides for disciplinary
14 action and penalties relating to violation of journeyman
15 onsite requirements and for appeal of that action. See
16 bill for details.
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