

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 998

INTRODUCER: Senator Brodeur

SUBJECT: Contractor Advertising

DATE: March 16, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Kraemer</u> | <u>Imhof</u> | <u>RI</u> | Favorable |
| 2. | _____ | _____ | <u>CA</u> | _____ |
| 3. | _____ | _____ | <u>RC</u> | _____ |

I. Summary:

SB 998 revises s. 489.521, F.S., relating to alarm system contractor license numbers on advertisements. Under the bill, if an alarm system contractor maintains an Internet website that displays a contractor's registration or certification number, and a contractor's advertisement directs consumers to the information on the contractor's Internet website, the contractor's license number does not need to be stated in advertisements placed by the contractor that appear in a printed publication, in a flyer, a billboard, or an Internet website, or in a broadcast advertisement.

The bill amends the fire alarm permit application procedure in s. 553.7921, F.S., to eliminate the requirement that a contractor filing a Uniform Fire Alarm Permit Application receive a fire alarm permit before repairing an existing, previously permitted alarm system. Under the bill, if the local enforcement agency requires a fire alarm permit for repair of an existing, previously permitted alarm system, a contractor may begin the repair work after filing the required Uniform Fire Alarm Permit Application, before receiving the fire alarm permit.

Under the bill, a fire alarm repaired by a contractor before receipt of the required fire alarm permit may not be considered compliant until the required permit has been issued and the local enforcement agency has approved the repair.

The bill has no impact on state government.

The effective date of the bill is July 1, 2021.

II. Present Situation:

Electrical and Alarm System Contracting

Part II of ch. 489, F.S., dealing with electrical and alarm system contracting, sets forth requirements for qualified persons to be licensed if they have sufficient technical expertise in the applicable trade, and have been tested on technical and business matters.¹ The Electrical Contractors' Licensing Board (ECLB) within the Department of Business and Professional Regulation (DBPR) is responsible for licensing and regulating electrical and alarm system contractors in Florida under part II of ch. 489, F.S.²

An electrical contractor is a person whose business includes the electrical trade field and who has the experience, knowledge, and skill to install, repair, alter, add to, or design, in compliance with law, electrical wiring, fixtures, and appliances, and any related part, which generates, transmits, or uses electrical energy, in compliance with applicable plans, specifications, codes, laws, and regulations.³ The term "electrical contractor" also includes any person, firm, or corporation that engages in the business of electrical contracting under an expressed or implied contract or that undertakes, offers to undertake, or submits a bid to engage in the business of alarm contracting.⁴

An alarm system contractor is a person whose business includes the execution of contracts requiring the ability, experience, science, knowledge, and skill to conduct all alarm services for compensation, for all types of alarm systems for all purposes.⁵ The term "alarm system contractor" also includes any person, firm, or corporation that engages in the business of alarm contracting under an expressed or implied contract, or that undertakes, offers to undertake, or submits a bid to engage in the business of alarm contracting.⁶ An alarm system contractor whose business includes all types of alarm systems for all purposes is designated as an "alarm system contractor I;" the practice area of an "alarm system contractor II" is identical except that it does not include fire alarm systems.⁷

The terms "registered alarm system contractor," and "registered electrical contractor" mean those contractors who have registered with the DBPR and met competency requirements for their trade category in the particular jurisdiction for which the registration is issued. Registered contractors may contract only in the jurisdiction for which the registration is issued.⁸

The term "certification" means the act by a contractor obtaining or holding a geographically unlimited certificate of competency from the DBPR.⁹ When an alarm system contractor is certified, the contractor possesses a certificate of competency, with some limitations as to the

¹ See s. 489.501, F.S.

² Section 489.507, F.S.

³ See s. 489.505(12), F.S.

⁴ *Id.*

⁵ See s. 489.505(2), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ See ss. 489.505(16), (21), and (22), F.S.

⁹ See ss. 489.505(4), (5), and (6), F.S.

scope of work that may be undertaken, without any mandatory licensure requirement.¹⁰ The term “certified electrical contractor” means an electrical contractor who possesses a certificate of competency.

To be certified a person must be 18 years of age, pass the certification examination, be of good moral character, and meet the eligibility requirements of s. 489.511(1)(b)3., F.S.¹¹

Unless an exemption applies, the term “contracting” means engaging in business as a contractor or performing electrical or alarm work for compensation and includes, but is not limited to, performance of the work that may be performed by electrical or alarm system contractors.¹² The attempted sale of contracting services and the negotiation or bid for a contract on these services also constitutes contracting. If the services offered require licensure or agent qualification, the offering, negotiation for a bid, or attempted sale of these services requires the corresponding licensure.¹³

The term “specialty contractor” means a contractor whose scope of practice is limited to a specific category of electrical or alarm system contracting, such as residential electrical contracting, maintenance of electrical fixtures, and fabrication, erection, installation, and maintenance of electrical advertising signs.¹⁴

Section 489.514, F.S., requires the ECLB to certify an electrical, electrical specialty, or alarm system contractor to engage in the specified trade category throughout the state, upon:

- Receipt of a completed application;
- Payment of the appropriate fee;¹⁵ and
- Evidence that he or she qualifies for the certification in a trade category based on:
 - Having a valid registered local license;
 - Passing an approved written examination;
 - Having a minimum of five years’ contracting experience in the applicable trade category (with an active license and excluding probationary periods);

¹⁰ See s. 489.505(7), F.S., which describes the limitations on the scope of a certificate of competency as those circuits originating in alarm control panels, equipment governed by the Articles 725, 760, 770, 800, and 810 of the National Electrical Code, Current Edition, and National Fire Protection Association Standard 72, Current Edition, as well as the installation, repair, fabrication, erection, alteration, addition, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof not to exceed 98 volts (RMS), when those items are for the purpose of transmitting data or proprietary video (satellite systems that are not part of a community antenna television or radio distribution system) or providing central vacuum capability or electric locks. RMS is an acronym for “root mean square,” a statistical term defined as the square root of mean square, or effective voltage. See <http://www.learningaboutelectronics.com/Articles/RMS-voltage-and-current-explained.php#:~:text=RMS%20Voltage%20and%20Current-%20Explained.%20RMS,%20or%20root,power%20dissipation,%20in%20circuit,%20as%20this%20AC%20voltage.> (last visited Mar. 11, 2021).

¹¹ Section 489.511(1)(b)3., F.S., provides experience requirements for certification.

¹² See s. 489.505(9), F.S.; see also, ss. 489.505(2) and (12), F.S., for the various services that may be performed, and ss. 489.503(1) through (24), F.S., for the persons and types of work that are exempted from the term “contracting.”

¹³ See s. 489.505(9), F.S.

¹⁴ See s. 489.505(19), F.S.

¹⁵ The ECLB has established a \$200 fee for applications for registered contractor certification. See s. 489.109, F.S., and Fla. Admin. Code R. ch. 61G6-8.

- Never having had a contractor's license revoked, and during the last five years, not having had a suspended license or been assessed a fine in excess of \$500; and
- Meeting all required insurance and financial responsibility requirements.¹⁶

Mandatory Disclosure of Contractor Registration or Certification Numbers

Under s. 489.521(7), F.S., each registered or certified contractor must state the appropriate registration or certification number on each building permit application and each issued and recorded building permit. All city and county building departments must require, as a condition for building permit issuance, that the contractor applying for the permit verify his or her registration or certification as an electrical or alarm system contractor in the state.¹⁷

A contractor's registration or certification number must also be stated in each offer of services, business proposal, or advertisement, regardless of medium, used by that contractor; however, the term "advertisement" does not include business stationery or promotional novelties such as balloons, pencils, trinkets, or articles of clothing.¹⁸

The ECLB must assess a fine of not less than \$100 or issue a citation to any contractor who fails to include that contractor's certification or registration number when submitting an advertisement for publication, broadcast, or printing.¹⁹ In addition, a person who claims in any advertisement to be a certified or registered contractor, but who does not hold a valid state certification or registration, commits a misdemeanor of the second degree.²⁰

The Florida Building Code

The Florida Building Code (building code) is the unified building code applicable to the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, and facilities in the state.²¹ The building code must be applied, administered, and enforced uniformly and consistently throughout the state.²² The building code is adopted, updated, interpreted, and maintained by the Florida Building Commission (commission), which is housed within the DBPR, but is enforced by authorized state and local government agencies.²³ The commission adopts an updated building code every three years through review of codes published by the International Code Council and the National Fire Protection Association.²⁴

¹⁶ See s. 489.515(1)(b), F.S., which provides that an applicant must submit satisfactory evidence of workers' compensation insurance or an acceptable exemption issued by the DBPR, public liability and property damage insurance in amounts determined by the ECLB, and evidence of financial responsibility, credit, and business reputation of either the contractor or the business sought to be qualified for certification.

¹⁷ See s. 553.521(7)(a), F.S.

¹⁸ See s. 553.521(7)(b), F.S.

¹⁹ *Id.*

²⁰ As to a misdemeanor of the second degree, s. 775.082, F.S., provides such offense is punishable by a term of imprisonment not to exceed 60 days, and s. 775.083, F.S. provides such offense is punishable by a fine not to exceed \$500.

²¹ See s. 553.72, F.S. Part IV of ch. 553, F.S., is cited as the "Florida Building Codes Act." See s. 552.70, F.S. The Florida Building Code, 7th Edition, available at https://www.floridabuilding.org/bc/bc_default.aspx (last visited Mar 11, 2021).

²² See s. 553.72(1), F.S.

²³ See s. 553.72(3), F.S.

²⁴ See s. 553.73(7), F.S., which requires review of the International Building Code, the International Fuel Gas Code, the International Existing Building Code, the International Mechanical Code, the International Plumbing Code, and the

Violations of the building code are enforced by the appropriate enforcing agency or local government pursuant to s. 553.79, F.S., relating to required permits, and s. 553.80, F.S., relating to enforcement of the building code. Persons authorized under s. 553.80, F.S., may enforce the building code by seeking injunctive relief from any court to address noncompliance with the building code.²⁵

Fire Alarm Permit Applications to Local Enforcement Agencies

As required by s. 553.7921, F.S., a uniform fire alarm permit application with specified supporting documentation must be filed before installing or replacing a fire alarm, or repairing an existing alarm system, if the local enforcement authority requires a plan review before conducting these activities. The uniform fire alarm permit application must be accompanied by specified supporting documentation, must be signed by the owner or an authorized representative, and the contractor or the contractor's agent, and may be filed electronically or by facsimile.²⁶

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 489.521, F.S., relating to the inclusion of the registration or certification number for each registered or certified alarm system contractor on all offers of services, business proposal, or advertisement used by a contractor, regardless of medium.

Under the bill, if a contractor maintains an Internet website that displays the contractor's registration or certification number, and an advertisement placed by an alarm system contractor directs consumers to the information on the contractor's Internet website, the required registration or certification number does not need to be stated in:

- An advertisement appearing in a printed publication;
- An advertisement appearing on a flyer, a billboard, or an Internet website; or
- A broadcast advertisement placed by an alarm system contractor.

Section 2 of the bill amends the fire alarm permit application procedure in s. 553.7921, F.S., by eliminating a requirement that a contractor file a Uniform Fire Alarm Permit Application and receive the fire alarm permit before repairing an existing, previously permitted alarm system.

Under the bill, if the local enforcement agency requires a fire alarm permit for repair of an existing, previously permitted alarm system, a contractor may begin the repair work after filing the required Uniform Fire Alarm Permit Application, before receiving the fire alarm permit. The bill provides a fire alarm repaired by a contractor before receipt of the fire alarm permit may not be considered compliant until the required permit has been issued and the local enforcement agency has approved the repair.²⁷

International Residential Code, all of which are copyrighted and published by the International Code Council, and the National Electrical Code, which is copyrighted and published by the National Fire Protection Association.

²⁵ See s. 553.83, F.S.

²⁶ See s. 553.7921, F.S., which sets forth the Uniform Fire Alarm Permit Application.

²⁷ The DBPR notes this section of the bill is a local permit enforcement issue and does not impact Florida Building Code requirements or the Florida Building Commission. See Department of Business and Professional Regulation, *Agency Bill Analysis for SB 998* at 5 (Feb. 24, 2021) (on file with the Senate Committee on Regulated Industries).

Section 3 of the bill provides the bill is effective July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the DBPR, alarm system contractors working nationwide have found it onerous to list all of their state license numbers in their national print, radio, and TV advertising.²⁸

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

²⁸ See Department of Business and Professional Regulation, *Agency Bill Analysis for SB 998* at 5 (Feb. 24, 2021) (on file with the Senate Committee on Regulated Industries).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 489.521 and 553.7921.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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