

**STORAGE NAME:** h4439a.ca

**DATE:** April 16, 1998

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
COMMUNITY AFFAIRS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 4439 (PCB BRCA 98-07)

**RELATING TO:** Contracting

**SPONSOR(S):** Committee on Business Regulation and Consumer Affairs; Representatives Ogles; Brown and others

**COMPANION BILL(S):** SB 2336 (s); 2nd ENG HB 2011 (c); CS/HB 4181 (c); CS/SB 1190 (c); CS/SB 2084 (c)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) BUSINESS REGULATION AND CONSUMER AFFAIRS YEAS 6 NAYS 0
- (2) COMMUNITY AFFAIRS YEAS 9 NAYS 0
- (3)
- (4)
- (5)

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**I. SUMMARY:**

This bill clarifies existing provisions and -- particularly with regard to alarm monitoring -- eliminates excessive regulation. The bill also establishes training requirements for persons working on medical gas equipment, and requires home inspectors to accurately disclose their credentials as well as provide their customers a disclaimer on the limitations regarding what a home inspection uncovers.

Any expenses incurred are paid from fees, fines, and other revenues collected from regulation of the various named professions. There should be no significant fiscal impact on local government or the private sector in general.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

**Legislative History:**

This bill contains provisions relating to electrical and construction contracting matters, and associated issues. Almost all of the provisions were previously passed as part of HB 2011 (1997), which died without Senate action. HB 2011 was the legislative package for the Department of Business and Professional Regulation (DBPR).

For the past three years, the DBPR legislative package has not become law. In 1995, it was vetoed by the Governor (due to provisions related to a local government control versus statewide contractors' controversy) and in 1996, the Senate failed to take action on it (it no longer contained the provision which caused the veto). In 1997, it failed because the Senate did not take action.

The bill deals with the following areas, taken from HB 2011: (1) Building code officials and inspectors regulation; (2) Asbestos abatement regulation; (3) Electrical and construction contracting regulation; and (4) Regulation of home inspectors. Some addition, deletion, or modification has been made to the provisions contained in HB 2011 in a few cases.

**Building Code Administrators and Inspectors - Part XII, Chapter 468, F.S.:**

(Sections 1-8)

Building code administrators and inspectors are licensed pursuant to part XII of chapter 468, Florida Statutes. The following are the current situations regarding a variety of changes made in the bill. Currently:

- A "residential" electrical inspector license is required to inspect residential buildings. A "commercial" electrical inspector license is required to inspect commercial buildings.
- The definitions in section 468.603, F.S., do not adequately describe the responsibilities and duties of a building code administrator, plans examiner, and building code inspector.
- Section 468.605(2), F.S., designates a nine-member Building Code Administrator and Inspector Board, of which one member must serve as a city manager. During the 1995 legislative session, the Governor's nominee for the city manager position was not confirmed by the Senate. The "city manager" position nominee was not confirmed because the Senate questioned the conflict with the dual-office holding prohibition.
- There is currently no requirement that the post-secondary education used as a qualification for licensure must be in a field related to the profession. For example, an applicant with a major in Russian Literature currently meets the statutory requirement.

- There is no avenue for a licensee in one or more categories to meet examination/experience requirements for additional license categories.
- Education is not allowed to substitute for 5 years of required experience for building code administrators.
- Plans examining is not specified as a licensure category.
- Existing language allows a provisional license only when “a newly employed or promoted inspector lacks the qualifications for standard certification.” A newly-employed inspector or plans examiner who meets the standards but must wait several months to take the examination needs a provisional license also.
- Individual/business who inspect or review plans for project may also be the individuals/ businesses who designed or permitted the project.
- Contractors can pay inspection or review fees directly to the provider (contract inspector or plans examiner).
- The statutory cap for examinations for non-governmental employees is \$50.
- Local government employees are required to pay \$5 for each initial certification and \$5 for each license renewal.
- Local governments retain 10% of surcharge fees to fund projects and activities intended to improve the quality of building code enforcement.
- The Building Code Administrators and Inspectors Board does not retain any additional funds for continuing education and/or training of building code administrators, building code inspectors, and plans examiners.

#### **Asbestos abatement - Chapter 469, F.S.:**

(Sections 9 -18)

Current law requires a person to possess a contractor license under Ch. 489, F.S., prior to the issuance of an asbestos contractor license, and requires that construction contractor license for all abatement work, not just abatement work involving a building structure.

In 1995, the asbestos regulation was modified to establish and clarify that certain asbestos abatement activities do not require licensure. Several “cleanup and technical” changes remain to be made, in addition, the DBPR is recommending several technical changes to track federal Environmental Protection Agency (EPA) guidelines.

#### **Real Estate Brokers - Chapter 475, F.S.**

(Section 19)

Presently, it is not unusual for a real estate broker, having been put in charge of managing a property he is trying to sell or rent, to be asked by the owner to see that

various repairs are made. However, if that broker were to enter into a contract with a plumber, electrician, etc., to make the repairs, *technically* he would be performing unlicensed contracting.

### **Architects - Chapter 481, F.S.**

(Section 20)

Architects are often asked to perform plans review or building inspection duties by local jurisdictions who are experiencing a temporary shortage of inspectors or plans reviewers. They had, in the past, performed these duties -- by contract -- without being forced to obtain licensure as a building inspector. Now that such an activity requires licensure, architects wish to be able to continue to perform these services without having to seek licensure as a building inspector.

### **Construction Contracting - Part I of chapter 489, F.S.:**

#### ***General Provisions***

(Sections 21-33)

Construction contracting is regulated under Part I of chapter 489, F.S. Electrical and alarm system contracting is regulated under Part II of the same chapter.

The Construction Industry Licensing Board (CILB) regulates construction contracting in Florida. The Electrical Contractors' Licensure Board (ECLB), regulates electrical and alarm system contracting. Both boards are created under the Department of Business and Professional Regulation (DBPR).

The CILB is composed of 18 members: 4 general contractors; 3 building or residential contractors; 2 consumer members; 2 building official members; and 1 each from the following categories: roofing; sheet metal; air conditioning; mechanical; pool; plumbing; and underground utility and excavation.

Chapter 489, F.S., require all individuals who practice contracting in Florida must either be "registered" or "certified." Florida has thus taken the very unusual (and perhaps unique) step of allowing two alternative systems of licensure to exist simultaneously and in a parallel fashion.

All individuals who practice contracting in Florida must be registered with or certified by the Board. Registration allows an individual to practice contracting only in the jurisdiction which issues that individual's local license. This registration is issued by the Department of Business and Professional Regulation upon proof of local licensure. Such proof consists of an occupational license issued by the local jurisdiction, and evidence of compliance with local licensing requirements, if a local licensing requirement exists. The CILB has no input in, or control over, the licensure standards utilized by local jurisdictions. Some local jurisdictions have rigorous standards for license issuance, such as experience and insurance requirements, and passage of an examination. Other local jurisdictions will issue a license for a nominal fee and have no experience or examination requirements.

On the other hand, certification allows an individual to practice contracting in any jurisdiction in the State. DBPR will issue a certificate to an individual who applies to the CILB, shows four (4) years of experience, and passes a DBPR/CILB sanctioned and administered examination.

### ***Medical Gas Certification***

(Sections 26-27)

Medical gas piping systems are designed for various purposes, including the conveyance of oxygen to patient rooms, the precise delivery of anesthetic agents, or the suction of organic materials during surgery.

Presently, a license as a plumbing contractor is required in order to engage in the business of medical gas system installation, alteration, repair, or maintenance. Employees of the licensed contractor, working under the licensee's general supervision, are exempt from licensure requirements.

Medical gas systems, like other mechanical systems, are subject to applicable state and local building codes. Unlike most other systems, however, these systems are also subject to the scrutiny of Florida's Department of Health (DOH), as well as the office of the State Fire Marshal.

### **Electrical Contracting - Part II of Chapter 489, F.S.:**

#### ***General Provisions***

(Sections 34-46 & 48-49)

Electrical and alarm system contractors are regulated by the Electrical Contractors' Licensing Board (ECLB) within the Department of Business and Professional Regulation, pursuant to Part II of chapter 489, F.S. Contractors either must be certified (i.e., licensed by the state to contract statewide), or registered (i.e., licensed by a local jurisdiction and registered by the state to contract within the geographic confines of the local jurisdiction only). Section 489.505(25), F.S., defines "licensure" to mean both certification and registration.

Alarm system contracting is within the scope of a certified electrical contractor's license; however, it is not within the scope of a registered electrical contractor's license. Registered electrical contractors must be separately licensed as either certified or registered alarm system contractors in order to engage in alarm system contracting.

Businesses that install, maintain or monitor their own alarm systems (e.g., department stores and banks) must be licensed as either electrical or alarm system contractors, under the definitions of electrical and alarm system contracting in s. 489.505, F.S. Apparently, some local governments have required these businesses to obtain separate occupational licenses for the operation of an electrical or alarm business, in addition to whatever occupational license is required for the operation of their main business (e.g., retail store).

### ***Alarm Monitoring***

(Section 34-35)

Presently, all alarm monitoring must be done by licensed alarm contractors.

### ***Building Construction Industry Advisory Committee (BCIAC)***

(Section 37)

Presently, there is a \$4 surcharge placed on licensure fees paid by all of the contractors licensed under Part I of ch. 489, F.S. This revenue goes to fund the Building Construction Industry Advisory Committee, which approves grants for academic study of construction-related issues and problems. The contractors licensed under Part II of the chapter (electrical and alarm system contractors) do not presently pay into this fund.

### ***Electrical Contractors Licensure Qualifications (ECLBJ)***

(Section 38)

The regulation of certified electrical or alarm system contractors has gone through years of changes designed to better enable technically qualified people to sit for the certification examination. Prior to 1993, in order to sit for the examination to obtain a state certification as an electrical or alarm system contractor, the applicant was required to show either: (1) three years "management" experience in the trade; (2) six years "comprehensive, specialized training, education or experience associated with an electrical or alarm system contracting business"; or (3) three years licensed as an engineer. The vast majority of applicants who have successfully qualified have done so pursuant to the "three years management" experience path, and virtually no applicants have ever successfully qualified pursuant to the six years "comprehensive, specialized" path.

The ECLB interprets "management" to mean "in control of," and has consistently required someone who is applying under management experience to have been in charge of the day-to-day operations of the business, including "check signing authority."

In 1993, the Legislature changed that, and provided that three years "supervisory" experience could qualify an applicant. However, in response to this, the ECLB sought to incorporate "management" into their definition (in rule) of "supervisory." This would have the effect of circumventing the legislative intent of imposing a path different from management, and of reimposing a requirement that the person have years of experience in control of an electrical or alarm business before he can sit for examination to obtain a license to run such a business.

Representatives of the industry and the ECLB explain their desire for a "management" experience licensure standard by asserting that the state certification law was originally designed so that anyone who did not already have several years of experience in control of his business -- prior to applying for a state certification -- could get that experience by obtaining a local (registered) license, and running his own locally licensed business for at least three years. In other words, their argument is that: Since a person has the

option of obtaining a local license to run a contracting business, the requirement that an applicant already possess "management" experience is not an unreasonable barrier.

Comparatively, in Part I of the chapter (construction contracting), all that is required for certification is four years experience "in the trade." Neither doctors, dentists, nor any other professional license applicant is required to show experience in control of a business related to his license, before being allowed to sit for the examination.

In 1994, the Legislature provided that four years as a foreman or supervisor would qualify an applicant to sit for the examination. Also, the term "business" was changed to "endeavor," thereby allowing persons with many years of electrical or alarm experience in the armed forces, or in government work, to qualify.

### ***Restrictions On Registered Electrical Contractors***

(Section 46)

Presently, a certified electrical contractor or a certified alarm system contractor can design, install, or modify alarm systems, including the associated conduits. Registered electrical contractors are not presently allowed to perform this work. Input from local school boards indicates that this creates a problem for them, and the Electrical Contractors' Licensing Board (ECLB) agrees that registered contractors should be allowed to install all electrical conduit, even that conduit used for alarm systems.

### ***Private Home Inspectors***

(Section 50)

No public regulation of private home inspectors currently exists. Inspectors are generally employed by prospective purchasers of previously lived in homes, and typically conduct inspections of the residence's major mechanical and physical components, including plumbing, electrical, and heating systems. Although several private organizations have established standards for certification, the majority of inspectors remain uncertified, thereby creating no minimum level of competence required to perform home inspections.

### **Real Property Improvement Contracts - Chapter 715, F.S.:**

(Section 51)

Presently, it is possible for a contract for improving real property to contain provisions which make the contract subject to the laws of another state or which require litigation or dispute resolution to take place in another state.

## **B. EFFECT OF PROPOSED CHANGES:**

### **Building Code Administrators and Officials - Part XII Chapter 468, F.S.:**

(Sections 1-8)

The bill makes a variety of changes to the regulation, including: (1) Adding categories of licensure; (2) Setting forth the actual duties of building code administrators, plans

examiners and inspectors; (3) Increasing the examination fee for non-governmental employees from \$50 to \$150 per examination and providing that no certification fees, biennial renewal fees, or examination fees be paid by employees of local government; and (4) Allowing local governments to retain 25% of surcharge fees and the Board to retain 25%. All changes are being made pursuant to a recommendation by the State Board of Building Code Administrators and Inspectors.

**Asbestos Abatement - Chapter 469, F.S.:**

(Sections 9-18)

The bill makes minor and technical clarifications to existing asbestos abatement regulation. It conforms some terminology to that used by the federal EPA.

**Real Estate Brokers - Chapter 475, F.S.:**

(Section 19)

The bill provides that sales of new construction by the owner or the owner's agent does not constitute "first contact" to the extent that it does not trigger disclosure responsibilities.

**Architects - Chapter 481, F.S.:**

(Section 20)

The bill provides that an architect may, upon request from the local building department -- perform building inspection duties without having to obtain licensure as a building inspector; also provides that the architect may not act as a plans examiner on a building he designed.

**Construction Contractors - Chapter 489, F.S.:**

(Sections 21-33)

***Exceptions to Unlicensed Contracting***

(Section 21)

The bill provides that the setting up of small portable sheds does not require licensure. The bill provides that construction work on a Habitat for Humanity home does not require licensure. The bill also provides that a licensed real estate broker may contract for repair of a building in his charge, so long as he contracts with a licensed contractor.



### ***Medical Gas Certification***

(Sections 26-27)

The bill requires any licensed plumbing contractor who does medical gas work to undergo training in the field of medical gas according to specified criteria. This training shall be for a minimum of 6 hours, and may be part of his existing Continuing Education (C.E.) requirement. The contractor's workforce who engage in medical gas work is required to obtain at least 8 hours of specified training in the field. Any other person who wishes to perform only the brazing work associated with medical gas work must be tested on brazing. All training and testing must be approved by the CILB. It is the contractor's responsibility to see that his workforce is properly qualified pursuant to these requirements.

The bill also requires that all installation, improvements, maintenance, or repair of the conduit that transports medical gas shall be "governed and regulated" by the National Fire Prevention Association Standard 99C. It also provides that no county or municipality is exempt from the medical gas code requirements established in the bill.

### **Electrical and Alarm System Contractors - Chapter 489, F.S.:**

(Sections 34-46 & 48-49)

### ***Alarm System Monitoring***

(Section 34-35)

The bill eliminates the requirement that alarm systems must be monitored by alarm system contractors under certain circumstances, including allowing: (1) Law enforcement agencies to monitor alarms; (2) Banks to monitor their own alarms; and (3) Direct employees of any business entity to monitor their alarms, providing the system is: (a) owned or leased by the entity; (b) complies with applicable firesafety standards; and (c) used only on property leased by the business, or is on property owned by the business which is not leased to someone else.

### ***Four Dollar Charge For The Building Construction Industry Advisory Committee (BCIAC)***

(Section 37)

The bill provides that four dollars of the existing licensure fee for contractors licensed under Part II of chapter 489 (electrical and alarm system contractors) shall be allocated to the same committee (the Building Code Industry Advisory Committee) which produces academic studies which benefit the construction industry.

### ***Licensure Qualifications***

(Section 38)

This bill clarifies and refines licensure qualifications for electrical or alarm system contractors. It explicitly allows experience in the trade gained in the armed forces or government to count toward licensure qualification. It provides for a category that had been absent in current law, providing that a person with a couple of years of experience in one type of category (education, for instance), and a couple of years in another category (the armed forces, for instance) and another couple of years in a third category (supervisor category, for instance) would qualify for the examination, so long as the categories totaled at least six years. The bill requires electrical contractors licensed by local governments to have taken an examination in order to become registered with the ECLB.

***Restrictions on Registered Electrical Contractors***

(Section 46)

The bill allows registered contractors to do conduit and raceway work associated with alarm systems.

**Private Home Inspectors - Chapter 501, Part II, F.S.:**

(Section 50)

Section 501.935, F.S., as created, defines "home inspector" and "home inspection," and requires certain disclosures under the Deceptive and Unfair Trade Practices Act. Exempted from the requirements of this section are licensed engineers, architects, and construction contractors. Other requirements placed on home inspectors include: disclosure in a prescribed form; certain prohibitions on accepting or offering commissions; a prohibition on performing remedial work; and prohibited disclosure without the client's consent.

**Real Property Improvement Contracts - Chapter 715, F.S.:**

(Section 51)

Provides that any provision for improving real property which makes the contract subject to the laws of another state or which requires litigation or dispute resolution to take place in another state is void.

**C. APPLICATION OF PRINCIPLES:**

**1. Less Government:**

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. Section 23: The Construction Industry Licensing Board may have to adopt rules to implement the regulation related to the plumbers who do medical gas work.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

- (3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

Yes. The building code administrator, plans examiner, or inspector examination fee for non-government employees is increased from \$50 to \$150.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes. Section 32: Allows various governmental and private entities to do their own alarm system monitoring.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

**D. STATUTE(S) AFFECTED:**

Part XII of chapter 468, chapters 469 and 489, ss. 205.0535, 255.551, 376.60, 475.01, 481.222, 501.935, 553.06, 553.19 and 715.15, F.S.

**E. SECTION-BY-SECTION RESEARCH:**

*Building Code Administrators and Officials*

Section 1. Amends s. 468.603, F.S., adding a licensing category for inspectors who conduct both "residential" and "commercial" electrical inspections.

Section 2. Amends s. 468.604, F.S., establishing detailed responsibilities for a building code administrator, plans examiner, and building code inspector.

Section 3. Amends s. 468.605, F.S., deleting the city manager position and adding an inspector position to the Building Code Administrators and Inspectors Board. Deletes the requirement that the inspector positions not have managerial authority.

Section 4. Amends s. 468.609, F.S., making a variety of changes, including:

(1) Providing that post-secondary education must be in the field of construction or related field.

- (2) Providing that a licensee in one or more inspector or plans examiner categories to take the certification examination for additional license categories by completing a training program.
- (3) Allowing education to substitute for 5 years of required experience for building code administrators.
- (4) Specifying plans examiner as a licensure category, subject to examination requirements.
- (5) Allowing any new or promoted inspector, plans examiner, or building official to receive a provisional license.

Section 5. Amends s. 468.617, F.S., prohibiting individual/business designing or permitting the project from also inspecting or reviewing plans; and eliminating the option for the contractor to pay inspection or review fees directly to the provider (contract inspector or plans examiner).

Section 6. Amends s. 468.627, F.S., to increase the examination fee for non-governmental employees to \$150 per examination; and providing that no certification fees, biennial renewal fees, or examination fees be paid by employees of local government.

Section 7. Amends s. 468.629, F.S., to prohibit engaging in the practice or acting in the capacity of a building code administrator, building code inspector, or plans examiner without holding an active certificate. Prohibits attempting to influence a certificate holder to violate a building code.

Section 8. Amends s. 468.631, F.S., allowing local governments to retain 25% of surcharge fees. Allows the Board to retain 25%. Building departments and the Board will have funds to train inspectors, plans examiners, and building officials. Departments will be able to send inspectors, plans examiners, and building officials to better continuing education courses.

#### *Asbestos Abatement*

Section 9. Amends s. 469.001, F.S., clarifying definitions, and providing a definition for project designer, in order to conform to federal standards.

Sections 10-11. Amends ss. 469.002 and 469.004 F.S., to exempt certain demolition activities by government agencies on government-owned buildings (included at the request of FDOT and directed primarily at buildings condemned for road and other government projects), and to move exemptions for resilient floor covering and asbestos-containing pipes from s. 469.004, F.S., and to establish an exemption from asbestos consultant licensure requirements for a licensed roofer who is removing asbestos-containing roofing material.

Section 12. Amends s. 469.005, F.S., to revise licensure requirements to conform to federal standards.

Section 13. Amends s. 469.006, F.S., to give the department the ability to establish standards regarding financial stability and thus give it more a stable basis on which to grant or deny licensure; and to require that the consultant or contractor affix their signature (rather than a seal) to documents which are submitted to governmental agencies.

Section 14-15. Amends ss. 469.013 and 469.014, F.S., to make technical changes and correct cross-references.

Section 16. Repeals s. 469.015, F.S., requiring the use of seals.

Sections 17-18. Amends ss. 255.551 and 376.60, F.S., to make technical cross-reference changes.

*Real Estate Brokers*

Section 19. Amends s. 475.01, F.S., providing that sales of new construction by the owner of the property or the owner's agent is not considered "first contact," which would trigger disclosure requirements.

*Architects/Building Inspectors*

Section 20. Amends s. 481.222, F.S., allowing architects to perform building inspection duties -- upon request by a local department -- and without having to obtain licensure as a building inspector; also prohibits the architect from performing plans review on a build he designed.

*Construction Contracting*

Section 21. Amends s. 489.103, F.S., creating an exemption from contractor licensure requirements for persons who set up storage sheds of less than 250 square feet, and which are not intended for human habitation; creating an exemption for Habitat for Humanity homes; creates an exemption for a licensed real estate broker who hires a licensed contractor for construction, repair, or remodeling of a home or building for which the broker has responsibility.

Section 22. Amends various paragraphs of subsection (3) of s. 489.105, F.S., and subsection (19) to:

(3) (a) Provides that the scope of work for the general contractor includes all activities which require licensure under Part I, unless specifically provided otherwise.

(d), (f),

(g), (h)

and (i) Provides that licensure is required if someone cleans ducts for air-conditioning or heating and ventilation systems, if they at least partially disassemble the system in the course of cleaning it.

(l) Provides that the substantial or complete disassembly of equipment attached to a pool requires licensure.

- (n) Provides that the job scope of underground utility and excavation contractors includes such things as directional drilling, etc.
- (19) Clarifies the term "initial issuance."

Section 23. Amends s. 489.107, F.S., to allow the CILB and the ECLB to appoint committees to meet jointly twice a year, rather than requiring the entire board to do so.

Section 24. Amends s. 489.113, F.S., to clarify and further limit the circumstances under which a contractor may employ by contract an unlicensed person to perform work for which the licensed contractor is responsible. Also, expands that circumstance to apply specifically to underground utility and excavation contractors, allowing them to employ (by contract) persons to perform a narrow specialty within the licensed contractor's job scope.

Section 25. Repeals s. 489.1135, F.S., relating to obsolete grandfathering procedures for underground utility and excavation contractors.

#### *Medical Gas Certification*

Section 26. Creates s. 489.1136, F.S., to require any licensed plumbing contractor who does medical gas work to undergo training in the field of medical gas according to specified criteria. This training shall be for a minimum of 6 hours, and may be part of the existing Continuing Education (C.E.) requirement. The contractor's workforce who engage in medical gas work is required to obtain at least 8 hours of specified training in the field. Any other person who wishes to perform only the brazing work associated with medical gas work must be tested on brazing. All training and testing must be approved by the CILB. It is the contractor's responsibility to see that his workforce is properly qualified pursuant to these requirements.

Section 27. Creates subsection (4) in s. 553.06, F.S., to establish the "National Fire Prevention Association Standard 99C" as the applicable standard for medical gas work; and provides that no county or municipality is exempt from the code requirements established in this subsection.

#### *Construction Contracting*

Section 28. Amends s. 489.115(4)(b)1., F.S., to provide that a person licensed under both parts of chapter 489, F.S., may apply courses taken to comply with continuing education requirements in Part II to the continuing education requirements in Part I of chapter 489, F.S., so long as those courses were on the subject of workers' compensation, safety, and business practices.

Section 29. Amends s. 489.119(3)(a), F.S., to provide clarification of the term "incomplete contract."

#### *Construction Recovery Fund*

Section 30. Amends s. 489.140, F.S., to strike provision transferring surplus moneys collected from disciplinary fines to recovery fund. CILB collects only about 10-12% of fines levied, so there is no surplus.



Section 31. Amends s. 489.141, F.S., to recognize claims based on CILB restitution orders. The change to s. 489.141(1)(a)1., F.S., strikes provision requiring claimant to file a notice at the time a civil suit is filed. Other amendments to subsequent subsections provide that claims are paid on "first in time, first in right" basis. Section 489.141(1)(c), F.S., is amended to allow filing of claim up to one year after conclusion of civil/administrative action. These amendments all adjust the claim's process to encompass more claimants and provide greater access by harmed consumers.

Section 32. Amends s. 489.142, F.S., to provide that the board may commence action regarding a claim even in an instance where the board has not received a certified notice of action.

Section 33. Amends s. 489.143(1), F.S., to recognize claims based on CILB restitution orders; deleting subsection (5), relating to a "stop-loss" provision; and new (5) and (6) are added to provide for payment of claims in the order filed, until annual appropriation is expended, with pending claims carried forward to next fiscal year.

*Electrical Contracting--Alarm Monitoring*

Section 34. Amends s. 489.503, F.S., to provide exemptions from the licensure requirements for:

- ◆ Monitoring of an alarm system by a direct employee of a law enforcement agency or fire department, or by a law enforcement officer acting in an official capacity.
- ◆ Monitoring for direct employees of financial institutions providing that the alarm systems are limited to the commercial property of the bank where the banking operations take place, or on the private property occupied by the bank's executive officers.
- ◆ Monitoring for direct employees of any business entity, providing the system is: (1) owned or leased by the entity; (2) complies with applicable firesafety standards; and (3) used only on property leased by the business, or is on property owned by the business which is not leased to someone else.

Section 35. Amends s. 489.505, F.S., to amend the definition of "alarm system" to include signaling devices, to amend the definition of "certified alarm contractor" to include an additional fire protection standard, and to repeal the obsolete definition in subsection (24) of "limited burglar alarm system contractor." Establishes the definition of "monitoring" to mean receiving electronic or electrical signals by an alarm system or closed circuit television system, and initiating a response thereto. Provides that monitoring does not include the instance where an occupant or employee initiates emergency action in response to an alarm signal, providing that such action is incidental to his primary responsibilities, and that he is not working in a proprietary monitoring facility, as defined in the NFPA Code adopted under chapter 633, F.S.

Section 36. Amends s. 489.507, F.S., to allow a committee consisting of members of the CILB and the ECLB to meet jointly, rather than requiring the full boards to meet.

*\$4 Fee--Department of Education*

Section 37. Amends s. 489.509, F.S., to conform the time frame for renewal to current department procedures; provides that \$4 out of existing licensure fees shall go to fund academic studies benefiting the construction field.

*Electrical Contracting*

Section 38. Amends s. 489.511, F.S., to eliminate the examination qualification path for "foremen"; changes the six-year experience path from being experience at an "electrical or alarm system installation or servicing endeavor" to experience at an "electrical or alarm system contracting business"; provides that electrical or alarm work experience in the armed forces or the government will be accepted toward licensure; provides that a combination of experience from the categories of education, supervision and management shall be acceptable as qualification to sit for the examination, so long as it totals six years of experience; and requires six years "supervisory" experience, rather than "broad" experience in one of the licensure qualification categories.

Section 39. Amends s. 489.513(3), F.S., to provide that locally licensed electrical contractors, in order to be registered, must have passed an examination given by the local jurisdiction which is "appropriate" and which tests "skills and knowledge relevant to the technical performance of the profession," or pass an examination "substantially equivalent" to the certification examination.

Section 40. Creates s. 489.517(4), F.S., to provide the "companion" exemption to the exemption found in s. 489.115(4)(b)1., F.S., of this bill, providing that persons licensed in both parts of the chapter may apply courses taken to comply with continuing education requirements in Part I to the continuing education requirements in Part II of chapter 489, F.S., so long as those courses were on the subject of workers' compensation, safety, and business practices; also provides specific authority for the board to promulgate by a rule a procedure to verify the public liability and property damage insurance for a specific period.

Section 41. Amends s. 489.519, F.S., to allow a licensee to apply for inactive status at any time.

Section 42. Amends s. 489.521, F.S., to clarify the criteria the board should use in determining whether to allow a single licensee to qualify more than one business entity, establishes that the licensee must have both the capacity and intent to properly supervise the operation of each entity, and that failure to supervise can result in that qualification being suspended or revoked.

Section 43. Amends s. 489.525, F.S., to delete the requirement that the board shall inform the local jurisdictions of the names and licensure status of all certificateholders every year (that information is now available over the Internet); also provides that other information required to be reported does not have to be reported if it is available over the Internet or other electronic means.

Section 44. Amends s. 489.533, F.S., to provide that willful misrepresentation is a disciplinable act; that entering a plea of nolo contendere can be considered similarly to having been found guilty; that the contractor must pay any judgment against him within 18 months or according to an agreed upon schedule; and gives the board authority to require financial restitution to a consumer.

Section 45. Reenacts s. 489.518(5), F.S., for technical purposes.

Section 46. Amends s. 489.537, F.S., to allow registered electrical contractors to contract for the construction or repair of raceway systems; clarifies the applicability of two sections in chapter 205, F.S., to licensees under this part.

Section 47. Amends s. 205.0535, F.S., to provide that the occupational license tax applied to phone providers shall not be assessed on a per-instrument basis.

Section 48. Amends s. 489.539, F.S., to provide for the adoption of current electrical and alarm standards by the board.

Section 49. Amends s. 553.19, F.S., to update various building codes provisions.

### **Private Home Inspectors**

Section 50. Creates s. 501.935, F.S., to establish disclosure requirements under the Deceptive and Unfair Trade Practices Act for persons offering private home inspection services; defines "home inspector" and "home inspection"; exempts persons licensed under chapters 471, 481, or 489, F.S.; requires disclosure on a prescribed form; prohibits accepting or offering third-party commissions; and prohibits performing any remedial work needed as a result of the inspection for 12 months. Does not establish any state license or regulation.

### **Real Property Improvement Contracts**

Section 51. Effective upon becoming a law, creates s. 715.15, F.S., providing that any provision for improving real property which makes the contract subject to the laws of another state or which requires litigation or dispute resolution to take place in another state is void.

Section 52. Except as otherwise provided, provides that the act shall take effect July 1 of the year that the act is enacted.

## **III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:**

### **A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

#### **1. Non-recurring Effects:**

None.

#### **2. Recurring Effects:**

*RE: BUILDING INSPECTORS (CH.468)*

Department of Business & Professional Regulation

Revenue:

1998-99

1999-00

Increase in examination fee for non-gov. employees:		
\$100 x 75 non-gov applicants	\$ 7,500	
\$100 x 100 non-gov applicants		\$ 10,000

Reduce Trust Fund by the following		
\$25 x 100 non-gov applicants	\$2,500	\$ 2,500
\$ 5 x 600 gov applicants	3,000	3,000
\$ 5 x 5000 renewal licensees	<u>          </u>	<u>\$25,000</u>

Overall reduction of Professional Regulation Trust Fund	+\$2,000	(\$20,500)
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Department of Business & Professional Regulation	1998-99	1999-00
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Expenditures:

Additional 15% retained by local gov	\$300,000	\$300,000
BCAIB retain additional 25%	<u>500,000</u>	<u>500,000</u>

Construction Recovery Fund will be reduced	\$800,000	\$800,000
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Construction Industry Recovery Trust Fund Will be reduced each FY	\$800,000	\$800,000
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3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See A.2.

## B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Local governments will be able to retain approximately \$300,000 annually from a building code surcharge they are currently collecting and pay into the Construction Industry Recovery Fund.

3. Long Run Effects Other Than Normal Growth:

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None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

**1. Direct Private Sector Costs:**

Non-governmental applicants for building code administrator, plans examiner, or inspector examinations will have to pay an additional \$100.

**2. Direct Private Sector Benefits:**

The reduction of regulation regarding alarm system monitoring in section 32 (allowing various entities to perform their own monitoring) may allow for cost-savings.

**3. Effects on Competition, Private Enterprise and Employment Markets:**

None.

**D. FISCAL COMMENTS:**

None.

**IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:**

**A. APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

**V. COMMENTS:**

None.

**VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

On April 15, 1998, the House Committee on Community Affairs adopted the following amendments to the bill:

**Amendment 2:** Amends paragraph 489.105(3)(m), Florida Statutes, removing the exemption from plumbing licensure requirements for gas utilities. The effect of this is that it eliminates the ability of a gas utility (not licensed as a plumbing contractor) to install or repair gas water heaters.

**Amendment 3:** Technical amendment, conforming the directory language to the adoption of amendment #2.

**Amendment 7:** Repeals subsection 489.505(24), Florida Statutes; amends subsections 489.505(1), (7), (19), and (23), Florida Statutes; rennumbers subsection (25), (26), and (27), Florida Statutes; and adds subsections (27) and (28). Inserting the definition of "fire alarm system agent" *around* existing proposed provisions (first strikes them, then puts them back with the additional definition on the end, plus the directory change).

**Amendment 8:** Creates section 489.5185, requiring training and criminal history checks for the workforce of fire alarm contractors.

**Amendment 9:** Creates section 471.026, allowing engineers to, upon the request of the local building department, perform building code inspection and plans review duties without having to be licensed as building code inspectors or plans reviewers. This provision tracks an essentially identical provision already in the bill allowing architects to perform these same tasks.

**Amendment 10:** Creates section 501.937, requiring industrial hygienists and safety professionals to accurately disclose their credentials, and prohibiting persons from referring to themselves under certain protected titles, unless qualified under one of several stipulated paths.

**Amendment 11:** Effective October 1, 1998, redesignating subsections 633.021(7) through (25), Florida Statutes, and adding subsection 633.021(7), accomplishing various technical and substantive changes to chapter 633, setting forth the regulations associated with organizations and individuals who install and repair fire protection equipment. Substantive changes include requiring fire equipment dealers to obtain increased insurance coverage, and providing that an organization or person who has a license suspended or revoked may not apply for another license or be affiliated with another licensee during the period of the suspension or revocation.

**Amendment 12:** Amending subsection 468.431(2), Florida Statutes, requiring Community Association Management business to register with the Department of Business and Professional Regulation.

**Amendment to amendment 12:** Amending subsection 468.431(2), Florida Statutes, clarifying that rulemaking authority for enforcement of the requirement resides with the department.

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**Amendment 13:** Amending subsections 468.385(4) and (6), Florida Statutes, making a variety of changes to the regulation of auctioneers. Provides that a written contract is required for all auctions. Clarifies that property, as well as money, must be accounted for by an auctioneer. Reduces the total amount of funds that must be maintained in the Auctioneer Recovery Fund. Reduces the amount of money that may be recovered for violations of the auctioneer practice act from \$50,000 per judgment to \$25,000 per judgment and from a lifetime limit of \$100,000 per licensee to \$50,000 per licensee.

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION AND CONSUMER AFFAIRS:

Prepared by:

Legislative Research Director:

Gip Arthur

Lucretia Shaw Collins

AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Tonya Sue Chavis, Esq.

Joan Highsmith-Smith