

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 823 Alarm System Contractors
SPONSOR(S): Regulatory Reform Subcommittee, Mariano
TIED BILLS: **IDEN./SIM. BILLS:** SB 998

FINAL HOUSE FLOOR ACTION: 117 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 823 passed the House on April 15, 2021, and subsequently passed the Senate on April 21, 2021.

Electrical contractors, alarm system contractors, and electrical specialty contractors are certified by or registered with the Electrical Contractors' Licensing Board (ECLB) housed within the Department of Business and Professional Regulation (DBPR). Certified contractors can practice statewide and are licensed and regulated by the ECLB. Registered contractors are licensed and regulated by a local jurisdiction and may practice within that locality. Registered contractors are also required to register their license with the ECLB.

An "alarm system" is defined as "any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency."

The Florida Building Code (Building Code) must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. Local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare, and to enforce the Building Code. It is unlawful for a person or corporation to construct, alter, repair, or demolish a building without obtaining a permit from the local enforcing agency.

Current law requires an electrical and alarm system contractor to obtain a building permit before installing, replacing, or repairing a fire alarm system.

Current law also requires electrical and alarm system contractors to include their license number in every offer of service, business proposal, or advertisement, regardless of medium. However, an advertisement does not include business stationery or any promotional novelties such as balloons, pencils, trinkets, or articles of clothing.

The bill:

- Provides that an electrical contractor or an alarm system contractor does not have to include their license number in an advertisement for alarm system contracting, if the advertisement directs consumers to the contractor's website and the website includes the contractor's license number.
- Provides that an electrical or alarm system contractor is not required to obtain a fire alarm permit before beginning repairs on a fire alarm system, if the contractor applied for a fire alarm permit prior to beginning the repairs.
- Clarifies that repairs to a fire alarm system are not considered complete until the required fire alarm permit has been obtained and the local enforcement agency approves the repairs.

The bill does not have a fiscal impact on state and local governments.

The bill was approved by the Governor on June 16, 2021, ch. 2021-110, L.O.F., and will become effective on July 1, 2021.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Contractors

Contractors are regulated by ch. 489, F.S., which outlines the law pertaining to contractors in the state of Florida. Chapter 489, part I, F.S., covers contracting regulated by the Construction Industry Licensing Board (CILB) and ch. 489, part II, F.S., covers contracting regulated by the Electrical Contractors' Licensing Board (ECLB). Both boards are housed in the Department of Business and Professional Regulation (DBPR).

Electrical contractors, alarm system contractors, and electrical specialty contractors are certified by or registered with the ECLB. Certified contractors can practice statewide and are licensed and regulated by ECLB. Registered contractors are licensed and regulated by a local jurisdiction and may practice within that locality.¹

Electrical contractors may work on electrical wiring, fixtures, appliances, apparatus, raceways, and conduits which generate, transmit, transform, or utilize electrical energy in any form.²

Alarm system contractors may lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems. An "alarm system" is defined as "any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency."³

Electrical certified specialty contractors are contractors whose scope of work is limited to a particular phase of electrical contracting, such as electrical signs. Certified electrical specialty contractors can practice statewide. The ECLB creates electrical certified specialty contractor licenses through rulemaking, and has created the following certified specialty contractor licenses:⁴

- Lighting maintenance specialty contractor;
- Sign specialty electrical contractor;
- Residential electrical contractor;
- Limited energy systems specialty contractor;
- Utility line electrical contractor; and
- Two-Way Radio Communications Enhancement Systems contractor.

The scope of work for certified electrical contractors includes any work that an alarm system contractor is able to perform.⁵

Registered electrical contractors may install raceways for alarm systems.⁶ They may also bid on electrical contracts, which include alarm systems as part of the contract, but they must subcontract the work on such alarm systems to an alarm system contractor.⁷

¹ See generally s. 489.505, F.S.

² S. 489.505(12), F.S.

³ S. 489.505(1)-(2), F.S.

⁴ Ss. 489.505(19), and 489.511(4), F.S.; Rule 61G6-7.001, F.A.C.

⁵ S. 489.537(7), F.S.

⁶ A "raceway" is an enclosed channel designed to hold wires, cables, or busbars. Mike Holt, Understanding Raceways, EC&M (Feb. 13, 2018) <https://www.ecmweb.com/national-electrical-code/code-basics/article/20903368/understanding-raceways#:~:text=The%20NEC%20defines%20a%20raceway,permitted%20in%20this%20Code%20%5BArt.> (last visited Mar. 3, 2021).

⁷ S. 489.537(2)(b), F.S.

State Fire Marshal

Florida's fire prevention and control law, ch. 633, F.S., designates the state's Chief Financial Officer as the State Fire Marshal. The State Fire Marshal, through the Division of State Fire Marshal (Division) located within the Department of Financial Services (DFS), is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to fire safety, and has the responsibility to minimize the loss of life and property in this state due to fire.⁸ Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel and fire safety inspectors; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts fire safety inspections of state property; and operates the Florida State Fire College.

The State Fire Marshal also adopts by rule the Florida Fire Prevention Code (Fire Code), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities, and the enforcement of such fire safety laws and rules.⁹

The State Fire Marshall adopts a new edition of the Fire Code every three years. When adopting a new edition of the Fire Code, the State Fire Marshal must adopt the most recent version of the National Fire Protection Association (NFPA) Standard 1, Fire Prevention Code, and the NFPA 101 Life Safety Code.¹⁰

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the Fire Code as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code.¹¹ Each county, municipality, and special district with fire safety enforcement responsibilities must employ or contract with a fire safety inspector (certified by the State Fire Marshal) to conduct all fire safety inspections required by law.¹²

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.¹³

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code

⁸ S. 633.104, F.S.

⁹ S. 633.202(1) and (2), F.S.

¹⁰ *Id.* The NFPA is the National Fire Protection Association. Founded in 1896, the NFPA delivers information and knowledge through no more than 300 consensus codes and standards, research, training, education, outreach and advocacy. NFPA, *About NFPA*, <https://www.nfpa.org/about-nfpa> (last visited Feb. 4, 2021).

¹¹ The Florida Building Code is the statewide building code for all construction in the state. Every local government must enforce the Florida Building Code and issue building permits. *See generally* ch. 553, F.S.

¹² S. 633.216(1), F.S.

¹³ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Feb. 15, 2021).

(Building Code), and that first edition replaced all local codes on March 1, 2002.¹⁴ The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.¹⁵

Chapter 553, part IV, F.S., is known as the “Florida Building Codes Act” (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.¹⁶

The Florida Building Commission (Commission) was statutorily created to implement the Building Code. The Commission, which is housed within DBPR, is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,¹⁷ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.¹⁸

Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public’s health, safety, and welfare.¹⁹ Every local government must enforce the Building Code and issue building permits.²⁰

Current law also requires State universities, Florida College System institutions, and public school districts to enforce the Building Code for their building projects, including conducting plan review and inspections. State universities, Florida College System institutions, and public school districts must use or contract with licensed building officials, inspectors, and plan examiners, and may elect to use a local government’s building department to review plans and perform inspections.²¹

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a building permit from the local government or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.²²

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.²³ A building official is a local government employee or a person contracted by a government entity who supervises building code activities, including plans review, enforcement, and inspection.²⁴ Any construction work that requires a building permit also requires plans and inspections by the building official to ensure the work complies with the Building Code.²⁵ Generally speaking, a permitted project that passes the required inspections is considered completed or closed.²⁶

¹⁴ *Id.*; DBPR, *Building Code Information System*, <https://floridabuilding.org/c/default.aspx#> (last visited on Feb. 15, 2021).

¹⁵ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Feb. 21, 2021).

¹⁶ See s. 553.72(1), F.S.

¹⁷ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to “construct safe, sustainable, affordable and resilient structures.” International Code Council, *About the ICC*, <https://www.iccsafe.org/about/who-we-are/> (last visited Feb. 21, 2021).

¹⁸ Ss. 553.73, and 553.74, F.S.

¹⁹ S. 553.72, F.S.

²⁰ Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

²¹ S. 553.80(6), F.S.

²² See Ss. 125.56(4)(a) and 553.79(1), F.S.

²³ S. 468.603(2), F.S.; Section 202 of the Seventh edition of the Florida Building Code (Building).

²⁴ S. 468.603(2), F.S.; Section 202 of the Seventh edition of the Florida Building Code (Building).

²⁵ Sections 107, 110.1, and 110.3 of the Seventh edition of the Florida Building (Building).

²⁶ Doug Wise, *Closing Inactive & Excluded Building Permits*, Palm Beach County Planning, Zoning & Building Department, Building Division, <http://discover.pbcgov.org/pzb/building/BuildingCodes/PBO-126%20E2%80%93%20Closing%20Inactive%20and%20Excluded%20Building%20Permits.pdf> (last visited May 12, 2021).

Time-Period to Review Building Permit Applications

Fire protection systems, including fire alarms, must be installed, repaired, operated, and maintained in accordance with the Fire Code and the Building Code.²⁷

Current law requires local governments to review certain building permit applications within a specific time-period of receiving the applications. Current law has established time-periods for local governments to review applications for the following building permits:²⁸

- accessory structure;
- **alarm permit**;
- nonresidential buildings less than 25,000 square feet;
- electric;
- irrigation permit;
- landscaping;
- mechanical;
- plumbing;
- residential units other than a single family unit;
- multifamily residential not exceeding 50 units;
- roofing;
- signs;
- site-plan approvals and subdivision plats not requiring public hearings or public notice; and
- lot grading and site alteration associated with a permit application.

When a local government receives an application for one of the above building permits, it must:²⁹

- Inform the applicant within **10 days** of receiving the application, what information, if any, is needed to complete the application.
 - If the local government fails to provide written notice to the applicant within the 10-day window, the application is deemed to be properly completed.
- Notify the applicant within **45 days** of the application being deemed complete, if additional information is necessary to determine the sufficiency of the application;
 - If additional information is needed the local government must specify what additional information is necessary.
 - The applicant may submit the additional information to the local government or request that the local government act on the application without the additional information.
- Approve, approve with conditions, or deny the application within **120 days** following receipt of the completed application.
 - This period is tolled during the time an applicant is responding to a request for additional information and may be extended by mutual consent of the parties.

These time-periods do not apply when a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.³⁰

²⁷ Sections 202 and 901.2 of the Seventh edition of the Florida Building Code (Building).

²⁸ S. 553.792(2), F.S.

²⁹ S. 553.792(1), F.S.

³⁰ *Id.*

Uniform Fire Alarm Permit

During the 2019 Legislative Session, the Legislature passed HB 1393, which created s. 553.7921, F.S., and created a uniform fire alarm permit application. An electrical or alarm system contractor must file a uniform fire alarm permit application with a local enforcement agency in order to obtain a fire alarm permit.³¹

A local enforcement agency is an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the Building Code.³²

The Uniform Fire Alarm Permit Application must include the following information:³³

- The name and address of the owner of the property;
- The name, address, and license number of the contractor;
- A description sufficient to identify the property to be improved, including the property's address and legal description;
- A description of the work being performed; and
- The owner and the contractor's signature.

An electrical or alarm system contractor cannot install, replace, or **repair** a fire alarm until they obtain a fire alarm permit. Thus, electrical and alarm system contractors are unable to begin repairs on fire alarms until they obtain a permit.³⁴

Advertisements

Current law requires construction contractors and electrical and alarm system contractors to have their **license number in every offer of service, business proposal, or advertisement**, regardless of medium. However, advertisement does not include business stationery or any promotional novelties such as balloons, pencils, trinkets, or articles of clothing.³⁵

According to DBPR, if an advertisement does not include a contractor's license number, it is a warning sign that the contractor may be an unlicensed contractor.³⁶

According to industry members, many states require contractors to include their license number in their advertisements. This results in alarm system companies that operate in multiple states having to create separate advertisements, including television, radio, and print ads, for each state or having to list all of their license numbers in an advertisement.³⁷

³¹ S. 553.7921(1); *See* House Analysis of 2019 House Bill 1393 (Jun. 27, 2019).

³² S. 553.71(5), F.S.

³³ S. 553.7921(2), F.S.

³⁴ S. 553.7921(1); *See* House Analysis of 2019 House Bill 1393 (Jun. 27, 2019).

³⁵ Ss. 489.119(5), and 489.521(7)(b), F.S.

³⁶ Any person without a license who advertises himself or herself or a business organization as available to practice electrical or alarm system contracting commits unlicensed contracting. S. 489.531(1)(b), F.S.; DBPR, *Tips for Hiring a Contractor*, <http://www.myfloridalicense.com/dbpr/reg/documents/Construction-Brochure-English.pdf?x40199> (last visited Mar. 3, 2021).

³⁷ Email from Holly Borgmann, Vice President of Government Affairs, ADT, RE: ADT one pager on advertising, (Mar. 4, 2021).

Effect of the Bill

An electrical or alarm system contractor is not required to obtain a fire alarm permit before beginning repairs on a fire alarm system if:

- the fire alarm was previously permitted by the local enforcement agency; and
- the contractor applied for a fire alarm permit prior to beginning the repairs.

The bill clarifies that repairs to a fire alarm system are not considered complete until the required fire alarm permit has been obtained and the local enforcement agency approves the repairs.

The bill provides that an electrical contractor or an alarm system contractor does not have to include their license number in an advertisement³⁸ for alarm system contracting if:

- The electrical or alarm system contractor maintains a website that contains his or her license number; and
- The electrical or alarm system contractor's advertisement directs consumers to the contractor's website.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive impact on the private sector by allowing electrical and alarm system contractors to begin repairs on fire alarm systems without having to wait to obtain a permit, and allowing companies to advertise in multiple states using the same advertisement.

D. FISCAL COMMENTS:

³⁸ "Advertisement" includes newspaper, magazine, flyer, billboard, phone book, Internet, and broadcast advertisements.

None.