

By Senator Yarborough

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A bill to be entitled

An act relating to underground utility and excavation contractors; amending s. 489.105, F.S.; revising the definition of the term "underground utility and excavation contractor"; amending s. 633.102, F.S.; authorizing an underground utility and excavation contractor to take certain actions relating to underground piping for fire protection systems; defining the term "underground utility and excavation contractor"; reenacting ss. 489.107(4)(b), 489.113(2), 489.117(1)(a), (2)(a) and (b), and (4)(a), (d), and (e), 489.118(1), 489.126(1), 489.131(10) and (11), and 489.1402(1)(d), relating to the construction licensing board, qualifications and restrictions for practice, registration and specialty contractors, certification of registered contractors, moneys received by contractors, applicability, and homeowners' construction recovery fund and definitions, respectively, to incorporate the amendment made to s. 489.105, F.S., in references thereto; reenacting ss. 633.224(1) and 633.318(2)(a), F.S., relating to automatic fire sprinkler systems and fire protection system contractor certificate application and examination, respectively, to incorporate the amendment made to s. 633.102, F.S., in references thereto; providing an effective date.

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

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Section 1. Paragraph (n) of subsection (3) of section 489.105, Florida Statutes, is amended to read:

489.105 Definitions.—As used in this part:

(3) "Contractor" means the person who is qualified for, and is only responsible for, the project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others; and whose job scope is substantially similar to the job scope described in one of the paragraphs of this subsection. For the purposes of regulation under this part, the term "demolish" applies only to demolition of steel tanks more than 50 feet in height; towers more than 50 feet in height; other structures more than 50 feet in height; and all buildings or residences. Contractors are subdivided into two divisions, Division I, consisting of those contractors defined in paragraphs (a)-(c), and Division II, consisting of those contractors defined in paragraphs (d)-(q):

(n) "Underground utility and excavation contractor" means a contractor whose services are limited to the construction, installation, and repair, on public or private property, whether accomplished through open excavations or through other means, including, but not limited to, directional drilling, auger boring, jacking and boring, trenchless technologies, wet and dry taps, grouting, and slip lining, of main sanitary sewer collection systems, main water distribution systems, storm sewer collection systems, and the continuation of utility lines from

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the main systems to a point of termination up to and including the meter location for the individual occupancy, sewer collection systems at property line on residential or single-occupancy commercial properties, or on multioccupancy properties at manhole or wye lateral extended to an invert elevation as engineered to accommodate future building sewers, water distribution systems, or storm sewer collection systems at storm sewer structures. However, an underground utility and excavation contractor may install empty underground conduits in rights-of-way, easements, platted rights-of-way in new site development, and sleeves for parking lot crossings no smaller than 2 inches in diameter if each conduit system installed is designed by a licensed professional engineer or an authorized employee of a municipality, county, or public utility and the installation of such conduit does not include installation of any conductor wiring or connection to an energized electrical system. An underground utility and excavation contractor may ~~not~~ install piping that is an integral part of a fire protection system as defined in s. 633.102 only up to a beginning at the point within 5 feet of the building for which such system will be installed, terminating at a valve, but may not install such piping inside the building where the piping is used exclusively for such system.

Section 2. Present subsections (33), (34), and (35) of section 633.102, Florida Statutes, are redesignated as subsections (34), (35), and (36), respectively, a new subsection (33) is added to that section, and subsection (3) of that section is amended, to read:

633.102 Definitions.—As used in this chapter, the term:

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88 (3) (a) "Contractor I" means a contractor whose business
89 includes the execution of contracts requiring the ability to lay
90 out, fabricate, install, inspect, alter, repair, and service all
91 types of fire protection systems, excluding preengineered
92 systems.

93 (b) "Contractor II" means a contractor whose business is
94 limited to the execution of contracts requiring the ability to
95 lay out, fabricate, install, inspect, alter, repair, and service
96 water sprinkler systems, water spray systems, foam-water
97 sprinkler systems, foam-water spray systems, standpipes,
98 combination standpipes and sprinkler risers, all piping that is
99 an integral part of the system beginning at the point of service
100 as defined in this section, sprinkler tank heaters, air lines,
101 thermal systems used in connection with sprinklers, and tanks
102 and pumps connected thereto, excluding preengineered systems.

103 (c) "Contractor III" means a contractor whose business is
104 limited to the execution of contracts requiring the ability to
105 fabricate, install, inspect, alter, repair, and service carbon
106 dioxide systems, foam extinguishing systems, dry chemical
107 systems, and Halon and other chemical systems, excluding
108 preengineered systems.

109 (d) "Contractor IV" means a contractor whose business is
110 limited to the execution of contracts requiring the ability to
111 lay out, fabricate, install, inspect, alter, repair, and service
112 automatic fire sprinkler systems for detached one-family
113 dwellings, detached two-family dwellings, and mobile homes,
114 excluding preengineered systems and excluding single-family
115 homes in cluster units, such as apartments, condominiums, and
116 assisted living facilities or any building that is connected to

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117 other dwellings. A Contractor IV is limited to the scope of
118 practice specified in NFPA 13D.

119 (e) "Contractor V" means a contractor whose business is
120 limited to the execution of contracts requiring the ability to
121 fabricate, install, alter, repair, and service the underground
122 piping for a fire protection system using water as the
123 extinguishing agent beginning at the point of service as defined
124 in this act and ending no more than 1 foot above the finished
125 floor. A Contractor V may inspect underground piping for a
126 water-based fire protection system under the direction of a
127 Contractor I or Contractor II.

128
129 This subsection may not be construed to include engineers or
130 architects within the defined terms and does not limit or
131 prohibit a licensed fire protection engineer or architect with
132 fire protection design experience from designing any type of
133 fire protection system. A distinction is made between system
134 design concepts prepared by the design professional and system
135 layout as defined in this section and typically prepared by the
136 contractor. However, a person certified under this chapter as a
137 Contractor I or Contractor II may design new fire protection
138 systems of 49 or fewer sprinklers; may design the alteration of
139 an existing fire sprinkler system if the alteration consists of
140 the relocation, addition, or deletion of 49 or fewer sprinklers,
141 notwithstanding the size of the existing fire sprinkler system;
142 and may design the alteration of an existing fire sprinkler
143 system if the alteration consists of the relocation or deletion
144 of 249 or fewer sprinklers and the addition of up to 49
145 sprinklers, as long as the cumulative total number of fire

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sprinklers being added, relocated, or deleted does not exceed 249, notwithstanding the size of the existing fire sprinkler system, if there is no change of occupancy of the affected areas, as defined in the Florida Building Code and the Florida Fire Prevention Code, and there is no change in the water demand as defined in NFPA 13, "Standard for the Installation of Sprinkler Systems," and if the occupancy hazard classification as defined in NFPA 13 is reduced or remains the same as a result of the alteration. Conflicts between the Florida Building Code and the Florida Fire Prevention Code shall be resolved pursuant to s. 553.73(1)(d). A person certified as a Contractor I, Contractor II, or Contractor IV may design a new fire protection system or design the alteration of an existing fire protection system, the scope of which complies with NFPA 13D, "Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes," as adopted by the State Fire Marshal, notwithstanding the number of fire sprinklers.

Contractor-developed plans may not be required by any local permitting authority to be sealed by a registered professional engineer. An underground utility and excavation contractor may fabricate, install, alter, repair, and service the underground piping for a fire protection system using water as the extinguishing agent up to a point within 5 feet of the building for which the fire protection system will be installed, terminating at a valve, but may not install such piping inside the building.

(33) "Underground utility and excavation contractor" means an individual who holds a current and valid license as described under s. 489.105(3)(n).

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Section 3. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 489.107, Florida Statutes, is reenacted to read:

489.107 Construction Industry Licensing Board.—

(4) The board shall be divided into two divisions, Division I and Division II.

(b) Division II is comprised of the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the board; one of the members appointed pursuant to paragraph (2)(j); and one of the members appointed pursuant to paragraph (2)(k). Division II has jurisdiction over the regulation of contractors defined in s. 489.105(3)(d)-(p).

Section 4. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in a reference thereto, subsection (2) of section 489.113, Florida Statutes, is reenacted to read:

489.113 Qualifications for practice; restrictions.—

(2) A person must be certified or registered in order to engage in the business of contracting in this state. However, for purposes of complying with the provisions of this chapter, a subcontractor who is not certified or registered may perform construction work under the supervision of a person who is certified or registered, provided that the work is within the scope of the supervising contractor's license, the supervising contractor is responsible for the work, and the subcontractor being supervised is not engaged in construction work that would

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require a license as a contractor under any of the categories listed in s. 489.105(3)(d)-(o). This subsection does not affect the application of any local construction licensing ordinances. To enforce this subsection:

(a) The department shall issue a cease and desist order to prohibit any person from engaging in the business of contracting who does not hold the required certification or registration for the work being performed under this part. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provision of such order.

(b) A county, municipality, or local licensing board created by special act may issue a cease and desist order to prohibit any person from engaging in the business of contracting who does not hold the required certification or registration for the work being performed under this part.

Section 5. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in references thereto, paragraph (a) of subsection (1), paragraphs (a) and (b) of subsection (2), and paragraphs (a), (d), and (e) of subsection (4) of section 489.117, Florida Statutes, are reenacted to read:

489.117 Registration; specialty contractors.—

(1)(a) A person engaged in the business of a contractor as defined in s. 489.105(3)(a)-(o) must be registered before engaging in business as a contractor in this state, unless he or she is certified. Except as provided in paragraph (2)(b), to be initially registered, the applicant must submit the required fee

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and file evidence of successful compliance with the local examination and licensing requirements, if any, in the area for which registration is desired. An examination is not required for registration.

(2)(a) Except as provided in paragraph (b), the board may not issue a new registration after July 1, 1993, based on any certificate of competency or license for a category of contractor defined in s. 489.105(3)(a)-(o) which is issued by a municipal or county government that does not exercise disciplinary control and oversight over such locally licensed contractors, including forwarding a recommended order in each action to the board as provided in s. 489.131(7). For purposes of this subsection and s. 489.131(10), the board shall determine the adequacy of such disciplinary control by reviewing the local government's ability to process and investigate complaints and to take disciplinary action against locally licensed contractors.

(b) The board shall issue a registration to an eligible applicant to engage in the business of a contractor in a specified local jurisdiction, provided each of the following conditions are satisfied:

1. The applicant held, in any local jurisdiction in this state during 2021, 2022, or 2023, a certificate of registration issued by the state or a local license issued by a local jurisdiction to perform work in a category of contractor defined in s. 489.105(3)(a)-(o).

2. The applicant submits all of the following to the board:

a. Evidence of the certificate of registration or local license held by the applicant as required by subparagraph 1.

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b. Evidence that the specified local jurisdiction does not have a license type available for the category of work for which the applicant was issued a certificate of registration or local license during 2021, 2022, or 2023, such as a notification on the website of the local jurisdiction or an e-mail or letter from the office of the local building official or local building department stating that such license type is not available in that local jurisdiction.

c. Evidence that the applicant has submitted the required fee.

d. Evidence of compliance with the insurance and financial responsibility requirements of s. 489.115(5).

An examination is not required for an applicant seeking a registration under this paragraph.

(4)(a)1. A person whose job scope does not substantially correspond to either the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o), or the job scope of one of the certified specialty contractor categories established by board rule, is not required to register with the board. A local government, as defined in s. 163.211, may not require a person to obtain a license, issued by the local government or the state, for a job scope which does not substantially correspond to the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o) and (q) or authorized in s. 489.1455(1), or the job scope of one of the certified specialty contractor categories established pursuant to s. 489.113(6). A local government may not require a state or local license to obtain a permit for such job scopes. For purposes of this

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section, job scopes for which a local government may not require a license include, but are not limited to, painting; flooring; cabinetry; interior remodeling when the scope of the project does not include a task for which a state license is required; driveway or tennis court installation; handyman services; decorative stone, tile, marble, granite, or terrazzo installation; plastering; pressure washing; stuccoing; caulking; and canvas awning and ornamental iron installation.

2. A county that includes an area designated as an area of critical state concern under s. 380.05 may offer a license for any job scope which requires a contractor license under this part if the county imposed such a licensing requirement before January 1, 2021.

3. A local government may continue to offer a license for veneer, including aluminum or vinyl gutters, siding, soffit, or fascia; rooftop painting, coating, and cleaning above three stories in height; or fence installation and erection if the local government imposed such a licensing requirement before January 1, 2021.

4. A local government may not require a license as a prerequisite to submit a bid for public works projects if the work to be performed does not require a license under general law.

(d) Any person who is not required to obtain registration or certification pursuant to s. 489.105(3)(d)-(o) may perform contracting services for the construction, remodeling, repair, or improvement of single-family residences, including a townhouse as defined in the Florida Building Code, without obtaining a local license if such person is under the

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320 supervision of a certified or registered general, building, or
321 residential contractor. As used in this paragraph, supervision
322 shall not be deemed to require the existence of a direct
323 contract between the certified or registered general, building,
324 or residential contractor and the person performing specialty
325 contracting services.

326 (e) Any person who is not certified or registered may
327 perform the work of a specialty contractor whose scope of
328 practice is limited to the type of work specified under s.
329 489.105(3)(j), (k), or (l) for the construction, remodeling,
330 repair, or improvement of commercial or residential swimming
331 pools, interactive water features as defined in the Florida
332 Building Code, hot tubs, and spas without obtaining a local
333 license or certification as a specialty contractor if he or she
334 is supervised by a contractor who is certified or registered
335 under s. 489.105(3)(j), (k), or (l); the work is within the
336 scope of the supervising contractor's license; the supervising
337 contractor is responsible for the work; and the work does not
338 require certification or registration under s. 489.105(3)(d)-
339 (i), (m)-(o), or s. 489.505. Such supervision does not require a
340 direct contract between the contractor certified or registered
341 under s. 489.105(3)(j), (k), or (l) and the person performing
342 the work, or for the person performing the work to be an
343 employee of the contractor certified or registered under s.
344 489.105(3)(j), (k), or (l). This paragraph does not limit the
345 exemptions provided in s. 489.103 and may not be construed to
346 expand the scope of a contractor certified or registered under
347 s. 489.105(3)(j), (k), or (l) to provide plumbing or electrical
348 services for which certification or registration is required by

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349 this part or part II.

350 Section 6. For the purpose of incorporating the amendment
351 made by this act to section 489.105, Florida Statutes, in a
352 reference thereto, subsection (1) of section 489.118, Florida
353 Statutes, is reenacted to read:

354 489.118 Certification of registered contractors;
355 grandfathering provisions.—The board shall, upon receipt of a
356 completed application and appropriate fee, issue a certificate
357 in the appropriate category to any contractor registered under
358 this part who makes application to the board and can show that
359 he or she meets each of the following requirements:

360 (1) Currently holds a valid registered local license in one
361 of the contractor categories defined in s. 489.105(3)(a)–(p).

362 Section 7. For the purpose of incorporating the amendment
363 made by this act to section 489.105, Florida Statutes, in a
364 reference thereto, subsection (1) of section 489.126, Florida
365 Statutes, is reenacted to read:

366 489.126 Moneys received by contractors.—

367 (1) For purposes of this section, the term “contractor”
368 includes all definitions as set forth in s. 489.105(3), and any
369 person performing or contracting or promising to perform work
370 described therein, without regard to the licensure of the
371 person.

372 Section 8. For the purpose of incorporating the amendment
373 made by this act to section 489.105, Florida Statutes, in a
374 reference thereto, subsections (10) and (11) of section 489.131,
375 Florida Statutes, are reenacted to read:

376 489.131 Applicability.—

377 (10) No municipal or county government may issue any

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378 certificate of competency or license for any contractor defined
379 in s. 489.105(3)(a)-(o) after July 1, 1993, unless such local
380 government exercises disciplinary control and oversight over
381 such locally licensed contractors, including forwarding a
382 recommended order in each action to the board as provided in
383 subsection (7). Each local board that licenses and disciplines
384 contractors must have at least two consumer representatives on
385 that board. If the board has seven or more members, at least
386 three of those members must be consumer representatives. The
387 consumer representative may be any resident of the local
388 jurisdiction who is not, and has never been, a member or
389 practitioner of a profession regulated by the board or a member
390 of any closely related profession.

391 (11) Any municipal or county government which enters or has
392 in place a reciprocal agreement which accepts a certificate of
393 competency or license issued by another municipal or county
394 government in lieu of its own certificate of competency or
395 license allowing contractors defined in s. 489.105(3)(a)-(o),
396 shall file a certified copy of such agreement with the board not
397 later than 60 days after July 1, 1993, or 30 days after the
398 effective date of such agreement.

399 Section 9. For the purpose of incorporating the amendment
400 made by this act to section 489.105, Florida Statutes, in a
401 reference thereto, paragraph (d) of subsection (1) of section
402 489.1402, Florida Statutes, is reenacted to read:

403 489.1402 Homeowners' Construction Recovery Fund;
404 definitions.—

405 (1) The following definitions apply to ss. 489.140-489.144:

406 (d) "Contractor" means a Division I or Division II

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contractor performing his or her respective services described
in s. 489.105(3).

Section 10. For the purpose of incorporating the amendment
made by this act to section 633.102, Florida Statutes, in a
reference thereto, subsection (1) of section 633.224, Florida
Statutes, is reenacted to read:

633.224 Automatic fire sprinkler systems for one-family
dwellings, two-family dwellings, and mobile homes.—

(1) It is unlawful for a person to engage in the business
or act in the capacity of a contractor of automatic fire
sprinkler systems for one-family dwellings, two-family
dwellings, and mobile homes without having been duly certified
and holding a current certificate as a Contractor I, Contractor
II, or Contractor IV as defined in s. 633.102.

Section 11. For the purpose of incorporating the amendment
made by this act to section 633.102, Florida Statutes, in a
reference thereto, paragraph (a) of subsection (2) of section
633.318, Florida Statutes, is reenacted to read:

633.318 Certificate application and issuance; permit
issuance; examination and investigation of applicant.—

(2)(a) Examinations shall be administered by the division
and held at times and places within the state as the division
determines, but there shall be at least two examinations a year.
Each applicant shall take and pass an objective, written
examination of her or his fitness for a certificate in the class
for which the application is requested. There shall be a type of
examination for each class of certificate for contractors as
defined in s. 633.102. The examination must test the applicant's
ability to lay out, fabricate, install, alter, repair, and

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inspect fire protection systems and their appurtenances and must
test the applicant's fitness in business and financial
management. The test must be based on applicable standards of
the National Fire Protection Association and on relevant Florida
and federal laws pertaining to the construction industry, safety
standards, administrative procedures, and pertinent technical
data.

Section 12. This act shall take effect July 1, 2026.