

1988

## Session Law 88-156

Florida Senate & House of Representatives

Follow this and additional works at: <https://ir.law.fsu.edu/staff-analysis>



Part of the Legislation Commons

---

### Recommended Citation

House of Representatives, Florida Senate &, "Session Law 88-156" (1988). *Staff Analysis*. 806.  
<https://ir.law.fsu.edu/staff-analysis/806>

This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analysis by an authorized administrator of Scholarship Repository. For more information, please contact [efarrell@law.fsu.edu](mailto:efarrell@law.fsu.edu).

By the Committee on Regulatory Reform and Representatives  
Lippman, Kelly, Sansom

1                   A bill to be entitled

2           An act relating to the construction industry;  
3           amending s. 489.101, F.S. ; providing purpose;  
4           amending s. 489.103, F.S. ; providing for  
5           exemptions; amending s. 489.105, F.S. ;  
6           providing definitions; amending s. 489.107,  
7           F.S. ; providing for the membership, quorums,  
8           and probable cause panels of the Construction  
9           Industry Licensing Board; amending s. 489.109,  
10          F.S. ; providing for renewals and fees; amending  
11          s. 489.111, F.S. ; providing for examinations;  
12          amending s. 489.113, F.S. ; providing an  
13          enforcement mechanism with respect to persons  
14          engaged in contracting who are not certified or  
15          registered; amending s. 489.115, F.S. ;  
16          providing for certification by endorsement;  
17          amending s. 489.117, F.S. ; providing for  
18          issuance and renewal of certificates and  
19          registrations; amending s. 489.119, F.S. ;  
20          providing procedures for the certification or  
21          registration of business organizations;  
22          creating s. 489.1195, F.S. ; providing  
23          responsibilities of primary and secondary  
24          qualifying agents; amending s. 489.121, F.S. ;  
25          relating to emergency registration; amending s.  
26          489.127, F.S. ; prohibiting certain acts and  
27          prescribing civil penalties; allowing counties  
28          and municipalities to issue noncriminal  
29          citations to unlicensed persons; prescribing  
30          procedures; amending s. 489.129, F.S. ;  
31          prohibiting certain acts and providing



1 penalties therefor; prescribing powers and  
2 procedures relating to disciplinary penalties;  
3 creating s. 489.1295, F.S.; allowing the board  
4 to delegate disciplinary authority to the  
5 department for minor violations; prescribing  
6 procedures; amending s. 489.131, F.S.; relating  
7 to government bids; prescribing powers and  
8 duties of municipalities and counties; limiting  
9 the construction of structural components;  
10 creating s. 489.133, F.S.; relating to  
11 pollutant storage systems specialty  
12 contractors; providing definitions; providing  
13 for rules; providing for certification by  
14 practical examination of certain persons;  
15 providing for temporary certificates; providing  
16 prohibitions; providing a penalty; amending s.  
17 376.303, F.S.; providing for powers and duties  
18 of the Department of Environmental Regulation  
19 with respect to pollutant storage tanks;  
20 amending s. 455.209, F.S.; providing civil  
21 immunity for certain past board members;  
22 requiring the department to establish a  
23 committee and to report to the Legislature on  
24 consumer complaints; providing for the funding  
25 of said committee; saving part 1 of chapter  
26 489, F.S., from Sunset repeal; providing for  
27 future review and repeal; amending and  
28 renumbering s. 489.5331, F.S.; transferring  
29 provisions related to damages in actions  
30 against contractors for certain injuries;  
31

1 saving said section from Sunset repeal;  
2 providing an effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Section 489.101, Florida Statutes, is  
7 amended to read:

8 489.101 Purpose.--The Legislature recognizes that the  
9 construction and home improvement industries ~~are significant~~  
10 ~~industries.~~--Such industries may pose a danger of significant  
11 harm to the public when incompetent or dishonest contractors  
12 provide unsafe, unstable, or short-lived products or services.  
13 Therefore, it is necessary in the interest of the public  
14 health, safety, and welfare to regulate the construction  
15 industry.

16 Section 2. The introductory paragraph and subsections  
17 (2), (6), (7), (8), (9), and (11) of section 489.103, Florida  
18 Statutes, are amended to read:

19 489.103 Exemptions.--This part act does not apply to:  
20 (2) Any employee of a certificateholder or registrant  
21 licensee who is a subordinate of such certificateholder or  
22 registrant licensee if the employee does not hold himself out  
23 for hire or engage in contracting except as an employee.

24 (6) The sale or installation of any finished products,  
25 materials, or articles of merchandise which are not fabricated  
26 into and do not become a permanent fixed part of the  
27 structure, except for spas or inground or-aboveground swimming  
28 pools with a capacity in excess of 200 500 gallons, and for  
29 aboveground swimming pools with a capacity in excess of 200  
30 gallons that involve excavation, plumbing, chemicals, or  
31 wiring of any appliance without a factory-installed electrical

1 cord and plug. This subsection shall not be construed to  
2 limit the exemptions provided in subsection (7).

3 (7) Owners of property when acting as their own  
4 contractor and providing all material supervision themselves,  
5 when building or improving farm outbuildings or one-family or  
6 two-family residences on such property for the occupancy or  
7 use of such owners and not offered for sale, or building or  
8 improving commercial buildings at a cost of under \$25,000 on  
9 such property for the occupancy or use of such owners and not  
10 offered for sale or lease. In an action brought under this  
11 part act, proof of the sale or lease, or offering for sale or  
12 lease, of more than one such structure by the owner-builder  
13 within 1 year after completion of same is prima facie  
14 presumptive evidence that the construction was undertaken for  
15 purposes of sale or lease. This subsection does not exempt  
16 any person who is employed by such owner and who acts in the  
17 capacity of a contractor. To qualify for exemption under this  
18 subsection, an owner must personally appear and sign the  
19 building permit application. The local permitting agency  
20 shall provide the person with a disclosure statement in  
21 substantially the following form:

22  
23 Disclosure Statement

24 State law requires construction to be done by licensed  
25 contractors. You have applied for a permit under an exemption  
26 to that law. The exemption allows you, as the owner of your  
27 property, to act as your own contractor even though you do not  
28 have a license. You must supervise the construction yourself.  
29 You may build or improve a one- or two-family residence or a  
30 farm outbuilding. You may also build or improve a commercial  
31 building at a cost of \$25,000 or less. The building must be

1 for your own use and occupancy. It may not be built for sale  
2 or lease. If you sell or lease more than one building you  
3 have built yourself within one year after the construction is  
4 complete, the law will presume that you built it for sale or  
5 lease, which is a violation of this exemption. You may not  
6 hire an unlicensed person as your contractor. Your  
7 construction must be done according to building codes and  
8 zoning regulations. It is your responsibility to make sure  
9 that people employed by you have licenses required by state  
10 law and by county or municipal licensing ordinances.

11  
12 (8) Any construction, alteration, improvement, or  
13 repair carried on within the limits of any site the title to  
14 which is in the United States or with respect to which federal  
law supersedes this part act.

15 (9) Any work or operation of a casual, minor, or  
16 inconsequential nature in which the aggregate contract price  
17 for labor, materials, and all other items is less than \$1,000,  
18 but this exemption does not apply:

19 (a) If the construction, repair, remodeling, or  
20 improvement is a part of a larger or major operation, whether  
21 undertaken by the same or a different contractor, or in which  
22 a division of the operation is made in contracts of amounts  
23 less than \$1,000 ~~\$500~~ for the purpose of evading this part act  
24 or otherwise.

25 (b) To a person who advertises that he is a contractor  
26 or otherwise represents that he is qualified to engage in  
27 contracting.

28 (11) A registered architect or, engineer, or  
29 residential-designer acting within the scope of his practice  
30 in his professional capacity or any person exempted by the law

1 regulating architects and engineers, including persons doing  
2 design work as specified in s. 481.229(1)(b); provided,  
3 however, that an architect or engineer shall not act as a  
4 contractor unless properly licensed under this chapter

5 Section 3. Section 489.105, Florida Statutes, is  
6 amended to read:

7 489.105 Definitions.--As used in this part act:

8 (1) "Board" means the Construction Industry Licensing  
9 Board.

10 (2) "Department" means the Department of Professional  
11 Regulation.

12 (3) "Contractor" means the person who is qualified for  
13 and responsible for the entire project contracted for and  
14 means, except as exempted in this part act, the person who,  
15 for compensation, undertakes to, submits a bid to, or does  
16 himself or by others construct, repair, alter, remodel, add  
17 to, subtract from, or improve any building or structure,  
18 including related improvements to real estate, for others or  
19 for resale to others. Contractors are subdivided into two  
20 divisions, Division I, consisting of those contractors defined  
21 in paragraphs (a)-(c), and Division II, consisting of those  
22 contractors defined in paragraphs (d)-(n) (d)-(m):

23 (a) "General contractor" means a contractor whose  
24 services are unlimited as to the type of work which he may do,  
25 except as provided in this part act.

26 (b) "Building contractor" means a contractor whose  
27 services are limited to construction of commercial buildings  
28 and single-dwelling or multiple-dwelling residential  
29 buildings, which commercial or residential buildings do not  
30 exceed three stories in height, and accessory use structures  
31 in connection therewith or a contractor whose services are

1 limited to remodeling, repair, or improvement of any size  
2 building if the services do not affect the structural members  
3 of the building.

4 (c) "Residential contractor" means a contractor whose  
5 services are limited to construction, remodeling, repair, or  
6 improvement of one-family, two-family, or three-family  
7 residences not exceeding two stories in height and accessory  
8 use structures in connection therewith.

9 (d) "Sheet metal contractor" means a contractor whose  
10 services are unlimited in the sheet metal trade and who has  
11 the experience, knowledge, and skill necessary for the  
12 manufacture, fabrication, assembling, handling, erection,  
13 installation, dismantling, conditioning, adjustment,  
14 insulation, alteration, repair, servicing, or design, when not  
15 prohibited by law, of ferrous or nonferrous metal work of U.  
16 S. No. 10 gauge or its equivalent or lighter gauge and of  
17 other materials, including, but not limited to, fiberglass,  
18 used in lieu thereof and of air-handling systems, including  
19 the setting of air-handling equipment and reinforcement of  
20 same and including the balancing of air-handling systems.

21 (e) "Roofing contractor" means a contractor whose  
22 services are unlimited in the roofing trade and who has the  
23 experience, knowledge, and skill to install, maintain, repair,  
24 alter, extend, or design, when not prohibited by law, and use  
25 materials and items used in the installation, maintenance,  
26 extension, and alteration of all kinds of roofing, and  
27 waterproofing, and coating, except when coating is not  
28 represented to protect, repair, waterproof, stop leaks, or  
29 extend the life of the roof.

30 (f) "Class A air conditioning contractor" means a  
31 contractor ~~any person~~ whose services are unlimited in the

1 execution of contracts requiring the experience, knowledge,  
2 and skill to install, maintain, repair, fabricate, alter,  
3 extend, or design, when not prohibited by law, central air  
4 conditioning, refrigeration, heating, and ventilating systems,  
5 including duct work in connection with a complete system only  
6 to the extent such duct work is performed by the contractor as  
7 is necessary to make complete an air-distribution system,  
8 boiler and unfired pressure vessel systems, and all  
9 appurtenances, apparatus, or equipment used in connection  
10 therewith, and to install, maintain, repair, fabricate, alter,  
11 extend, or design, when not prohibited by law, piping,  
12 insulation of pipes, vessels and ducts, pressure and process  
13 piping, and pneumatic control piping to disconnect or  
14 reconnect power wiring on the load side of the disconnect  
15 switch and low voltage heating, ventilating, and air  
16 conditioning control wiring, and to install installation of a  
17 condensate drain from an air conditioning unit to an existing  
18 safe waste or other approved disposal other than a direct  
19 connection to a sanitary system. The scope of work for such  
20 contractor shall also include any excavation work incidental  
21 thereto, but shall not include any work such as liquefied  
22 petroleum or natural gas fuel lines within buildings, potable  
23 waterlines or connections thereto, sanitary sewer lines,  
24 swimming pool piping and filters, or electrical power wiring  
25 on the line side of the disconnect switch.

26 (g) "Class B air conditioning contractor" means a  
27 contractor any person whose services are limited to 25 tons of  
28 cooling and 500,000 Btu of heating in any one system in the  
29 execution of contracts requiring the experience, knowledge,  
30 and skill to install, maintain, repair, fabricate, alter,  
31 extend, or design, when not prohibited by law, central air

1 conditioning, refrigeration, heating, and ventilating systems,  
2 including duct work in connection with a complete system only  
3 to the extent such duct work is performed by the contractor as  
4 is necessary to make complete an air-distribution system being  
5 installed under this classification; and to install,  
6 maintain, repair, fabricate, alter, extend, or design, when  
7 not prohibited by law, piping and insulation of pipes,  
8 vessels, and ducts; to disconnect or reconnect power wiring on  
9 the load side of the disconnect switch and low voltage  
10 heating, ventilating, and air conditioning control wiring; and  
11 to install, and installation of a condensate drain from an air  
12 conditioning unit to an existing safe waste or other approved  
13 disposal other than a direct connection to a sanitary system.  
14 The scope of work for such contractor shall also include any  
15 excavation work incidental thereto, but shall not include any  
16 work such as liquefied petroleum or natural gas fuel lines  
17 within buildings, potable waterlines or connections thereto,  
18 sanitary sewer lines, swimming pool piping and filters, or  
19 electrical power wiring on the line side of the disconnect  
20 switch.

21 (h) "Class C air conditioning contractor" means a  
22 contractor any person whose business is limited to the  
23 servicing of air conditioning, heating, or refrigeration  
24 systems, including duct alterations in connection with those  
25 systems he is servicing, and whose certification or  
26 registration, issued pursuant to this part, was valid on  
27 October 1, 1988. No person not previously registered or  
28 certified as a Class C air conditioning contractor shall be so  
29 registered or certified after October 1, 1988.

30 (i) "Mechanical contractor" means a contractor any  
31 person whose services are unlimited in the execution of



1 contracts requiring the experience, knowledge, and skill to  
2 install, maintain, repair, fabricate, alter, extend, or  
3 design, when not prohibited by law, central air conditioning,  
4 refrigeration, heating, and ventilating systems, including  
5 duct work in connection with a complete system only to the  
6 extent such duct work is performed by the contractor as is  
7 necessary to make complete an air-distribution system, boiler  
8 and unfired pressure vessel systems, lift station equipment  
9 and piping, and all appurtenances, apparatus, or equipment  
10 used in connection therewith; and to install, maintain,  
11 repair, fabricate, alter, extend, or design, when not  
12 prohibited by law, piping, insulation of pipes, vessels and  
13 ducts, pressure and process piping, pneumatic control piping,  
14 gasoline tanks and pump installations and piping for same,  
15 standpipes, air piping, vacuum line piping, oxygen lines,  
16 nitrous oxide piping, ink and chemical lines, fuel  
17 transmission lines, and natural gas fuel lines within  
18 buildings; to disconnect or reconnect power wiring on the load  
19 side of the disconnect switch and low voltage heating,  
20 ventilating, and air conditioning control wiring; and to  
21 install ~~installation~~ of a condensate drain from an air  
22 conditioning unit to an existing safe waste or other approved  
23 disposal other than a direct connection to a sanitary system.  
24 The scope of work for such contractor shall also include any  
25 excavation work incidental thereto, but shall not include any  
26 work such as liquefied petroleum or ~~natural~~ gas fuel lines  
27 within buildings, potable waterlines or connections thereto,  
28 sanitary sewer lines, swimming pool piping and filters, or  
29 electrical power wiring.

30 (j) "Commercial pool/spa contractor" means a  
31 contractor any person whose scope of work involves, but is not

1 limited to, the construction, repair, water treatment, and  
2 servicing of any swimming pool, or hot tub or spa, whether  
3 public, private, or otherwise, regardless of use. The scope  
4 of such work includes layout, excavation, operation of  
5 construction pumps for dewatering purposes, steelwork,  
6 installation of light niches, pouring of floors, guniting,  
7 fibreglassing, installation of tile and coping, installation  
8 of all perimeter and filter piping, installation of all filter  
9 equipment and chemical feeders of any type, plastering of the  
10 interior, pouring of decks, construction of equipment rooms or  
11 housing for pool equipment, and installation of package pool  
12 heaters. However, the scope of such work does not include  
13 direct connections to a sanitary sewer system or to potable  
14 waterlines.

15 (k) "Residential pool/spa contractor" means a  
16 contractor any-person whose scope of work involves, but is not  
17 limited to, the construction, repair, water treatment, and  
18 servicing of any residential swimming pool, or hot tub or spa,  
19 regardless of use. The scope of such work includes layout,  
20 excavation, operation of construction pumps for dewatering  
21 purposes, steelwork, installation of light niches, pouring of  
22 floors, guniting, fibreglassing, installation of tile and  
23 coping, installation of all perimeter and filter piping,  
24 installation of all filter equipment and chemical feeders of  
25 any type, plastering of the interior, pouring of decks,  
26 installation of housing for pool equipment, and installation  
27 of package pool heaters. However, the scope of such work does  
28 not include direct connections to a sanitary sewer system or  
29 to potable waterlines.

30 (l) "Swimming pool/spa servicing contractor" means a  
31 contractor any-person whose scope of work involves the

1 servicing, repair, water treatment, including, but not limited  
2 to, the direct infusion of chlorine gas, and maintenance of  
3 any swimming pool, or hot tub or spa, whether public or  
4 private. The scope of such work may include any necessary  
5 piping and repairs, replacement and repair of existing  
6 equipment, or installation of new additional equipment as  
7 necessary. The scope of such work includes the reinstallation  
8 of tile and coping, repair and replacement of all piping,  
9 filter equipment, and chemical feeders of any type,  
10 replastering, repouring of decks, and reinstallation or  
11 addition of pool heaters.

12 (m) "Plumbing contractor" means is a contractor whose  
13 contracting business consists of the execution of contracts  
14 requiring the experience, financial means, knowledge, and  
15 skill to install, maintain, repair, alter, extend, or, when  
16 not prohibited by law, design plumbing. A plumbing contractor  
17 may install, maintain, repair, alter, extend, or, when not  
18 prohibited by law, design the following without obtaining any  
19 additional local regulatory license, certificate, or  
20 registration: sanitary drainage or storm drainage facilities;  
21 venting systems; public or private water supply systems;  
22 septic tanks; drainage and supply wells; swimming pool piping;  
23 irrigation systems; or solar heating water systems and all  
24 appurtenances, apparatus, or equipment used in connection  
25 therewith, including boilers and pressure process piping and  
26 including the installation of water, natural gas (excluding  
27 liquid petroleum gases), and storm and sanitary sewer lines;  
28 and water and sewer plants and substations. The scope of work  
29 of the plumbing contractor also includes the design, when not  
30 prohibited by law, and installation, maintenance, repair,  
31 alteration, or extension of air-piping, vacuum line piping,

1 oxygen line piping, nitrous oxide piping, and all related  
2 medical gas systems; fire line standpipes and fire sprinklers  
3 to the extent authorized by law; ink and chemical lines; fuel  
4 oil and gasoline piping and tank and pump installation, except  
5 bulk storage plants; and pneumatic control piping systems, all  
6 in such a manner as to comply with all plans, specifications,  
7 codes, laws, and regulations applicable. The scope of work of  
8 the plumbing contractor shall apply to private property and  
9 public property, shall include any excavation work incidental  
10 thereto, and shall include the work of the specialty plumbing  
11 contractor. Such contractor shall subcontract, with a  
12 qualified contractor in the field concerned, all other work  
13 incidental to the work but which is specified herein as being  
14 the work of a trade other than that of a plumbing contractor.  
15 Nothing in this definition shall be construed to limit the  
16 scope of work of any specialty contractor certified pursuant  
17 to s. 489.113(6). Nothing in this definition shall be  
18 construed to require certification or registration under this  
19 part of any authorized employee of a public natural gas  
20 utility or of a private natural gas utility regulated by the  
21 Public Service Commission, when disconnecting and reconnecting  
22 water lines in the servicing or replacement of an existing  
23 water heater.

24 (n) "Underground utility contractor" means a  
25 contractor whose services are limited to the construction,  
26 installation, and repair, on public or private property, of  
27 main sanitary sewer collection systems, main water  
28 distribution systems, and storm sewer collection systems, and  
29 the continuation of utility lines from the main systems to a  
30 point of termination up to and including the meter location  
31 for the individual occupancy, sewer collection systems at

1 property line on residential or single-occupancy commercial  
2 properties, or on multioccupancy properties at manhole or wye  
3 lateral extended to an invert elevation as engineered to  
4 accommodate future building sewers, water distribution  
5 systems, or storm sewer collection systems at storm sewer  
6 structures. An underground utility contractor shall not  
7 install any piping that is an integral part of a fire  
8 protection system, as defined in s. 633.021(7) beginning at  
9 the point where the piping is used exclusively for such  
10 system.

11 (4) "Primary qualifying agent" means a person who  
12 possesses the requisite skill, knowledge, and experience, and  
13 has the responsibility, to supervise, direct, manage, and  
14 control the contracting activities of the business  
15 organization entity with which he is connected; who has the  
16 responsibility to supervise, direct, manage, and control  
17 construction activities on a job for which he has obtained the  
18 building permit; and whose technical and personal  
19 qualifications have been determined by investigation and  
20 examination as provided in this part act, as attested by the  
21 department.

22 (5) "Secondary qualifying agent" means a person who  
23 possesses the requisite skill, knowledge, and experience, and  
24 has the responsibility to supervise, direct, manage, and  
25 control construction activities on a job for which he has  
26 obtained a permit, and whose technical and personal  
27 qualifications have been determined by investigation and  
28 examination as provided in this part, as attested by the  
29 department.

30 (6)~~(5)~~ "Contracting" means, except as exempted in this  
31 part act, engaging in business as a contractor.

1           (7)(6) "Certificate" means a certificate of competency  
2 issued by the department as provided in this part act.

3           (8)(7) "Certified contractor" means any contractor who  
4 possesses a certificate of competency issued by the department  
5 and who shall be allowed to may contract in any jurisdiction  
6 in the state without being required to fulfill the competency  
7 requirements of that jurisdiction.

8           (9)(8) "Registration" means registration with the  
9 department as provided in this part act.

10           (10)(9) "Registered contractor" means any contractor  
11 who has registered with the department pursuant to fulfilling  
12 the competency requirements in the jurisdiction for which the  
13 registration is issued. Registered contractors may contract  
14 only in such jurisdictions these-areas.

15           (11)(10) "Certification" means the act of obtaining or  
16 holding a certificate of competency from the department as  
17 provided in this part act.

18           (12)(11) "Specialty contractor" means a contractor  
19 whose scope of work and responsibility is limited to a  
20 particular phase of construction or whose scope of work is  
21 limited to a subset of the activities described in the  
22 categories established in paragraphs (a)-(n) of subsection  
23 (3). Categories of specialty contractor shall be established  
24 by the board by rule and shall include, but not be limited to,  
25 asbestos abatement, solar, and specialty structure. any  
26 contractor-who-does-not-fall-within-the-categories-established  
27 in-paragraphs-(a)-(m)-of-subsection-(3)-:

28           (12)--"Licensee" means a holder of a certificate issued  
29 pursuant to this act or a person registered pursuant to this  
30 act.

1           (13) "Local construction regulation board" means a  
2 board, composed of not fewer than three residents of a county  
3 or municipality, which the governing body of that county or  
4 municipality may create and appoint to maintain the proper  
5 standard of construction of that county or municipality.

6           (14)--~~"Pollutant-storage-systems-specialty-contractor"~~  
7 ~~means-a-contractor-who-installs-a-pollutant-storage-tank-~~

8           (15)--~~"Pollutant-storage-tank" means-a-tank,-together~~  
9 ~~with-associated-piping-or-dispensing-facilities,-which-is-or~~  
10 ~~could-be-used-for-the-storage-or-supply-of-pollutants-as~~  
11 ~~defined-in-s.-376.301-and-which-is-required-to-be-registered~~  
12 ~~under-chapter-17-61-of-the-Florida-Administrative-Code-or-for~~  
13 ~~which-notification-must-be-submitted-under-Subtitle-I-of-the~~  
14 ~~Resource-Conservation-and-Recovery-Act-~~

15           (16)--~~"Tank" means-any-container-other-than-one-which~~  
16 ~~is-aboveground-and-either-elevated-or-situated-upon-an~~  
17 ~~impermeable-surface,-or-which-is-located-in-an-accessible~~  
18 ~~underground-area-and-either-elevated-or-situated-upon-an~~  
19 ~~impermeable-surface-therein,-in-such-manner-that-any-leak-in~~  
20 ~~such-container-may-be-readily-detected-~~

21           (17)--~~"Registered-precision-tank-tester" means-any~~  
22 ~~precision-tank-tester-who-has-registered-with-the-department~~  
23 ~~pursuant-to-s.-489.113(12).--This-registration-shall-be-exempt~~  
24 ~~from-the-provisions-of-prior-municipality,-county,-or~~  
25 ~~development-district-registration,-as-required-under-s.-~~  
26 ~~489.117,-and-shall-be-registered-on-a-statewide-basis-~~

27           Section 4. Section 489.107, Florida Statutes, is  
28 amended to read:

29           489.107 Construction Industry Licensing Board.--

30           (1) To carry out the provisions of this part act,  
31 there is created within the Department of Professional

Regulation the Construction Industry Licensing Board. Members  
2 and-alternate-members shall be appointed by the Governor,  
3 subject to confirmation by the Senate. Effective October 1,  
4 1988 Initially, the Governor shall appoint four members, each  
5 for a term of 1 year; five members, each for a term of 2  
6 years; four members, each for a term of 3 years; and five  
7 members, each for a term of 4 years ~~seven-members-and-three~~  
8 ~~alternate-members,-each-for-a-term-of-4-years,-and-seven~~  
9 ~~members-and-two-alternate-members,-each-for-a-term-of-3-years.~~  
10 Thereafter, successors shall be appointed for 4-year terms. A  
11 vacancy on the board shall be filled for the unexpired portion  
12 of the term in the same manner as the original appointment.  
13 No member shall serve more than two consecutive 4-year terms  
14 or more than 11 years on the board.

(2) The board shall consist of:

~~(a)1--Seventeen-regular~~ eighteen members, of whom:

17 ~~(a)1-~~ Four ~~Three~~ are primarily engaged in business as  
18 general contractors;

19 ~~(b)2-~~ Three are primarily engaged in business as  
20 building contractors or residential contractors, however, at  
21 least one building contractor and one residential contractor  
22 shall be appointed;

23 ~~(c)3-~~ One is primarily engaged in business as a  
24 roofing contractor;

25 ~~(d)4-~~ One is primarily engaged in business as a sheet  
26 metal contractor;

27 ~~(e)5-~~ One is primarily engaged in business as an air  
28 conditioning contractor;

29 ~~(f)6-~~ One is primarily engaged in business as a  
30 mechanical contractor;

31



1           (g)7- One is primarily engaged in business as a pool  
2 contractor;  
3           (h)8- One is primarily engaged in business as a  
4 plumbing contractor;  
5           (i)9- One is primarily engaged in business as an  
6 underground utility contractor;  
7           (j)10- Two are lay persons who are not, and have never  
8 been, members or practitioners of a profession regulated by  
9 the board or members of any closely related profession) and  
10           (k)11- Two are building officials of a municipality or  
11 county, ~~and~~  
12           ~~(b)1--Six-alternate-members,-of-whom:~~  
13           ~~1--One-is-primarily-engaged-in-business-as-a-roofing~~  
14 ~~contractor;~~  
15           ~~2--One-is-primarily-engaged-in-business-as-a-sheet~~  
16 ~~metal-contractor;~~  
17           ~~3--One-is-primarily-engaged-in-business-as-an-air~~  
18 ~~conditioning-contractor;~~  
19           ~~4--One-is-primarily-engaged-in-business-as-a~~  
20 ~~mechanical-contractor;~~  
21           ~~5--One-is-primarily-engaged-in-business-as-a-pool~~  
22 ~~contractor,-and~~  
23           ~~6--One-is-primarily-engaged-in-business-as-a-plumbing~~  
24 ~~contractor-~~  
25           (3) To be eligible for appointment, each contractor  
26 member ~~and-alternate-member~~ must have been certified by the  
27 board to operate as a contractor in the category with respect  
28 to which he is appointed, be actively engaged in the  
29 construction business, and have been so engaged for a period  
30 of not less than 5 consecutive years before the date of his  
31

1 appointment. Each appointee must be a citizen and resident of  
2 the state.

3 ~~(4)--An-alternate-member-may-attend-any-meeting-of-the~~  
4 ~~board,-and,-if-the-member-and-the-corresponding-alternate~~  
5 ~~member-are-both-present-and-voting,-each-shall-have-only-one-~~  
6 ~~half-vote;however,-if-either-the-member-or-the-corresponding~~  
7 ~~alternate-member-is-absent,-the-member-or-alternate-member~~  
8 ~~present-shall-have-one-vote:~~

9 (4)(5) The board shall be divided into two divisions,  
10 Division I and Division II.

11 (a) Division I is comprised of the general contractor,  
12 building contractor, and residential contractor members of the  
13 board; one of the members appointed pursuant to paragraph  
14 (2)(j) ~~subparagraph-(2)(a)10;~~; and one of the members  
15 appointed pursuant to paragraph (2)(k) ~~subparagraph-(2)(a)11;~~  
16 and has jurisdiction over the examination and regulation of  
17 general contractors, building contractors, and residential  
18 contractors.

19 (b) Division II is comprised of the ~~regular-and~~  
20 ~~alternat~~e roofing contractor, sheet metal contractor, air  
21 conditioning contractor, mechanical contractor, pool  
22 contractor, plumbing contractor, and underground utility  
23 contractor members of the board; one of the members appointed  
24 pursuant to paragraph (2)(j) ~~subparagraph-(2)(a)10;~~; and one  
25 of the members appointed pursuant to paragraph (2)(k)  
26 ~~subparagraph-(2)(a)11;~~ and has jurisdiction over the  
27 examination and regulation of roofing contractors, sheet metal  
28 contractors, air conditioning contractors, mechanical  
29 contractors, pool contractors, plumbing contractors, and  
30 underground utility contractors.

1           ~~(5)+6~~ Five members of Division I constitute a quorum,  
2 and five members votes of Division II constitute a quorum.  
3 The combined divisions shall meet together, at such times as  
4 the board deems necessary; but neither division, nor any  
5 committee thereof, shall take action on any matter under the  
6 jurisdiction of the other division. However, if either  
7 division is unable to obtain a quorum for the purpose of  
8 conducting disciplinary proceedings, it may request members of  
9 the other division, who are otherwise qualified to serve on  
10 the division unable to obtain a quorum, to join in its  
11 deliberations. Such additional members shall vote and count  
12 toward a quorum only during those disciplinary proceedings.

13           (6)(a) The board shall establish at least one, but not  
14 more than two, probable cause panels for each division to meet  
15 the responsibilities set out in s. 455.225(3). Each probable  
16 cause panel shall be composed of two members. One probable  
17 cause panel member of each panel may, if provided for in  
18 administrative rule, be a past board member who is not  
19 currently appointed to the board.

20           (b) During the time members are appointed to a  
21 probable cause panel, they shall attempt to complete their  
22 work on every case presented to them. In the event that  
23 consideration of a case is begun but not completed during the  
24 term of those members on the panel, they may reconvene as a  
25 probable cause panel, in addition to the panels established  
26 under paragraph (6)(a), for the purpose of completing their  
27 deliberations on that case.

28           Section 5. Section 489.109, Florida Statutes, is  
29 amended to read:

30           489.109 Fees.--

31

1 (1) The board, by rule, shall establish reasonable  
2 fees to be paid for applications, examination, certification  
3 and renewal, registration and renewal, and recordmaking and  
4 recordkeeping. ~~Effective-October-1, 1979,~~ The fees shall be  
5 established as follows:

6 (a) With respect to an applicant for a certificate,  
7 the initial application and examination fee shall not exceed  
8 \$250, and the biennial renewal fee shall not exceed \$100; and

9 (b) With respect to an applicant for registration, the  
10 initial application fee shall not exceed \$50, and the biennial  
11 renewal fee shall not exceed \$50.

12  
13 Renewal fees for certificates and registrations shall be paid  
14 by June 30 of each biennial period. The fees required by the  
15 board on June 30, 1979, shall remain in effect through  
16 September 30, 1979. The board, by rule, may also establish  
17 penalty fees for late renewal not to exceed \$40 ~~\$20~~ for  
18 certification and \$20 for ~~\$10~~ registration for renewal  
19 applications made within 90 days after the end of the biennial  
20 period. The board shall establish fees which are adequate to  
21 ensure the continued operation of the board. Fees shall be  
22 based on department estimates of the revenue required to  
23 implement this part act and the provisions of law with respect  
24 to the regulation of the construction industry.

25 (2) Failure to renew an active or voluntary inactive  
26 certificate or registration at the time of biennial renewal  
27 will result in the certificate or registration becoming  
28 involuntarily inactive. Failure to reactivate an  
29 involuntarily inactive certificate or registration after two  
30 consecutive renewal periods have lapsed will result in the  
31 certificate or registration becoming null and void without

1 further action of the board. The department shall notify  
2 certificateholders and registrants who have failed to  
3 reactivate their certificates or registrations for a renewal  
4 period that such certificates or registrations shall become  
5 null and void if not renewed by the end of the second period.

6 (3) A certificate or registration which is  
7 involuntarily inactive may be reactivated by application to  
8 the department, including payment of an application fee for  
9 reactivation not to exceed \$100 as established by board rule,  
10 complying with any background investigation that may be  
11 required by the board, and upon payment of the current renewal  
12 fee for each biennium in which the certificate or registration  
13 was involuntarily inactive and the penalty fee.

14 (4) The department shall notify those  
15 certificateholders and registrants currently in an inactive  
16 status of the provisions of this section at the time of the  
17 next biennial renewal period.

18 (5) A certificateholder or registrant whose license  
19 has become null and void may reapply to the board for  
20 certification or registration. The board may waive education  
21 and experience requirements as promulgated by board rule upon  
22 reapplication; however, the board may require any additional  
23 current requirements for certification or registration,  
24 including reexamination. A certificate or registration which  
25 is inoperative because of failure to renew shall be restored  
26 on payment of the proper renewal fees if the application for  
27 restoration is made within 90 days after June 30 of the  
28 renewal year. If the application for restoration is not made  
29 within the 90-day period, the fee for restoration shall be  
30 equal to the original application fee plus the renewal fee for  
31 each additional period the license has been delinquent, and in

1 ~~addition, the board may require reexamination of the~~  
2 ~~applicant:~~

3       (6)(3) A person who is registered or holds a valid  
4 certificate from the board may go on voluntary inactive status  
5 during which time he shall not engage in contracting ~~but may~~  
6 ~~retain his certificate or registration on an inactive basis on~~  
7 payment of a biennial renewal fee during the inactive period,  
8 not to exceed \$20 per biennial period. To go off voluntary  
9 inactive status, such person shall be required only to pay the  
10 regular biennial renewal fee for certification or  
11 registration.

12       (7)(4) In addition to the fees provided in subsection  
13 (1) for application and renewal for certification and  
14 registration, all certificateholders and registrants licensees  
15 shall pay a fee not to exceed of \$4, as established by the  
16 board by rule, to the department at the time of application or  
17 biennial renewal. The funds shall be transferred at the end  
18 of each biennial licensing period to the Department of  
19 Education to fund projects relating to the building  
20 construction industry or continuing education programs offered  
21 to persons engaged in the building construction industry in  
22 Florida. The board shall, at the time the funds are  
23 transferred, advise the Department of Education on the most  
24 needed areas of research or continuing education based on  
25 significant changes in the industry's practices or on the most  
26 common types of consumer complaints. The Department of  
27 Education shall allocate for distribution in the following  
28 manner:

29       (a) fifty percent of the funds to shall be allocated  
30 to fund research projects relating to the building  
31

1 ~~construction-industry-in~~ a graduate program in building  
2 construction in a Florida university and  
3 (b) fifty percent of the funds to shall be apportioned  
4 among all accredited private and state universities and  
5 community colleges within the state offering approved courses  
6 in building construction, with each university or college  
7 receiving a pro rata share of such funds based upon the number  
8 of full-time building construction students enrolled at the  
9 institution. Only those matters contained in the notice of  
10 meeting provided by the Department of Education shall be  
11 considered at any meeting at which persons who are not  
12 employees of the Department of Education recommend or award  
13 funding for specific proposals. The Department of Education  
14 shall ensure the distribution of research reports and the  
15 availability of continuing education programs to all segments  
16 of the building construction industry to which they relate. A  
17 report shall be made by the Department of Education to the  
18 board in October of each year, summarizing the allocation of  
19 the funds by institution and summarizing the new projects  
20 funded and the status of previously funded projects. Each  
21 ~~institution-receiving-funds-under-this-subsection-shall~~  
22 ~~utilize-such-funds-for-research-projects-relating-to-the~~  
23 ~~building-construction-industry-or-for-continuing-education~~  
24 ~~programs-to-be-offered-to-those-engaged-in-the-building~~  
25 ~~construction-industry-in-Florida-~~

26 Section 6. Paragraph (c) of subsection (2) and  
27 paragraph (b) of subsection (3) of section 489.111, Florida  
28 Statutes, are amended to read:

29 489.111 Examinations.--  
30  
31

1 (2) A person shall be entitled to take the examination  
2 for the purpose of determining whether he is qualified to  
3 engage in contracting throughout this state if the person:

4 (c) Meets eligibility requirements according to one of  
5 the following criteria:

6 1. Has received a baccalaureate degree from an  
7 accredited 4-year college in the appropriate field of  
8 engineering, architecture, or building construction and has 1  
9 year of proven experience in the category in which the person  
10 seeks to qualify. For the purpose of this part act, a minimum  
11 of 2,000 man-hours shall be used in determining full-time  
12 equivalency.

13 2. Has a total of at least 4 3 years of active  
14 experience as a workman who has learned his trade by serving  
15 an apprenticeship, or as a skilled workman who is able to  
16 command the rate of a mechanic in his particular trade, or as  
17 a and-has-at-least-1-year-of-active-experience-at-the-level-of  
18 foreman who is in charge of a group of workmen and usually is  
19 responsible to a superintendent or a contractor or his  
20 equivalent, provided, however, that at least 1 year of active  
21 experience shall be as a foreman.

22 3. Has a combination of not less than 1 year of  
23 experience as a foreman and not less than 3 years of credits  
24 for any accredited college-level courses; has a combination of  
25 not less than 1 year of experience as a skilled workman, 1  
26 year of experience as a foreman, and not less than 2 years of  
27 credits for any accredited college level courses; or has a  
28 combination of not less than 2 years of experience as a  
29 skilled workman, 1 year of experience as a foreman, and not  
30 less than 1 year of credits for any accredited college-level  
31 courses. For the number of years of credits for any



- 1 accredited college-level courses, the applicant shall show  
2 completion of an equal number of courses in the appropriate  
3 field of engineering, architecture, or building construction.  
4 All junior college or community college-level courses shall be  
5 considered accredited college-level courses.
- 6       4.a. An active certified residential contractor is  
7 eligible to take the building contractors' examination if he  
8 possesses a minimum of 3 years of proven experience in the  
9 classification in which he is certified.
- 10       b. An active certified residential contractor is  
11 eligible to take the general contractors' examination if he  
12 possesses a minimum of 4 years of proven experience in the  
13 classification in which he is certified.
- 14       c. An active certified building contractor is eligible  
15 to take the general contractors' examination if he possesses a  
16 minimum of 4 years of proven experience in the classification  
17 in which he is certified.
- 18       5.a. An active certified air conditioning Class C  
19 contractor is eligible to take the air conditioning Class B  
20 contractors' examination if he possesses a minimum of 3 years  
21 of proven experience in the classification in which he is  
22 certified.
- 23       b. An active certified air conditioning Class C  
24 contractor is eligible to take the air conditioning Class A  
25 contractors' examination if he possesses a minimum of 4 years  
26 of proven experience in the classification in which he is  
27 certified.
- 28       c. An active certified air conditioning Class B  
29 contractor is eligible to take the air conditioning Class A  
30 contractors' examination if he possesses a minimum of 1 year  
31

1 of proven experience in the classification in which he is  
2 certified.

3         6.a. An active certified swimming pool servicing  
4 contractor is eligible to take the residential swimming pool  
5 contractors' examination if he possesses a minimum of 3 years  
6 of proven experience in the classification in which he is  
7 certified.

8         b. An active certified swimming pool servicing  
9 contractor is eligible to take the swimming pool commercial  
10 contractors' examination if he possesses a minimum of 4 years  
11 of proven experience in the classification in which he is  
12 certified.

13         c. An active certified residential swimming pool  
14 contractor is eligible to take the commercial swimming pool  
15 contractors' examination if he possesses a minimum of 1 year  
16 of proven experience in the classification in which he is  
17 certified.

18         (3)

19         (b) When an applicant is found to be unqualified for a  
20 certificate license because of a lack of good moral character,  
21 the board shall furnish the applicant a statement containing  
22 the findings of the board, a complete record of the evidence  
23 upon which the determination was based, and a notice of the  
24 rights of the applicant to a rehearing and appeal.

25         Section 7. Section 489.113, Florida Statutes, is  
26 amended to read:

27         489.113 Qualifications for practice; restrictions.--

28         (1) Any person who desires to engage in contracting on  
29 a statewide basis shall, as a prerequisite thereto, establish  
30 his competency and qualifications to be certified pursuant to  
31 this part act. To establish his competency, a person shall

1 pass the appropriate examination administered by the  
2 department. Any person who desires to engage in contracting  
3 on other than a statewide basis shall, as a prerequisite  
4 thereto, be registered pursuant to this part act, unless  
5 exempted by this part act. ~~Registration shall be required of~~  
6 ~~specialty contractors when licensing is required by a county~~  
7 ~~or municipality in which the specialty contractor practices.~~

8 (2) No person who is not certified or registered a  
9 licensee shall engage in the business of contracting in this  
10 state. To enforce this subsection:

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

19 (b) A county or municipality may issue a cease and  
20 desist order to prohibit any person from engaging in the  
21 business of contracting who does not hold the required  
22 certification or registration for the work being performed  
23 under this part.

24 (3) A contractor shall subcontract the electrical,  
25 mechanical, plumbing, roofing, sheet metal, commercial  
26 swimming pool, and air conditioning work for which a local  
27 examination for a certificate of competency or a license is  
28 required, unless such contractor holds a state certificate of  
29 competency or license of the respective trade category, as  
30 required by the appropriate local authority. However, a  
31 general, building, or residential contractor shall not be

1 required to subcontract the installation of wood shingles,  
2 wood shakes, or asphalt or fiberglass shingle roofing  
3 materials on a new building of his own construction, and a  
4 general contractor shall not be required to subcontract  
5 structural swimming pool work. Further, a general contractor,  
6 on new site development work, site redevelopment work, mobile  
7 home parks, and commercial properties, shall not be required  
8 to subcontract the construction of the main sanitary sewer  
9 collection system, the storm collection system, and the water  
10 distribution system, not including the continuation of utility  
11 lines from the mains to the buildings. Further, as to mobile  
12 home parks, the general contractor shall not be required to  
13 subcontract the continuation of utility lines from the mains,  
14 and the continuations are to be considered a part of the main  
15 sewer collection and main water distribution systems. This  
16 subsection does not apply if the local authority does not  
17 require a certificate of competency or license for such trade.  
18 However, no general, building, or residential contractor  
19 certified after 1973 shall act as, hold himself out to be, or  
20 advertise himself to be a roofing contractor unless he is  
21 certified or registered as a roofing contractor.

22 (4) When a certificateholder desires to engage in  
23 contracting in any area of the state, as a prerequisite  
24 therefor, he shall be required only to exhibit to the local  
25 building official, tax collector, or other person in charge of  
26 the issuance of licenses and building permits in the area  
27 evidence of holding a current certificate and to pay the fee  
28 for the occupational license and building permit required of  
29 other persons. However, a local construction regulation board  
30 may deny the issuance of a building permit to a certified  
31 contractor, or issue a permit with specific conditions, if the

1 local construction regulation board has found such contractor,  
2 through the public hearing process, to be guilty of fraud or a  
3 willful building code violation within the county or  
4 municipality that the local construction regulation board  
5 represents or if the local construction regulation board has  
6 proof that such contractor, through the public hearing  
7 process, has been found guilty in another county or  
8 municipality within the past 12 months, of fraud or a willful  
9 building code violation and finds, after providing notice to  
10 the contractor, that such fraud or violation would have been  
11 fraud or a violation if committed in the county or  
12 municipality that the local construction board represents.

13 Notification of and information concerning such permit denial  
14 shall be submitted to the Department of Professional  
15 Regulation within 15 days after the local construction  
16 regulation board decides to deny the permit.

17 (5) The certificate is not transferable.

18 (6) The board shall, by rule, designate those types of  
19 specialty contractors which may be certified under this part  
20 act.

21 ~~(7)--The board shall, by July 1, 1987, adopt rules~~  
22 ~~providing standards for certification of pollutant storage~~  
23 ~~systems specialty contractors and by July 1, 1988, amend such~~  
24 ~~rules to include persons who remove such systems.--The~~  
25 ~~Department of Environmental Regulation shall review and~~  
26 ~~comment on such rules prior to adoption.--The rules shall~~  
27 ~~include, but not be limited to~~

28 ~~(a)--Standards for operating as a pollutant storage~~  
29 ~~systems specialty contractor--~~

30 ~~(b)--Requirements for certification as a pollutant~~  
31 ~~storage systems specialty contractor--~~

1           ~~(c)--Requirements-for-certification-without-examination~~  
2 ~~of-pollutant-storage-systems-specialty-contractors-for-any~~  
3 ~~person-who-has-passed-a-local-licensure-examination,-a~~  
4 ~~licensure-examination-in-another-state,-or-a-licensure~~  
5 ~~examination-of-a-national-organization,-which-is-at-least-as~~  
6 ~~stringent-as-the-examination-adopted-by-the-board.~~

7           ~~(d)--Requirements-for-certification-without-examination~~  
8 ~~of-pollutant-storage-systems-specialty-contractors-for-any~~  
9 ~~certified-mechanical-contractor,-any-certified-plumbing~~  
10 ~~contractor,-and-any-registered-mechanical-or-plumbing~~  
11 ~~contractor-who-has-passed-a-local-examination-judged-by-the~~  
12 ~~board-to-be-at-least-as-stringent-as-the-equivalent-state~~  
13 ~~mechanical-or-plumbing-contractor's-examination,-provided-that~~  
14 ~~such-contractor-has-been-certified-prior-to-July-17-1986,-or~~  
15 ~~has-been-registered-and-passed-such-local-examination-prior-to~~  
16 ~~July-17-1986.~~

17  
18 ~~The-board-may-use-standards-and-examinations-of-national~~  
19 ~~organizations-if-such-standards-and-examinations-are-adequate~~  
20 ~~to-ensure-competent-installation-and-removal-of-pollutant~~  
21 ~~storage-tanks.--All-such-standards-and-examinations-shall-be~~  
22 ~~designed-to-ensure-that-leaks-and-other-discharges-are~~  
23 ~~eliminated-to-the-greatest-extent-possible.~~

24           ~~(8)(a)--Any-person-who-has-operated-as-a-pollutant~~  
25 ~~storage-systems-specialty-contractor-during-the-5-years~~  
26 ~~preceding-September-17-1986,-shall-receive-within-30-days~~  
27 ~~after-written-request-a-temporary-certificate-permitting-such~~  
28 ~~person-to-continue-operating-without-certification-until-July~~  
29 ~~17-1989,-if-such-person.~~

30  
31

1           1. --Notifies the department in writing that he intends  
2 to continue such operation and submits an application fee set  
3 by the board not to exceed \$50; and

4           2. --Provides a history of successful operation as a  
5 pollutant storage systems specialty contractor within such  
6 time period:

7           (b) --A contractor seeking to be certified pursuant to  
8 paragraph (7)(d) shall receive within 30 days after written  
9 request a temporary certificate permitting such contractor to  
10 continue operating without certification until the board  
11 determines whether he qualifies for a certificate under  
12 paragraph (7)(d); provided that such contractor:

13           1. --Notifies the department in writing that he intends  
14 to apply for certification under paragraph (7)(d); and

15           2. --Provides the board sufficient information to  
16 determine that such contractor qualifies on the basis of  
17 certification or registration and the passage of an  
18 examination;

19  
20 The board may revoke or refuse to issue such temporary  
21 certificate for violation of s. 489.127 or s. 489.129.

22           (9)(a) --Effective October 1, 1986, notwithstanding any  
23 provision of this chapter to the contrary, no person shall  
24 engage in contracting as a pollutant storage systems specialty  
25 contractor unless such person is certified as a pollutant  
26 storage systems specialty contractor pursuant to this part,  
27 nor shall any official authorized to issue building or other  
28 related permits issue a permit or permits for the installation  
29 of a pollutant storage tank unless such official ascertains  
30 that the applicant for such permit or permits is certified as  
31 a pollutant storage systems specialty contractor.

1           (b)--The Department of Environmental Regulation may  
2 inspect the installation of any pollutant storage tank.--Any  
3 person installing a pollutant storage tank after July 17, 1987,  
4 shall certify that such installation is in accordance with the  
5 standards adopted pursuant to s. 376.303.--The Department of  
6 Environmental Regulation shall promulgate a form for such  
7 certification which shall at a minimum include:

8           1.--A signed statement by the certified pollutant  
9 storage systems specialty contractor that such installation is  
10 in accordance with standards adopted pursuant to s. 376.303,  
11 and

12           2.--Signed statements by the onsite persons performing  
13 or supervising the installation of a pollutant storage tank,  
14 which statements shall be required of tasks that are necessary  
15 for the proper installation of such tank.

16           (c)1.--The Department of Environmental Regulation  
17 shall, to the greatest extent possible, contract with local  
18 governments to provide for the administration of its  
19 responsibilities under this subsection.--Such contracts may  
20 allow for administration outside the jurisdictional boundaries  
21 of a local government.--However, no such contract shall be  
22 entered into unless the local government is deemed capable of  
23 carrying out such responsibilities to the satisfaction of the  
24 Department of Environmental Regulation.

25           2.--To this end, the Department of Environmental  
26 Regulation shall inform local governments as to the provisions  
27 of this section and as to their options hereunder.--At its  
28 option, any local government may apply to the Department of  
29 Environmental Regulation for such purpose, on forms to be  
30 provided by the Department of Environmental Regulation, and  
31



1 ~~shall supply such information as the Department of~~  
2 ~~Environmental Regulation may require:~~

3       ~~(d)--The Department of Environmental Regulation may~~  
4 ~~enjoin the installation or use of any pollutant storage tank~~  
5 ~~that has been or is being installed in violation of this part:~~

6       ~~(e)--The Department of Environmental Regulation shall~~  
7 ~~establish a pilot program providing for inspections of~~  
8 ~~pollutant storage tanks in a county of less than 300,000~~  
9 ~~population.--The Department of Environmental Regulation shall~~  
10 ~~adopt rules providing for such inspection program, which rules~~  
11 ~~shall provide for an inspection prior to placing a pollutant~~  
12 ~~storage tank in the excavation, an inspection after assembly~~  
13 ~~but before connection to the tank, and an inspection prior to~~  
14 ~~placing the pollutant storage tank in service.--All such~~  
15 ~~inspections shall be conducted pursuant to the standards~~  
16 ~~adopted under s. 376.303.--Inspection fees shall be set by~~  
17 ~~rule and shall not exceed \$200 per pollutant storage tank,~~  
18 ~~which fees shall fund the inspection program.--The Department~~  
19 ~~of Environmental Regulation may contract, pursuant to~~  
20 ~~paragraph (e), with the county government to perform such~~  
21 ~~inspections, in which case the county government shall receive~~  
22 ~~the inspection fees to fund the program.--The county~~  
23 ~~government shall make application to the Department of~~  
24 ~~Environmental Regulation for the administration of the~~  
25 ~~program.--If more than one county government applies, the~~  
26 ~~Department of Environmental Regulation shall determine which~~  
27 ~~county is most capable of administering the program and may~~  
28 ~~contract with that county.--If no county of less than 300,000~~  
29 ~~in population applies to administer the program by September~~  
30 ~~17, 1987, all counties in the state shall be eligible to~~  
31 ~~administer the program, regardless of population.--The county~~

1 government shall not require any additional inspections,  
2 except for electrical inspections of a pollutant storage tank  
3 installed during the term of the pilot inspection program.  
4 Such program shall be established within 30 days after  
5 execution of a contract with a county or, if no county applies  
6 by December 17, 1987, within 30 days after the date on which  
7 the Department of Environmental Regulation designates the  
8 county in which it will administer the program, but in any  
9 event no later than July 17, 1988. The program shall be  
10 continued for a period of 18 months. Within 3 months after  
11 the conclusion of this program, the Department of  
12 Environmental Regulation shall report to the Legislature on  
13 the results of the program.

14 ~~(7)(10)~~ If an eligible applicant fails any  
15 contractor's written examination, except the general and  
16 building contractors' examination, and provides the board with  
17 acceptable proof of lack of comprehension of written  
18 examinations, the applicant may petition the board to be  
19 administered a uniform oral examination, subject to the  
20 following conditions:

21 (a) The applicant documents 10 years of experience in  
22 the appropriate construction craft.

23 (b) The applicant files written recommendations  
24 concerning his competency in the appropriate construction  
25 craft.

26 (c) The applicant is administered only one oral  
27 examination within a period of 1 year.

28 ~~(8)(11)~~ Any public record of the board, when certified  
29 by the executive director of the board or his representative,  
30 may be received as prima facie evidence in any administrative  
31 or judicial proceeding.

1           ~~(12) The board shall, by January 1, 1988, adopt rules~~  
2 ~~providing standards for registration of precision tank testers~~  
3 ~~who precision test a pollutant storage tank. The Department~~  
4 ~~of Environmental Regulation shall review and comment on such~~  
5 ~~rules prior to adoption.~~

6           Section 8. Subsections (2), (3), (4), and (5) of  
7 section 489.115, Florida Statutes, are amended to read:

8           489.115 Certification and registration; endorsement;  
9 renewals.--

10           (2) The board shall certify as qualified for  
11 certification by endorsement any applicant who:

12           (a) Meets the requirements for certification as set  
13 forth in this section; has passed a national, regional, state,  
14 or United States territorial licensing examination that is  
15 substantially equivalent to the examination required by this  
16 part; and has satisfied the requirements set forth in s.  
17 489.111; or

18           (b) Holds a valid license to practice contracting  
19 issued by another state or territory of the United States, if  
20 the criteria for issuance of such license was substantially  
21 equivalent to the certification criteria that existed in this  
22 state at the time the license was issued. ~~adopt rules~~  
23 ~~prescribing procedures for the certification or registration~~  
24 ~~of contractors who have been licensed in states which have~~  
25 ~~standards substantially similar to, or more stringent than,~~  
26 ~~the standards of this state and who meet the other~~  
27 ~~requirements established pursuant to this act.~~

28           (3)(a) Each certificateholder or registrant licensee  
29 who desires to continue as a certificateholder or registrant  
30 licensee shall renew his certificate and registration every 2  
31

1 years. The department shall mail each certificateholder and  
2 registrant licensee an application for renewal.

3 (b) The certificateholder or registrant licensee shall  
4 complete, sign, and forward the renewal application to the  
5 department, together with the appropriate fee. Upon receipt  
6 of the application and fee, the department shall renew the  
7 certificate or registration.

8 (4) As a prerequisite to the initial issuance or the  
9 renewal of a certificate, the applicant shall submit an  
10 affidavit on a form provided by the board attesting to the  
11 fact that the applicant satisfactory-evidence-that-he has  
12 obtained public liability and property damage insurance for  
13 the safety and welfare of the public in amounts determined by  
14 rule of the board. The board shall by rule establish a  
15 procedure to verify the accuracy of such affidavits based upon  
16 a random sample method. In addition to the affidavit of  
17 insurance, as a prerequisite to the initial issuance of a  
18 certificate, and the applicant shall furnish evidence of  
19 financial responsibility, credit, and business reputation of  
20 either himself or the business organization he desires to  
21 qualify. The board shall adopt rules defining financial  
22 responsibility based upon the applicant's credit history,  
23 ability to be bonded, and any history of bankruptcy or  
24 assignment of receivers. Such rules shall specify the  
25 financial responsibility grounds on which the board may refuse  
26 to qualify an applicant for certification. If, within 60 days  
27 from the date the applicant is notified that he has qualified,  
28 he does not provide the evidence required, he shall apply to  
29 the department for an extension of time which shall be granted  
30 upon a showing of just cause.

1 (5) An initial applicant shall, along with his  
2 application, and a certificateholder or registrant licensee  
3 shall, upon requesting a change of status, submit to the board  
4 a credit report from a nationally recognized credit agency  
5 that reflects the financial responsibility of the applicant or  
6 certificateholder or registrant licensee. The credit report  
7 required for the initial applicant shall be considered the  
8 minimum evidence necessary to satisfy the board that he is  
9 financially responsible to be certified, that he has the  
10 necessary credit and business reputation to engage in  
11 contracting in the state, and that he has the minimum  
12 financial stability necessary to avoid the problem of  
13 financial mismanagement or misconduct diversion-of-funds. The  
14 board shall, by rule, adopt guidelines for determination of  
15 financial stability.

16 Section 9. Subsections (4) and (5) of section 489.117,  
17 Florida Statutes, are amended to read:

18 489.117 Registration --

19 (4) The application for a temporary registration  
20 license shall constitute appointment of the Department of  
21 State as an agent of the applicant for service of process in  
22 any action or proceeding against the applicant arising out of  
23 any transaction or operation connected with or incidental to  
24 the practice of contracting for which the temporary license  
25 was issued.

26 ~~(5) -- A special registration shall be granted to a~~  
27 ~~specialty contractor whose work is limited to a specific phase~~  
28 ~~of construction and whose responsibility is likewise limited~~  
29 ~~to that particular phase of construction, provided local~~  
30 ~~licensing is required for that phase of construction.~~

31

1 Section 10. Subsections (2), (3), (5), (6), and (7) of  
2 section 489.119, Florida Statutes, are amended to read:

3 489.119 Business organizations; qualifying agents.--

4 (2) If the applicant proposes to engage in contracting  
5 as a partnership, corporation, business trust, or other legal  
6 entity, the applicant shall apply through a qualifying agent;  
7 the application shall state the name of the partnership and of  
8 its partners, the name of the corporation and of its officers  
9 and directors, the name of the business trust and its  
10 trustees, or the name of such other legal entity and its  
11 members; and the applicant shall furnish evidence of statutory  
12 compliance if a fictitious name is used. Such application  
13 shall also show that the qualifying agent is legally qualified  
14 to act for the business organization in all matters connected  
15 with its contracting business and that he has authority to  
16 supervise construction undertaken by such business  
17 organization. A joint venture, including a joint venture  
18 composed of qualified business organizations, is itself a  
19 separate and distinct organization that must be qualified in  
20 accordance with board rules. The registration or  
21 certification, when issued upon application of a business  
22 organization, shall be in the name of the qualifying agent,  
23 and the name of the business organization shall be noted  
24 thereon. If there is a change in any information that is  
25 required to be stated on the application, the business  
26 organization shall, within 45 days after such change occurs,  
27 mail the correct information to the department.

28 (3)(a) The qualifying agent shall be certified or  
29 registered under this part set in order for the business  
30 organization to be certified or registered in the category of  
31 the business conducted for which the qualifying agent is

1 certified or registered. If any qualifying agent ceases to be  
2 affiliated with such business organization, he shall so inform  
3 the department. In addition, if such qualifying agent is the  
4 only certified or registered individual affiliated with the  
5 business organization, the business organization shall notify  
6 the department of the termination of the qualifying agent and  
7 shall have ~~a minimum of~~ 60 days from the termination of the  
8 qualifying agent's affiliation with the business organization  
9 in which to employ another qualifying agent. The business  
10 organization may not engage in contracting until a qualifying  
11 agent is employed.

12 (b) The qualifying agent shall inform the department  
13 in writing when he proposes to engage in contracting in his  
14 own name or in affiliation with another business organization,  
15 and he or such new business organization shall supply the same  
16 information to the department as required of applicants under  
17 this part act.

18 (c) Upon a favorable determination by the board, after  
19 investigation of the financial responsibility, credit, and  
20 business reputation of the qualifying agent and the new  
21 business organization, the department shall issue, without an  
22 examination, a new certificate or registration in the  
23 qualifying agent's name, and the name of the new business  
24 organization shall be noted thereon.

25 (5)(a) Each registered or certified contractor shall  
26 affix the number of his registration or certification to each  
27 application for a building permit and on each building permit  
28 issued and recorded. Each city or county building department  
29 shall require, as a precondition for the issuance of the  
30 building permit, that the contractor taking out the permit  
31

1 must provide verification giving his Construction Industry  
2 Licensing Board registration or certification license number.

3 (b) The registration or certification number of each  
4 contractor shall appear in any newspaper, airwave  
5 transmission, phone directory, or other advertising medium  
6 used by that contractor.

7 (6) Each qualifying agent shall pay the department an  
8 amount equal to the original fee for certification or  
9 registration of a new business organization entity. If the  
10 qualifying agent for a business organization entity desires to  
11 qualify additional business organizations entities, the board  
12 shall require him to appear before it and present evidence of  
13 ability and financial responsibility of each such organization  
14 entity. The issuance of such certification or registration is  
15 discretionary with the board.

16 (7) If a business organization entity or any of its  
17 partners, officers, directors, trustees, or members is fined  
18 for violating s. 489.129(2), the board may, on that basis  
19 alone, deny issuance of a certificate or registration to a  
20 qualifying agent on behalf of that business organization  
21 entity.

22 Section 11. Section 489.1195, Florida Statutes, is  
23 created to read:

24 489.1195 Responsibilities.--

25 (1) A qualifying agent is a primary qualifying agent  
26 unless he is a secondary qualifying agent under this section.

27 All primary qualifying agents for a business organization are  
28 jointly and equally responsible for supervision of all  
29 operations of the business organization; for all field work at  
30 all sites; and for financial matters, both for the  
31 organization in general and for each specific job.



1           (2) One of the qualifying agents for a business  
2 organization that has more than one qualifying agent may be  
3 designated as the sole primary qualifying agent for the  
4 business organization by a joint agreement that is executed,  
5 on a form provided by the board, by all qualifying agents for  
6 the business organization. The joint agreement must be  
7 submitted to the board for approval. If the board determines  
8 that the joint agreement is in good order, it shall approve  
9 the designation and immediately notify the qualifying agents  
10 of such approval. The designation made by the joint agreement  
11 is effective upon receipt of the notice by the qualifying  
12 agents. The qualifying agent designated for a business  
13 organization by a joint agreement is the sole primary  
14 qualifying agent for the business organization, and all other  
15 qualifying agents for the business organization are secondary  
16 qualifying agents.

17           (a) A designated sole primary qualifying agent has all  
18 the responsibilities and duties of a primary qualifying agent,  
19 notwithstanding that there are secondary qualifying agents for  
20 specified jobs. The designated sole primary qualifying agent  
21 is jointly and equally responsible with secondary qualifying  
22 agents for field work supervision.

23           (b) A secondary qualifying agent is responsible only  
24 for:

- 25           1. The supervision of field work at sites where his  
26 license was used to obtain the building permit; and  
27           2. Any other work for which he accepts responsibility.  
28

29 A secondary qualifying agent is not responsible for  
30 supervision of financial matters.  
31

1           (3)(a) A qualifying agent who has been designated by a  
2 joint agreement as the sole primary qualifying agent for a  
3 business organization may terminate his status as such by  
4 giving actual notice to the business organization, to the  
5 board, and to all secondary qualifying agents of his intention  
6 to terminate his status. His notice to the board must include  
7 proof satisfactory to the board that he has given the notice  
8 required in this paragraph. The status of the qualifying  
9 agent shall cease upon the designation of a new primary  
10 qualifying agent or 60 days after satisfactory notice of  
11 termination has been provided to the board, whichever first  
12 occurs. If no new primary qualifying agent has been  
13 designated within 60 days, all secondary qualifying agents for  
14 the business organization shall become primary qualifying  
15 agents unless the joint agreement specifies that one or more  
16 of them shall become sole qualifying agents under such  
17 circumstances, in which case only they shall become sole  
18 qualifying agents.

19           (b) Any change in the status of a qualifying agent is  
20 prospective only. A qualifying agent is not responsible for  
21 his predecessor's actions but is responsible, even after a  
22 change in status, for matters for which he was responsible  
23 while in a particular status.

24           Section 12. Section 489.121, Florida Statutes, is  
25 amended to read:

26           489.121 Emergency registration upon death of  
27 contractor.--If an incomplete contract exists at the time of  
28 death of a contractor, the contract may be completed by any  
29 person even though not certified or registered. Such person  
30 shall notify the board, within 30 days after the death of the  
31 contractor, of his name and address, his knowledge of the

1 contract, and his ability to complete it. If the board  
2 approves, he may proceed with the contract. For purposes of  
3 this section, an incomplete contract is one which has been  
4 awarded to, or entered into by, the contractor before his  
5 death, or on which he was the low bidder and the contract is  
6 subsequently awarded to him, regardless of whether any actual  
7 work has commenced under the contract before his death.

8 Section 13. Section 489.127, Florida Statutes, is  
9 amended to read:

10 489.127 Prohibitions; penalties.--

11 (1) No person shall:

12 (a) Falsely hold himself out as a certificateholder or  
13 registrant licensee;

14 (b) Falsely impersonate a certificateholder or  
15 registrant licensee;

16 (c) Present as his own the certificate or registration  
17 of another;

18 (d) Give false or forged evidence to the board or a  
19 member thereof for the purpose of obtaining a certificate or  
20 registration;

21 (e) Use or attempt to use a certificate or  
22 registration which has been suspended or revoked; or

23 (f) Engage in the business or act in the capacity of a  
24 contractor or advertise himself as available to engage in the  
25 business or act in the capacity of a contractor without being  
26 duly registered or certified; or -

27 (g) Operate a business organization engaged in  
28 contracting after 60 days following the termination of its  
29 only qualifying agent without designating another primary  
30 qualifying agent.

31

1           (2) Any person who violates any of the provisions of  
2 subsection (1) this part is guilty of a misdemeanor of the  
3 first degree, punishable as provided in s. 775.082, s.  
4 775.083, or s. 775.084.

5           (3) Each county or municipality may, at its option,  
6 designate one or more of its code inspectors, as defined in  
7 chapter 162, to enforce, as set out in this subsection, the  
8 provisions of paragraph (1)(f), against persons who engage in  
9 activity for which certification or registration under this  
10 part is required.

11           (a) A code inspector designated pursuant to this  
12 subsection may issue a citation for any violation of paragraph  
13 (1)(f) whenever, based upon personal investigation, the  
14 officer has reasonable and probable grounds to believe that  
15 such a violation has occurred.

16           (b) A citation issued by a code inspector must be in a  
17 form prescribed by the local governing body of the county or  
18 municipality and must state the time and date of issuance, the  
19 name and address of the violator, the date of the violation, a  
20 description of the violation, the name of the code inspector,  
21 and the timeframe during which the person charged must appear  
22 in court if the citation is appealed.

23           (c) The act for which the citation is issued must be  
24 ceased upon receipt of the citation; and the person charged  
25 with the violation, or other person designated in writing by  
26 the person charged, may, within 3 days, exclusive of weekends  
27 and legal holidays, submit a written request to the  
28 enforcement or licensing board for an appearance before the  
29 enforcement or licensing board to challenge the validity of  
30 the citation, to show that the violation has been corrected,  
31

1 or to establish a time before which the violation must be  
2 corrected.

3 1. Hearings by the enforcement or licensing board  
4 shall be conducted pursuant to the requirements of ss. 162.07  
5 and 162.08.

6 2. If the person charged, or his designated  
7 representative, shows that the citation is invalid or that the  
8 violation has been corrected prior to appearing before the  
9 enforcement or licensing board, the enforcement or licensing  
10 board shall dismiss the citation. If the violation is  
11 corrected within the time set by the enforcement or licensing  
12 board for correction, the enforcement or licensing board shall  
13 dismiss the citation; but if the violation has not been  
14 corrected within that time, the provisions of paragraph (d)  
15 apply.

16 3. If the enforcement or licensing board determines  
17 that the violation is irreparable or irreversible in nature,  
18 the enforcement or licensing board shall impose a civil  
19 penalty pursuant to paragraph (e).

20 4. Each day a willful, knowing violation continues  
21 shall constitute a separate offense under the provisions of  
22 this subsection.

23 (d)1. A person cited for a violation pursuant to this  
24 subsection is deemed to be charged with a noncriminal  
25 infraction and cited to appear in court, unless the citation  
26 is dismissed pursuant to the provisions of paragraph (c).

27 2. A person cited for a violation pursuant to this  
28 subsection may post a bond equal in amount to the applicable  
29 civil penalty established pursuant to paragraph (e) or sign  
30 and accept a citation indicating a promise to appear. If he  
31 refuses to post a bond or accept and sign the citation and

1 does not submit a written request to the enforcement or  
2 licensing board for an appearance before the enforcement or  
3 licensing board pursuant to the provisions of paragraph (c),  
4 he is in violation of this act and shall be punished in  
5 accordance with paragraph (e).

6         3. If a person cited for a violation pursuant to this  
7 subsection pays the applicable civil penalty established  
8 pursuant to paragraph (e) before the date he is to appear in  
9 court, he shall have the option to admit the commission of the  
10 infraction or to indicate that he does not wish to contest the  
11 citation. If such a person forfeits the bond he has posted by  
12 not appearing at the designated time and location, he is  
13 deemed to have admitted the commission of the infraction.

14         (e) The civil penalty required for the disposition of  
15 violations of this subsection shall be a fine not to exceed  
16 \$500. An enforcement or licensing board, upon notification by  
17 the code inspector that an order of the enforcement or  
18 licensing board has not been complied with by the set time or,  
19 upon finding that the same violation has been repeated by the  
20 same violator, may order the violator to pay a fine not to  
21 exceed \$250 for each day the violation continues past the date  
22 set for compliance or for each time the violation has been  
23 repeated, and a hearing shall not be necessary for issuance of  
24 the order. In determining the amount of the fine, if any, the  
25 enforcement or licensing board shall consider the following  
26 factors:

- 27         1. The gravity of the violation;
- 28         2. Any actions taken by the violator to correct the  
29 violation; and
- 30         3. Any previous violations committed by the violator.

31

1        (f) This subsection does not authorize or permit a  
2 code enforcement officer to perform any function or duty of a  
3 law enforcement officer other than a function or duty that is  
4 authorized in this subsection.

5        (g) The local governing body of the county or  
6 municipality may enact an ordinance establishing procedures  
7 for implementing this subsection.

8        (h) An aggrieved party, including the local governing  
9 body, may appeal a final administrative order of an  
10 enforcement or licensing board to the circuit court. Such an  
11 appeal shall not be a hearing de novo but shall be limited to  
12 appellate review of the record created before the enforcement  
13 or licensing board. An appeal shall be filed within 30 days  
14 of the execution of the order to be appealed.

15        (i) All notices required by this subsection shall be  
16 provided to the alleged violator by certified mail, return  
17 receipt requested; by hand delivery by the sheriff or other  
18 law enforcement officer or code inspector; or by leaving the  
19 notice at the violator's usual place of residence with some  
20 person of his family above 15 years of age and informing such  
21 person of the contents of the notice.

22        (j) For those counties which enact ordinances to  
23 implement this subsection and which have local construction  
24 licensing boards or local government code enforcement boards,  
25 the local construction licensing board or local government  
26 code enforcement board shall be responsible for the  
27 administration of such citation program and training of  
28 investigators. The local governing body of the county shall  
29 enter into interlocal agreements with any municipalities in  
30 the county so that such municipalities may by ordinance,  
31 resolution, policy, or administrative order, authorize

1 individuals to enforce the provisions of this section. Such  
2 individuals shall be subject to the requirements of training  
3 as specified by the local construction licensing board.

4 ~~(3)--Any-person-who-operates-as-a-pollutant-storage~~  
5 ~~systems-specialty-contractor-in-violation-of-this-part-or-any~~  
6 ~~person-who-violates-s-489.113(9)(a)-is-guilty-of-a-felony-of~~  
7 ~~the-third-degree,-punishable-as-provided-in-s-775.082,-s-~~  
8 ~~775.083,-or-s-775.084.~~

9 Section 14. Section 489.129, Florida Statutes, is  
10 amended to read:

11 489.129 Disciplinary proceedings.--

12 (1) The board may revoke, suspend, or deny the  
13 issuance or renewal of the certificate or registration of a  
14 contractor, and impose an administrative fine not to exceed  
15 \$5,000, place a contractor on probation, require continuing  
16 education or reprimand or censure a contractor if the  
17 contractor, or if the business organization entity-or-any  
18 general-partner,-officer,-director,-trustee,-or-member-of-a  
19 business-entity for which the contractor is a primary  
20 qualifying agent or is a secondary qualifying agent  
21 responsible under s. 489.1195, is found guilty of any of the  
22 following acts:

23 (a) Obtaining ~~Upon-proof-that~~ a certificate or  
24 registration has-been-obtained by fraud or misrepresentation.

25 (b) Being convicted or found guilty, regardless of  
26 adjudication, of a crime in any jurisdiction which directly  
27 relates to the practice of contracting or the ability to  
28 practice contracting.

9 (c) Violating ~~Violation-of~~ chapter 455.

30 (d) Willfully or deliberately disregarding and  
31 violating ~~Willful-or-deliberate-disregard-and-violation-of~~ the



1 applicable building codes or laws of the state or of any  
2 municipalities or counties thereof.

3       (e) Performing any act which assists a person or  
4 entity in engaging in the prohibited uncertified and  
5 unregistered practice of contracting, if the certificateholder  
6 or registrant knows or has reasonable grounds to know that the  
7 person or entity was uncertified and unregistered. Aiding-or  
8 ~~abetting-any-uncertified-or-unregistered-person-to-evade-any~~  
9 ~~provision-of-this-act.~~

10       (f) Knowingly combining or conspiring with an  
11 uncertified or unregistered person by allowing his one's  
12 certificate or registration to be used by the any uncertified  
13 or unregistered person with intent to evade the provisions of  
14 this part act. When a certificateholder or registrant allows  
15 his certificate or registration to be used by one or more  
16 business organizations companies without having any active  
17 participation in the operations, management, or control of  
18 such business organizations companies, such act constitutes  
19 prima facie evidence of an intent to evade the provisions of  
20 this part act.

21       (g) Acting in the capacity of a contractor under any  
22 certificate or registration issued hereunder except in the  
23 name of the certificateholder or registrant as set forth on  
24 the issued certificate or registration, or in accordance with  
25 the personnel of the certificateholder or registrant as set  
26 forth in the application for the certificate or registration,  
27 or as later changed as provided in this part act.

28       (h) Committing Financial mismanagement or misconduct  
29 in the practice of contracting that causes financial harm to a  
30 customer. Financial mismanagement or misconduct occurs when:  
31

1 1. Valid liens have been recorded against the property  
2 of a contractor's customer for supplies or services ordered by  
3 the contractor for the customer's job; the contractor has  
4 received funds from the customer to pay for the supplies or  
5 services; and the contractor has not had the liens removed  
6 from the property, by payment or by bond, within 30 days after  
7 the date of such liens.

8 2. The contractor has abandoned a customer's job and  
9 the percentage of completion is less than the percentage of  
10 the total contract price paid to the contractor as of the time  
11 of abandonment, unless the contractor is entitled to retain  
12 such funds under the terms of the contract or refunds the  
13 excess funds within 30 days after the date the job is  
14 abandoned.

5 3. The contractor's job has been completed, and it is  
16 shown that the customer has had to pay more for the contracted  
17 job than the original contract price, as adjusted for  
18 subsequent change orders, unless such increase in cost was the  
19 result of circumstances beyond the control of the contractor,  
20 was the result of circumstances caused by the customer, or was  
21 otherwise permitted by the terms of the contract between the  
22 contractor and the customer.

23 (i) Being disciplined ~~Disciplinary-action~~ by any  
24 municipality or county for an act or violation of this part,  
25 which discipline action shall be reviewed by the state board  
26 before the state board takes any disciplinary action of its  
27 own.

28 (j) Failing ~~Failure~~ in any material respect to comply  
9 with the provisions of this part act.

30 (k) Abandoning ~~Abandonment-of~~ a construction project  
31 in which the contractor is engaged or under contract as a

1 contractor. A project is to be considered abandoned after 90  
2 days if the contractor terminates the project without  
3 notification to the prospective owner and without just cause.

4 (1) Signing a statement with respect to a project or  
5 contract falsely indicating that the work is bonded; falsely  
6 indicating that payment has been made for all subcontracted  
7 work, labor, and materials which results in a financial loss  
8 to the owner, purchaser, or contractor; or falsely indicating  
9 that workers' compensation and public liability insurance are  
10 provided.

11 (m) ~~Being found Upon-proof-that-the-licensee-is~~ guilty  
12 of fraud or deceit or of gross negligence, incompetency, or  
13 misconduct in the practice of contracting.

14 (n) Proceeding on any job without obtaining applicable  
15 local building department permits and inspections.

16 (2) If a contractor disciplined under subsection (1)  
17 is a qualifying agent for a business organization entity and  
18 the violation was performed in connection with a construction  
19 project undertaken by that business organization entity, the  
20 board may impose an additional administrative fine not to  
21 exceed \$5,000 against the business organization entity or  
22 against any partner, officer, director, trustee, or member if  
23 such person participated in the violation or knew or should  
24 have known of the violation and failed to take reasonable  
25 corrective action.

26 (3) The board may specify by rule the acts or  
27 omissions which constitute violations of this section.

28 (4) In recommending penalties in any proposed  
29 recommended final order, the department shall follow the  
30 penalty guidelines established by the board by rule. The  
31 department shall advise the hearing officer of the appropriate

1 penalty, including mitigating and aggravating circumstances,  
2 and the specific rule citation.

3 (5) The board may not reinstate the certification or  
4 registration of, or cause a certificate or registration to be  
5 issued to, a person who the board has determined unqualified  
6 until it is satisfied that such person has complied with all  
7 the terms and conditions set forth in the final order and is  
8 capable of competently engaging in the business of  
9 contracting.

10 Section 15. Section 489.1295, Florida Statutes, is  
11 created to read:

12 489.1295 Delegation of disciplinary authority.--

13 (1) Notwithstanding the provisions of s. 455.225(3),  
14 the board may delegate to the department the authority to  
15 exercise the board's disciplinary powers when:

16 (a) Such delegation of authority is set out in a  
17 written agreement between the board and the department;

18 (b) The department is constrained, for purposes of  
19 such delegation, to follow the rules promulgated by the board  
20 pursuant to this part;

21 (c) The delegation of authority limits violations on  
22 which the department may act under the delegation to  
23 violations that do not involve financial or physical harm to  
24 the public;

25 (d) The delegation of authority limits the violations  
26 on which the department may act under the delegation to  
27 violations for which the board's disciplinary guideline rules  
28 recommend a letter of guidance or a fine of \$100 or less;

29 (e) The delegation of authority limits the  
30 disciplinary action that may be taken by the department under  
31

1 the delegation to a letter of guidance or a fine of \$100 or  
2 less;

3 (f) The department completes disciplinary action under  
4 the delegation within 1 year of the date that the violation  
5 should reasonably have been discovered or reported;

6 (g) All disciplinary actions taken by the department  
7 are reported to the board on a monthly basis; and

8 (h) The delegation of authority provides that the  
9 board may at any time rescind the delegation or reduce the  
10 powers delegated to the department.

11 (2) If the probable cause panel concludes during any  
12 investigation that one or more violations within the scope of  
13 the delegation have been committed by a contractor and that no  
14 more serious violations outside the scope of the delegation  
15 have been committed, the department shall prepare and provide  
16 the person with a citation concerning the minor violations.  
17 The citation shall cite the statute alleged to have been  
18 violated, the penalty, a brief statement of facts sufficient  
19 to give the person reasonable notice as to the conduct alleged  
20 to have violated the statute, a brief explanation of the  
21 person's rights, and a provision for the person to indicate  
22 thereon his acceptance or rejection of, and to sign, the  
23 citation.

24 (a) If the person refuses to accept the citation,  
25 returns the citation indicating thereon his rejection, or  
26 fails to timely respond, then the processing of the matter  
27 shall continue as set forth in s. 455.225.

28 (b) If the person acknowledges the violation and  
29 accepts the citation by affixing his full mailing address and  
30 notarized signature thereon and timely returning it to the  
31 department within 20 days of his receipt of the citation,

1 receipt of the completed citation by the department shall  
2 constitute final agency action imposing discipline on the  
3 person in accordance with the terms of the citation.

4 (c) The department may, at any time before its final  
5 receipt of a completed citation, withdraw the citation upon  
6 the grounds that the violations for which the person was cited  
7 were outside the delegation. Upon such withdrawal, the  
8 processing of the case shall continue as otherwise provided in  
9 s. 455.225.

10 (3)(a) The department shall provide notice to the  
11 person of its receipt of the completed citation by certified  
12 mail directed to the address provided by the person on the  
13 citation. Payment of a fine to the department shall be due  
14 not later than 45 days after the person's receipt of such  
15 notice.

16 (b) The department shall have standing to institute a  
17 civil action to collect the fine and reasonable legal,  
18 administrative, and other costs associated with the collection  
19 action.

20 (4) When the department receives the completed  
21 citation, the person shall be subject to no further  
22 disciplinary action by the department pursuant to the  
23 delegation, or by the board under this part, for the violation  
24 on which the completed citation was based.

25 Section 16 Section 489.131, Florida Statutes, is  
26 amended to read:

27 489.131 Applicability.--

28 (1) This part act applies to any contractor performing  
29 work for the state or any county or municipality. Officers of  
30 the state or any county or municipality shall determine  
31

1 compliance with this part act before awarding any contract for  
2 construction, improvement, remodeling, or repair.

3 (2) The state or any county or municipality shall may  
4 require that bids submitted for construction, improvement,  
5 remodeling, or repair of public buildings be accompanied by  
6 evidence that the bidder holds an appropriate certificate or  
7 registration, unless the work to be performed is exempt under  
8 s. 489.103, or the contractor is not domiciled in this state  
9 and can satisfactorily show that he will comply with s.  
10 489.117(3).

11 (3) Nothing in this part act limits the power of a  
12 municipality or county:

13 (a) To regulate the quality and character of work  
14 performed by contractors through a system of permits, fees,  
15 and inspections which is designed to secure compliance with  
16 and aid in the implementation of state and local building  
17 laws.

18 (b) To enforce other laws for the protection of the  
19 public health and safety.

20 (c) To collect occupational license and inspection  
21 fees for engaging in contracting or examination fees from  
22 persons who are registered with the board pursuant to local  
23 examination requirements. However, nothing in this part act  
24 shall be construed to require general contractors, building  
25 contractors, or residential contractors to obtain additional  
26 occupational licenses for specialty work when such specialty  
27 work is performed by employees of such contractors on projects  
28 for which they have substantially full responsibility and such  
29 contractors do not hold themselves out to the public as being  
30 specialty contractors.

31

1 (d) To adopt any system of permits requiring  
2 submission to and approval by the municipality or county of  
3 plans and specifications for work to be performed by  
4 contractors before commencement of the work.

5 (e) To require one ~~a~~ bond for each contractor  
6 ~~contractors~~ in an amount not to exceed \$5,000, which bond  
7 shall be conditioned only upon compliance with the applicable  
8 state minimum building code and applicable local building code  
9 requirements adopted pursuant to s. 553.73. Any such bond  
10 must be equally available to all contractors without regard to  
11 the period of time a contractor has been certified or  
12 registered and without regard to any financial responsibility  
13 requirements. Any such bonds shall be payable to the Governor  
14 and filed in each county or municipality in which a building  
15 permit is requested. Bond reciprocity shall be granted  
16 statewide. All such bonds shall be included in meeting any  
17 financial responsibility requirements imposed by any statute  
18 or rule. Any contractor who provides a third party insured  
19 warranty policy in connection with a new building or structure  
20 for the benefit of the purchaser or owner shall be exempt from  
21 the bond requirements under this subsection with respect to  
22 such building or structure.

23 (f) To refuse to issue permits or issue permits with  
24 specific conditions to a contractor who has committed multiple  
25 violations, when he has been disciplined for each of them by  
26 the board and when each disciplinary action has involved  
27 revocation or suspension of a license, imposition of an  
28 administrative fine of at least \$1,000, or probation, or to  
29 issue permits with specific conditions to a contractor who,  
30 within the previous 12 months, has had final action taken  
31 against him by the department or by a local board or agency



1 which licenses contractors and has reported the action  
2 pursuant to paragraph (6)(c), for engaging in the business or  
3 acting in the capacity of a contractor without a license.

4 (4) Nothing in this part act shall be construed to  
5 waive any requirement of any existing ordinance or resolution  
6 existing on October 1, 1979, of a board of county  
7 commissioners regulating the type of work required to be  
8 performed by a specialty contractor.

9 (5) Any official authorized to issue building or other  
10 related permits shall, before issuing a permit, ascertain that  
11 the applicant contractor is certified or is registered in the  
12 area where the construction is to take place.

13 (6)(a) Municipalities or counties may continue to  
14 provide examinations for their territorial area, provided that  
15 no examination is given to the holder of a certificate.

16 (b)(a) To engage in contracting in the territorial  
17 area, an applicant shall also be registered with the board.

18 (c)(b) Each local board or agency which licenses  
19 contractors transmits monthly ~~annually-during-May~~ to the board  
20 a report of any disciplinary action taken against contractors  
21 and of any administrative or disciplinary action taken against  
22 unlicensed persons for engaging in the business or acting in  
23 the capacity of a contractor including any cease and desist  
24 orders issued pursuant to s. 489.113(2)(b) and any fine issued  
25 pursuant to s. 489.127(3). the-licensees; and

26 ~~(c)--No-examination-is-given-the-holder-of-a~~  
27 ~~certificate.~~

28 (7) The right to create local boards in the future by  
29 any municipality or county is preserved.

30 (8) A Division I contractor, except as otherwise  
31 provided in this part, shall be responsible for any

1 construction or alteration of a structural component of a  
2 building or structure. The term "structural component" is  
3 defined, for purposes of this subsection, to mean any vertical  
4 or horizontal load-bearing member of a structure which  
5 supports dead or live loads in addition to its own weight and  
6 includes, but is not limited to, a foundation, an exterior or  
7 interior load-bearing wall, a column, a column beam, a floor,  
8 and a roof structure. No provision of this act shall be  
9 construed to permit a contractor to perform mechanical or  
10 plumbing work for which an examination for a certificate of  
11 competency or a license is required, unless such contractor  
12 holds such certificates of competency or such licenses as may  
13 be required by the appropriate local authority. If the  
14 appropriate local authority does not require a certificate of  
15 competency or a license for such trade, the provisions of this  
16 subsection do not apply.

17 Section 17. Section 489.133, Florida Statutes, is  
18 created to read:

19 489.133 Pollutant storage systems specialty  
20 contractors; definitions; certification; restrictions.--

21 (1) As used in this part:

22 (a) "Pollutant storage systems specialty contractor"  
23 means a contractor who installs a pollutant storage tank.

24 (b) "Pollutant storage tank" means a tank, together  
25 with associated piping or dispensing facilities, which is or  
26 could be used for the storage or supply of pollutants as  
27 defined in s. 376.301 and which is required to be registered  
28 under chapter 17-61 of the Florida Administrative Code or for  
29 which notification must be submitted under Subtitle I of the  
30 Resource Conservation and Recovery Act.

31

1 (c) "Tank" means any container other than one which is  
2 aboveground and either elevated or situated upon an  
3 impermeable surface, or which is located in an accessible  
4 underground area and either elevated or situated upon an  
5 impermeable surface therein, in such manner that any leak in  
6 such container may be readily detected.

7 (d) "Registered precision tank tester" means any  
8 precision tank tester who has registered with the department  
9 pursuant to subsection (2). This registration shall be exempt  
10 from the provisions of prior municipality, county, or  
11 development district registration, as required under s.  
12 489.117, and shall be registered on a statewide basis.

13 (2) The board shall adopt rules providing standards  
14 for registration of precision tank testers who precision test  
15 a pollutant storage tank. The Department of Environmental  
16 Regulation shall review and comment on such rules prior to  
17 adoption.

18 (3) The board shall adopt rules providing standards  
19 for certification of pollutant storage systems specialty  
20 contractors and, by July 1, 1988, amend such rules to include  
21 persons who remove such systems. The board shall provide the  
22 proposed rules to the Department of Environmental Regulation  
23 for review and comment prior to adoption. The rules shall  
24 include, but not be limited to:

25 (a) Standards for operating as a pollutant storage  
26 systems specialty contractor.

27 (b) Requirements for certification as a pollutant  
28 storage systems specialty contractor.

29 (c) Requirements for certification without examination  
30 of pollutant storage systems specialty contractors for any  
31 person who has passed a local licensure examination, a

1 licensure examination in another state, or a licensure  
2 examination of a national organization, which is at least as  
3 stringent as the examination adopted by the board.

4 (d) Requirements for certification without examination  
5 of pollutant storage systems specialty contractors for any  
6 certified mechanical contractor, any certified plumbing  
7 contractor, and any registered mechanical or plumbing  
8 contractor who has passed a local examination judged by the  
9 board to be at least as stringent as the equivalent state  
10 mechanical or plumbing contractor's examination, provided that  
11 such contractor has been certified prior to July 1, 1986, or  
12 has been registered and passed such local examination prior to  
13 July 1, 1986.

14 (e) Requirements for certification by practical  
15 examination, demonstrating the ability to competently install  
16 or remove pollutant storage tanks, of pollutant storage  
17 systems specialty contractors for any person who has received  
18 a temporary certificate under paragraph (4)(a) and has  
19 operated as a pollutant storage systems specialty contractor  
20 since September 1, 1981, provided that such person pays for  
21 the actual cost of the practical examination.

22  
23 The board may use standards and examinations of national  
24 organizations if such standards and examinations are adequate  
25 to ensure competent installation and removal of pollutant  
26 storage tanks. All such standards and examinations shall be  
27 designed to ensure that leaks and other discharges are  
28 eliminated to the greatest extent possible.

29 (4)(a) Any person who has operated as a pollutant  
30 storage systems specialty contractor during the 5 years  
31 preceding September 1, 1986, shall receive within 30 days

1 after written request a temporary certificate permitting such  
2 person to continue operating without certification until July  
3 1, 1989, if such person:

4 1. Notifies the department in writing that he intends  
5 to continue such operation and submits an application fee set  
6 by the board not to exceed \$50.

7 2. Provides a history of successful operation as a  
8 pollutant storage systems specialty contractor within such  
9 time period.

10 (b) A contractor seeking to be certified pursuant to  
11 paragraph (3)(d) shall receive within 30 days after written  
12 request a temporary certificate permitting such contractor to  
13 continue operating without certification until the board  
14 determines whether he qualifies for a certificate under  
15 paragraph (3)(d), provided that such contractor:

16 1. Notifies the department in writing that he intends  
17 to apply for certification under paragraph (3)(d).

18 2. Provides the board sufficient information to  
19 determine that such contractor qualifies on the basis of  
20 certification or registration and the passage of an  
21 examination.

22  
23 The board may revoke or refuse to issue such temporary  
24 certificate for violation of s. 489.127 or s. 489.129

25 (5)(a) Notwithstanding any provision of this part to  
26 the contrary, no person shall engage in contracting as a  
27 pollutant storage systems specialty contractor unless such  
28 person is certified as a pollutant storage systems specialty  
29 contractor pursuant to this part, nor shall any official  
30 authorized to issue building or other related permits issue a  
31 permit or permits for the installation of a pollutant storage

1 tank unless such official ascertains that the applicant for  
2 such permit or permits is certified as a pollutant storage  
3 systems specialty contractor.

4 (b) Any person installing a pollutant storage tank  
5 shall perform such installation in accordance with the  
6 standards adopted pursuant to s. 376.303.

7 (6) Any person who operates as a pollutant storage  
8 systems specialty contractor in violation of this section or  
9 any person who violates subsection (5) is guilty of a felony  
10 of the third degree, punishable as provided in s 775.082, s.  
11 775.083, or s. 775.084.

12 Section 18. Subsection (3) is added to section  
13 376.303, Florida Statutes, to read:

14 376.303 Powers and duties of the Department of  
15 Environmental Regulation.--

16 (3)(a) The department may inspect the installation of  
17 any pollutant storage tank. Any person installing a pollutant  
18 storage tank, as defined in s. 489.133, shall certify that  
19 such installation is in accordance with the standards adopted  
20 pursuant to this section. The department shall promulgate a  
21 form for such certification which shall at a minimum include:

22 1. A signed statement by the certified pollutant  
23 storage systems specialty contractor, as defined in s.  
24 489.133, that such installation is in accordance with  
25 standards adopted pursuant to this section; and

26 2. Signed statements by the onsite persons performing  
27 or supervising the installation of a pollutant storage tank,  
28 which statements shall be required of tasks that are necessary  
29 for the proper installation of such tank.

30 (b)1. The department shall, to the greatest extent  
31 possible, contract with local governments to provide for the

1 administration of its responsibilities under this subsection.  
2 Such contracts may allow for administration outside the  
3 jurisdictional boundaries of a local government. However, no  
4 such contract shall be entered into unless the local  
5 government is deemed capable of carrying out such  
6 responsibilities to the satisfaction of the department.

7         2. To this end, the department shall inform local  
8 governments as to the provisions of this section and as to  
9 their options hereunder. At its option, any local government  
10 may apply to the department for such purpose, on forms to be  
11 provided by the department, and shall supply such information  
12 as the department may require.

13         (c) The department may enjoin the installation or use  
14 of any pollutant storage tank that has been or is being  
15 installed in violation of this section or of s 489.133.

16         (d) The department shall establish a pilot program  
17 providing for inspections of pollutant storage tanks in a  
18 county of less than 300,000 population. The department shall  
19 adopt rules providing for such inspection program, which rules  
20 shall provide for an inspection prior to placing a pollutant  
21 storage tank in the excavation, an inspection after assembly  
22 but before connection to the tank, and an inspection prior to  
23 placing the pollutant storage tank in service. All such  
24 inspections shall be conducted pursuant to the standards  
25 adopted under this section. Inspection fees shall be set by  
26 rule and shall not exceed \$200 per pollutant storage tank,  
27 which fees shall fund the inspection program. The department  
28 may contract, pursuant to paragraph (b), with the county  
29 government to perform such inspections, in which case the  
30 county government shall receive the inspection fees to fund  
31 the program. The county government shall make application to

1 the department for the administration of the program. If more  
2 than one county government applies, the department shall  
3 determine which county is most capable of administering the  
4 program and may contract with that county. If no county of  
5 less than 300,000 population applies to administer the program  
6 by September 1, 1987, all counties in the state shall be  
7 eligible to administer the program, regardless of population.  
8 The county government shall not require any additional  
9 inspections, except for electrical inspections, of a pollutant  
10 storage tank installed during the term of the pilot inspection  
11 program. Such program shall be established within 30 days  
12 after execution of a contract with a county or, if no county  
13 applies by December 1, 1987, within 30 days after the date on  
14 which the department designates the county in which it will  
15 administer the program, but in any event no later than July 1,  
16 1988. The program shall be continued for a period of 18  
17 months. Within 3 months after the conclusion of this program,  
18 the department shall report to the Legislature on the results  
19 of the program.

20 Section 19. Subsection (2) of section 455.209, Florida  
21 Statutes, is amended to read:

22 455.209 Accountability and liability of board  
23 members.--

24 (2) Each board member, and each past board member  
25 serving on a probable cause panel pursuant to s.  
26 489.107(6)(a), shall be exempt from civil liability for any  
27 act or omission when acting in his official capacity, and the  
28 department or the Department of Legal Affairs shall defend any  
29 such member in any action against any board or member of a  
30 board arising from any such act or omission. In providing  
31 such defense, the department or the Department of Legal



1 Affairs may employ or utilize the legal services of outside  
2 counsel.

3       Section 20. (1) The Secretary of the Department of  
4 Professional Regulation shall appoint a committee to consider  
5 the basis and validity of complaints by consumers against  
6 persons who are engaged in the practice of contracting  
7 regulated under part I of chapter 489, Florida Statutes. The  
8 committee shall focus on complaints involving:

9       (a) Homestead property.

10       (b) Actual financial harm to the person.

11       (c) Statutory violations of part I of chapter 489,  
12 Florida Statutes, or of county or municipal practice acts, or  
13 unlicensed activity.

14       (2) The following persons shall be invited to serve on  
15 the committee:

16       (a) The Director of the Division of Consumer Services  
17 in the Department of Agriculture and Consumer Services or his  
18 designee.

19       (b) A member of the Construction Industry Licensing  
20 Board who is certified under part I of chapter 489, Florida  
21 Statutes.

22       (c) Two local building officials suggested by the  
23 Building Officials Association of Florida.

24       (d) The secretary or his designee.

25       (e) A certified Division I contractor who is primarily  
26 engaged in the construction of residential property.

27       (f) A consumer who is not certified or registered  
28 under part I of chapter 489, Florida Statutes, and has no  
29 ongoing financial interests with any person who is so  
30 certified or registered.

31

1 (g) A person suggested by the Florida League of  
2 Cities.

3 (3) Members of the committee shall serve without  
4 compensation, but shall be entitled to receive reimbursement  
5 for per diem and traveling expenses as provided in s. 112.061,  
6 Florida Statutes.

7 (4) Notwithstanding the provisions of s. 489.109(7),  
8 Florida Statutes, the committee shall be funded during the  
9 1988-1989 fiscal year in the amount appropriated by the  
10 Legislature up to \$75,000 from the additional \$4 fee paid at  
11 the time of each contractor's biennial renewal of his  
12 certification or registration.

13 (5) On or before March 1, 1989, the secretary shall  
14 submit the committee's final findings and recommendations to  
15 the Legislature.

16 (6) This section shall take effect July 1, 1988, or  
17 upon this act becoming a law, whichever occurs later.

18 Section 21. Notwithstanding the provisions of the  
19 Regulatory Sunset Act or of any other provision of law which  
20 provides for review and repeal in accordance with s. 11.61,  
21 Florida Statutes, and except as otherwise specifically  
22 provided herein, part I of chapter 489, Florida Statutes,  
23 shall not stand repealed on October 1, 1988, and shall  
24 continue in full force and effect as amended herein.

25 Section 22. Part I of chapter 489, Florida Statutes,  
26 is repealed on October 1, 1998, and shall be reviewed by the  
27 Legislature pursuant to s. 11.61, Florida Statutes.

28 Section 23. Section 489.5331, Florida Statutes, is  
29 renumbered as section 768.0425, Florida Statutes, and amended  
30 to read:

1           768.0425 Damages in actions against contractors for  
2 injuries sustained from negligence, malfeasance, or  
3 misfeasance.-- 489-5331--Civil-remedies---

4           (1) For purposes of this section only, the term  
5 "contractor" means any person who contracts to perform any  
6 construction or building service which is regulated by any  
7 state or local law, including, but not limited to, this  
8 chapter 489 and chapter 633, and the term "consumer" means a  
9 person who contracts for the performance of any construction  
10 or building service which is regulated by any state or local  
11 law, including, but not limited to, chapters 489 and 633.

12           (2) In any action against a contractor for injuries  
13 sustained resulting from the contractor's negligence,  
14 malfeasance, or misfeasance, the consumer shall be entitled to  
15 three times the actual compensatory damages sustained in  
16 addition to costs and attorney's fees if the contractor is  
17 neither certified as a contractor by the state nor licensed as  
18 a contractor pursuant to the laws of the municipality or  
19 county within which he is conducting business.

20           Section 24. Notwithstanding the provisions of the  
21 Regulatory Sunset Act or of any other provision of law which  
22 provides for review and repeal in accordance with s. 11.61,  
23 Florida Statutes, and except as otherwise specifically  
24 provided herein, s. 768.0425, Florida Statutes, shall not  
25 stand repealed on October 1, 1988, and shall continue in full  
26 force and effect as amended herein.

27           Section 25. Except as otherwise provided herein, this  
28 act shall take effect October 1, 1988.

\*\*\*\*\*

HOUSE SUMMARY

Revises state law governing the construction industry to make consistent changes in terminology in the law, to include persons who install spas or hot tubs with regulated contractors, to revise the membership of the Construction Industry Licensing Board, to provide for probable cause panels, to revise examination requirements, to provide enforcement mechanisms, to revise language with respect to certification, registration, and endorsement, to provide for responsibilities of contracting agents, to provide for local enforcement, to revise language with respect to disciplinary proceedings, and to provide for delegation of disciplinary authority.

Creates a provision under the construction contracting provisions with respect to pollutant storage systems specialty contractors. Provides for powers and duties of the Department of Environmental Regulation with respect to pollutant storage tanks. Directs the Department of Professional Regulation to appoint a committee to consider consumer complaints and report to the Legislature. See bill for details.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

Florida House of Representatives - 1988

By the Committees on Appropriations and Regulatory Reform  
and Representatives Lippman, Kelly, Sanson

A bill to be entitled

An act relating to the construction industry;  
3 amending s. 489.101, F.S.; providing purpose;  
4 amending s. 489.103, F.S.; providing for  
5 exemptions; amending s. 489.105, F.S.;  
6 providing definitions; amending s. 489.107,  
7 F.S.; providing for the membership, quorums,  
8 and probable cause panels of the Construction  
9 Industry Licensing Board; amending s. 489.109,  
10 F.S.; providing for renewals and fees; amending  
11 s. 489.111, F.S.; providing for examinations;  
12 amending s. 489.113, F.S.; providing an  
13 enforcement mechanism with respect to persons  
14 engaged in contracting who are not certified or  
5 registered; amending s. 489.115, F.S.;  
16 providing for certification by endorsement;  
17 amending s. 489.117, F.S.; providing for  
18 issuance and renewal of certificates and  
19 registrations; amending s. 489.119, F.S.;  
20 providing procedures for the certification or  
21 registration of business organizations;  
22 creating s. 489.1195, F.S.; providing  
23 responsibilities of primary and secondary  
24 qualifying agents; amending s. 489.121, F.S.;  
25 relating to emergency registration; amending s.  
26 489.127, F.S.; prohibiting certain acts and  
27 prescribing civil penalties; allowing counties  
28 and municipalities to issue noncriminal  
29 citations to unlicensed persons; prescribing  
30 procedures; amending s. 489.129, F.S.;  
31 prohibiting certain acts and providing

1 penalties therefor; prescribing powers and  
2 procedures relating to disciplinary penalties;  
3 creating s. 489.1295, F.S.; allowing the board  
4 to delegate disciplinary authority to the  
5 department for minor violations; prescribing  
6 procedures; amending s. 489.131, F.S.; relating  
7 to government bids; prescribing powers and  
8 duties of municipalities and counties; limiting  
9 the construction of structural components;  
10 creating s. 489.133, F.S.; relating to  
11 pollutant storage systems specialty  
12 contractors; providing definitions; providing  
13 for rules; providing for certification by  
14 practical examination of certain persons;  
15 providing for temporary certificates; providing  
16 prohibitions; providing a penalty; amending s.  
17 376.303, F.S.; providing for powers and duties  
18 of the Department of Environmental Regulation  
19 with respect to pollutant storage tanks;  
20 amending s. 455.209, F.S.; providing civil  
21 immunity for certain past board members;  
22 requiring the department to establish a  
23 committee and to report to the Legislature on  
24 consumer complaints; providing for the funding  
25 of said committee; saving part 1 of chapter  
26 489, F.S., from Sunset repeal; providing for  
27 future review and repeal; amending and  
28 renumbering s. 489.5331, F.S.; transferring  
29 provisions related to damages in actions  
30 against contractors for certain injuries;  
31 saving said section from Sunset repeal;

1 providing an appropriation; providing a  
2 effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Section 489.101, Florida Statutes, is  
7 amended to read:

8 489.101 Purpose.--The Legislature recognizes that the  
9 construction and home improvement industries are ~~signifisant~~  
10 industries.--~~Such industries may pose a danger of significant~~  
11 harm to the public when incompetent or dishonest contractors  
12 provide unsafe, unstable, or short-lived products or services.  
13 Therefore, it is necessary in the interest of the public  
14 health, safety, and welfare to regulate the construction  
15 industry.

16 Section 2. The introductory paragraph and subsections  
17 (2), (6), (7), (8), (9), and (11) of section 489.103, Florida  
18 Statutes, are amended to read:

19 489.103 Exemptions.--This ~~part~~ act does not apply to:

20 (2) Any employee of a certificateholder or registrant  
21 licensee who is a subordinate of such certificateholder or  
22 registrant licensee if the employee does not hold himself out  
23 for hire or engage in contracting except as an employee.

24 (6) The sale or installation of any finished products,  
25 materials, or articles of merchandise which are not fabricated  
26 into and do not become a permanent fixed part of the  
27 structure, except for spas or inground or ~~aboveground~~ swimming  
28 pools with a capacity in excess of 200 500 gallons, and for  
29 aboveground swimming pools with a capacity in excess of 200  
30 gallons that involve excavation, plumbing, chemicals, or  
31 wiring of any appliance without a factory-installed electrical

1 ~~cord and plug~~. This subsection shall not be construed to  
2 limit the exemptions provided in subsection (7).

3 (7) Owners of property when acting as their own  
4 contractor and providing all material supervision themselves,  
5 when building or improving farm outbuildings or one-family or  
6 two-family residences on such property for the occupancy or  
7 use of such owners and not offered for sale, or building or  
8 improving commercial buildings at a cost of under \$25,000 on  
9 such property for the occupancy or use of such owners and not  
10 offered for sale or lease. In an action brought under this  
11 ~~part act~~, proof of the sale or lease, or offering for sale or  
12 lease, of more than one such structure by the owner-builder  
13 within 1 year after completion of same is prima facie  
14 presumptive evidence that the construction was undertaken for  
15 purposes of sale or lease. ~~This subsection does not exempt~~  
16 ~~any person who is employed by such owner and who acts in the~~  
17 ~~capacity of a contractor. To qualify for exemption under this~~  
18 ~~subsection, an owner must personally appear and sign the~~  
19 ~~building permit application. The local permitting agency~~  
20 ~~shall provide the person with a disclosure statement in~~  
21 ~~substantially the following form:~~

22  
23 Disclosure Statement

24 State law requires construction to be done by licensed  
25 contractors. You have applied for a permit under an exemption  
26 to that law. The exemption allows you, as the owner of your  
27 property, to act as your own contractor even though you do not  
28 have a license. You must supervise the construction yourself.  
29 You may build or improve a one- or two-family residence or a  
30 farm outbuilding. You may also build or improve a commercial  
31 building at a cost of \$25,000 or less. The building must be



2 for your own use and occupancy. It may not be built for sale  
3 or lease. If you sell or lease more than one building you  
4 have built yourself within one year after the construction is  
5 complete, the law will presume that you built it for sale or  
6 lease, which is a violation of this exemption. You may not  
7 hire an unlicensed person as your contractor. Your  
8 construction must be done according to building codes and  
9 zoning regulations. It is your responsibility to make sure  
10 that people employed by you have licenses required by state  
11 law and by county or municipal licensing ordinances.

12 (8) Any construction, alteration, improvement, or  
13 repair carried on within the limits of any site the title to  
14 which is in the United States or with respect to which federal  
15 law supersedes this part act.

16 (9) Any work or operation of a casual, minor, or  
17 inconsequential nature in which the aggregate contract price  
18 for labor, materials, and all other items is less than \$1,000,  
19 but this exemption does not apply:

20 (a) If the construction, repair, remodeling, or  
21 improvement is a part of a larger or major operation, whether  
22 undertaken by the same or a different contractor, or in which  
23 a division of the operation is made in contracts of amounts  
24 less than \$1,000 ~~\$500~~ for the purpose of evading this part act  
25 or otherwise.

26 (b) To a person who advertises that he is a contractor  
27 or otherwise represents that he is qualified to engage in  
contracting.

28 (11) A registered architect or ~~engineer~~-or  
29 residential-designer acting within the scope of his practice  
30 in-his-professional-capacity or any person exempted by the law

1 regulating architects and engineers, including persons doing  
2 design work as specified in s. 481.229(1)(b); provided,  
3 however, that an architect or engineer shall not act as a  
4 contractor unless properly licensed under this chapter.

5 Section 3. Section 489.105, Florida Statutes, is  
6 amended to read:

7 489.105 Definitions.--As used in this part act:

8 (1) "Board" means the Construction Industry Licensing  
9 Board.

10 (2) "Department" means the Department of Professional  
11 Regulation.

12 (3) "Contractor" means the person who is qualified for  
13 and responsible for the entire project contracted for and  
14 means, except as exempted in this part act, the person who,  
15 for compensation, undertakes to, submits a bid to, or does  
16 himself or by others construct, repair, alter, remodel, add  
17 to, subtract from, or improve any building or structure,  
18 including related improvements to real estate, for others or  
19 for resale to others. Contractors are subdivided into two  
20 divisions, Division I, consisting of those contractors defined  
21 in paragraphs (a)-(c), and Division II, consisting of those  
22 contractors defined in paragraphs (d)-(n) ~~(d)-(n)~~:

23 (a) "General contractor" means a contractor whose  
24 services are unlimited as to the type of work which he may do,  
25 except as provided in this part act.

26 (b) "Building contractor" means a contractor whose  
27 services are limited to construction of commercial buildings  
28 and single-dwelling or multiple-dwelling residential  
29 buildings, which commercial or residential buildings do not  
30 exceed three stories in height, and accessory use structures  
31 in connection therewith or a contractor whose services are

2 limited to remodeling, repair, or improvement of any size  
3 building if the services do not affect the structural members  
4 of the building.

5 (c) "Residential contractor" means a contractor whose  
6 services are limited to construction, remodeling, repair, or  
7 improvement of one-family, two-family, or three-family  
8 residences not exceeding two stories in height and accessory  
9 use structures in connection therewith.

10 (d) "Sheet metal contractor" means a contractor whose  
11 services are unlimited in the sheet metal trade and who has  
12 the experience, knowledge, and skill necessary for the  
13 manufacture, fabrication, assembling, handling, erection,  
14 installation, dismantling, conditioning, adjustment,  
15 ~~insulation, alteration, repair, servicing, or design, when not~~  
16 ~~prohibited by law, of ferrous or nonferrous metal work of U.~~  
17 ~~S. No. 10 gauge or its equivalent or lighter gauge and of~~  
18 ~~other materials, including, but not limited to, fiberglass,~~  
19 ~~used in lieu thereof and of air-handling systems, including~~  
20 ~~the setting of air-handling equipment and reinforcement of~~  
21 ~~same and including the balancing of air-handling systems.~~

22 (e) "Roofing contractor" means a contractor whose  
23 services are unlimited in the roofing trade and who has the  
24 experience, knowledge, and skill to install, maintain, repair,  
25 alter, extend, or design, when not prohibited by law, and use  
26 materials and items used in the installation, maintenance,  
27 extension, and alteration of all kinds of roofing, and  
28 ~~waterproofing, and coating, except when coating is not~~  
29 ~~represented to protect, repair, waterproof, stop leaks, or~~  
30 ~~extend the life of the roof.~~

31 (f) "Class A air conditioning contractor" means a  
32 contractor any person whose services are unlimited in the

1 execution of contracts requiring the experience, knowledge,  
2 and skill to install, maintain, repair, fabricate, alter,  
3 extend, or design, when not prohibited by law, central air  
4 conditioning, refrigeration, heating, and ventilating systems,  
5 including duct work in connection with a complete system only  
6 to the extent such duct work is performed by the contractor as  
7 is necessary to make complete an air-distribution system,  
8 boiler and unfired pressure vessel systems, and all  
9 appurtenances, apparatus, or equipment used in connection  
10 therewith; and to install, maintain, repair, fabricate, alter,  
11 extend, or design, when not prohibited by law, piping,  
12 insulation of pipes, vessels and ducts, pressure and process  
13 piping, and pneumatic control piping; to disconnect or  
14 reconnect power wiring on the load side of the disconnect  
15 switch and low voltage heating, ventilating, and air  
16 conditioning control wiring; and to install installation-of a  
17 condensate drain from an air conditioning unit to an existing  
18 safe waste or other approved disposal other than a direct  
19 connection to a sanitary system. The scope of work for such  
20 contractor shall also include any excavation work incidental  
21 thereto, but shall not include any work such as liquefied  
22 petroleum or natural gas fuel lines within buildings, potable  
23 waterlines or connections thereto, sanitary sewer lines,  
24 swimming pool piping and filters, or electrical power wiring  
25 on the line side of the disconnect switch.

26 (g) "Class B air conditioning contractor" means a  
27 contractor any-person whose services are limited to 25 tons of  
28 cooling and 500,000 Btu of heating in any one system in the  
29 execution of contracts requiring the experience, knowledge,  
30 and skill to install, maintain, repair, fabricate, alter,  
31 extend, or design, when not prohibited by law, central air

1 conditioning, refrigeration, heating, and ventilating systems,  
2 including duct work in connection with a complete system only  
3 to the extent such duct work is performed by the contractor as  
4 is necessary to make complete an air-distribution system being  
5 installed under this classification; and to install,  
6 maintain, repair, fabricate, alter, extend, or design, when  
7 not prohibited by law, piping and insulation of pipes,  
8 vessels, and ducts; to disconnect or reconnect power wiring on  
9 the load side of the disconnect switch and low voltage  
10 heating, ventilating, and air conditioning control wiring; and  
11 to install, and installation of a condensate drain from an air  
12 conditioning unit to an existing safe waste or other approved  
13 disposal other than a direct connection to a sanitary system.  
14 The scope of work for such contractor shall also include any  
15 excavation work incidental thereto, but shall not include any  
16 work such as liquefied petroleum or natural gas fuel lines  
17 within buildings, potable waterlines or connections thereto,  
18 sanitary sewer lines, swimming pool piping and filters, or  
19 electrical power wiring on the line side of the disconnect  
20 switch.

21 (h) "Class C air conditioning contractor" means a  
22 contractor any person whose business is limited to the  
23 servicing of air conditioning, heating, or refrigeration  
24 systems, including duct alterations in connection with those  
25 systems he is servicing, and whose certification or  
26 registration, issued pursuant to this part, was valid on  
27 October 1, 1988. No person not previously registered or  
28 certified as a Class C air conditioning contractor shall be so  
29 registered or certified after October 1, 1988.

30 (i) "Mechanical contractor" means a contractor any  
31 person whose services are unlimited in the execution of

1 contracts requiring the experience, knowledge, and skill to  
2 install, maintain, repair, fabricate, alter, extend, or  
3 design, when not prohibited by law, central air conditioning,  
4 refrigeration, heating, and ventilating systems, including  
5 duct work in connection with a complete system only to the  
6 extent such duct work is performed by the contractor as is  
7 necessary to make complete an air-distribution system, boiler  
8 and unfired pressure vessel systems, lift station equipment  
9 and piping, and all appurtenances, apparatus, or equipment  
10 used in connection therewith; and to install, maintain,  
11 repair, fabricate, alter, extend, or design, when not  
12 prohibited by law, piping, insulation of pipes, vessels and  
13 ducts, pressure and process piping, pneumatic control piping,  
14 gasoline tanks and pump installations and piping for same,  
15 standpipes, air piping, vacuum line piping, oxygen lines,  
16 nitrous oxide piping, ink and chemical lines, fuel  
17 transmission lines, and natural gas fuel lines within  
18 buildings; to disconnect or reconnect power wiring on the load  
19 side of the disconnect switch and low voltage heating,  
20 ventilating, and air conditioning control wiring; and to  
21 install installation of a condensate drain from an air  
22 conditioning unit to an existing safe waste or other approved  
23 disposal other than a direct connection to a sanitary system.  
24 The scope of work for such contractor shall also include any  
25 excavation work incidental thereto, but shall not include any  
26 work such as liquefied petroleum or natural gas fuel lines  
27 within buildings, potable waterlines or connections thereto,  
28 sanitary sewer lines, swimming pool piping and filters, or  
29 electrical power wiring.

30 (j) "Commercial pool~~spa~~ contractor" means a  
31 contractor any person whose scope of work involves, but is not

1 limited to, the construction, repair, water treatment, and  
2 servicing of any swimming pool, or hot tub or spa, whether  
3 public, private, or otherwise, regardless of use. The scope  
4 of such work includes layout, excavation, operation of  
5 construction pumps for dewatering purposes, steelwork,  
6 installation of light niches, pouring of floors, guniting,  
7 fibreglassing, installation of tile and coping, installation  
8 of all perimeter and filter piping, installation of all filter  
9 equipment and chemical feeders of any type, plastering of the  
10 interior, pouring of decks, construction of equipment rooms or  
11 housing for pool equipment, and installation of package pool  
12 heaters. However, the scope of such work does not include  
13 direct connections to a sanitary sewer system or to potable  
14 waterlines.

15 (k) "Residential pool/spa contractor" means a  
16 contractor any-person whose scope of work involves, but is not  
17 limited to, the construction, repair, water treatment, and  
18 servicing of any residential swimming pool, or hot tub or spa,  
19 regardless of use. The scope of such work includes layout,  
20 excavation, operation of construction pumps for dewatering  
21 purposes, steelwork, installation of light niches, pouring of  
22 floors, guniting, fibreglassing, installation of tile and  
23 coping, installation of all perimeter and filter piping,  
24 installation of all filter equipment and chemical feeders of  
25 any type, plastering of the interior, pouring of decks,  
26 installation of housing for pool equipment, and installation  
27 of package pool heaters. However, the scope of such work does  
28 not include direct connections to a sanitary sewer system or  
29 to potable waterlines.

30 (l) "Swimming pool/spa servicing contractor" means a  
31 contractor any-person whose scope of work involves the

1 servicing, repair, water treatment, including, but not limited  
2 to, the direct infusion of chlorine gas, and maintenance of  
3 any swimming pool, or hot tub or spa, whether public or  
4 private. The scope of such work may include any necessary  
5 piping and repairs, replacement and repair of existing  
6 equipment, or installation of new additional equipment as  
7 necessary. The scope of such work includes the reinstallation  
8 of tile and coping, repair and replacement of all piping,  
9 filter equipment, and chemical feeders of any type,  
10 replastering, repouring of decks, and reinstallation or  
11 addition of pool heaters.

12 (m) "Plumbing contractor" means is a contractor whose  
13 contracting business consists of the execution of contracts  
14 requiring the experience, financial means, knowledge, and  
15 skill to install, maintain, repair, alter, extend, or, when  
16 not prohibited by law, design plumbing. A plumbing contractor  
17 may install, maintain, repair, alter, extend, or, when not  
18 prohibited by law, design the following without obtaining any  
19 additional local regulatory license, certificate, or  
20 registration: sanitary drainage or storm drainage facilities;  
21 venting systems; public or private water supply systems;  
22 septic tanks; drainage and supply wells; swimming pool piping;  
23 irrigation systems; or solar heating water systems and all  
24 appurtenances, apparatus, or equipment used in connection  
25 therewith, including boilers and pressure process piping and  
26 including the installation of water, natural gas (excluding  
27 liquid petroleum gases), and storm and sanitary sewer lines;  
28 and water and sewer plants and substations. The scope of work  
29 of the plumbing contractor also includes the design, when not  
30 prohibited by law, and installation, maintenance, repair,  
31 alteration, or extension of air-piping, vacuum line piping,



1 oxygen line piping, nitrous oxide piping, and all related  
2 medical gas systems; fire line standpipes and fire sprinklers  
3 to the extent authorized by law; ink and chemical lines; fuel  
4 oil and gasoline piping and tank and pump installation, except  
5 bulk storage plants; and pneumatic control piping systems, all  
6 in such a manner as to comply with all plans, specifications,  
7 codes, laws, and regulations applicable. The scope of work of  
8 the plumbing contractor shall apply to private property and  
9 public property, shall include any excavation work incidental  
10 thereto, and shall include the work of the specialty plumbing  
11 contractor. Such contractor shall subcontract, with a  
12 qualified contractor in the field concerned, all other work  
13 incidental to the work but which is specified herein as being  
14 the work of a trade other than that of a plumbing contractor.  
15 Nothing in this definition shall be construed to limit the  
16 scope of work of any specialty contractor certified pursuant  
17 to s. 489.113(6). Nothing in this definition shall be  
18 construed to require certification or registration under this  
19 part of any authorized employee of a public natural gas  
20 utility or of a private natural gas utility regulated by the  
21 Public Service Commission, when disconnecting and reconnecting  
22 water lines in the servicing or replacement of an existing  
23 water heater.

24 (n) "Underground utility contractor" means a  
25 contractor whose services are limited to the construction,  
26 installation, and repair, on public or private property, of  
27 main sanitary sewer collection systems, main water  
28 distribution systems, and storm sewer collection systems, and  
29 the continuation of utility lines from the main systems to a  
30 point of termination up to and including the meter location  
31 for the individual occupancy, sewer collection systems at

1 property line on residential or single-occupancy commercial  
2 properties, or on multioccupancy properties at manhole or wye  
3 lateral extended to an invert elevation as engineered to  
4 accommodate future building sewers, water distribution  
5 systems, or storm sewer collection systems at storm sewer  
6 structures. An underground utility contractor shall not  
7 install any piping that is an integral part of a fire  
8 protection system, as defined in s. 633.021(7) beginning at  
9 the point where the piping is used exclusively for such  
10 system.

11 (4) "Primary qualifying agent" means a person who  
12 possesses the requisite skill, knowledge, and experience, and  
13 has the responsibility, to supervise, direct, manage, and  
14 control the contracting activities of the business  
15 organization entity with which he is connected; who has the  
16 responsibility to supervise, direct, manage, and control  
17 construction activities on a job for which he has obtained the  
18 building permit; and whose technical and personal  
19 qualifications have been determined by investigation and  
20 examination as provided in this part act, as attested by the  
21 department.

22 (5) "Secondary qualifying agent" means a person who  
23 possesses the requisite skill, knowledge, and experience, and  
24 has the responsibility to supervise, direct, manage, and  
25 control construction activities on a job for which he has  
26 obtained a permit, and whose technical and personal  
27 qualifications have been determined by investigation and  
28 examination as provided in this part, as attested by the  
29 department.

30 (6)(5) "Contracting" means, except as excepted in this  
31 part act, engaging in business as a contractor.

1       (7)(6) "Certificate" means a certificate of competency  
2 issued by the department as provided in this part act.

3       (8)(7) "Certified contractor" means any contractor who  
4 possesses a certificate of competency issued by the department  
5 and who shall be allowed to may contract in any jurisdiction  
6 in the state without being required to fulfill the competency  
7 requirements of that jurisdiction.

8       (9)(8) "Registration" means registration with the  
9 department as provided in this part act.

10       (10)(9) "Registered contractor" means any contractor  
11 who has registered with the department pursuant to fulfilling  
12 the competency requirements in the jurisdiction for which the  
13 registration is issued. Registered contractors may contract  
14 only in such jurisdictions these areas.

15       (11)(10) "Certification" means the act of obtaining or  
16 holding a certificate of competency from the department as  
17 provided in this part act.

18       (12)(11) "Specialty contractor" means a contractor  
19 whose scope of work and responsibility is limited to a  
20 particular phase of construction or whose scope of work is  
21 limited to a subset of the activities described in the  
22 categories established in paragraphs (a)-(n) of subsection  
23 (3). Categories of specialty contractor shall be established  
24 by the board by rule and shall include, but not be limited to,  
25 asbestos abatement, solar, and specialty structure. any  
26 contractor who does not fall within the categories established  
27 in paragraphs (a)-(n) of subsection (3).

28       (12)--"licensee"--means a holder of a certificate issued  
29 pursuant to this act or a person registered pursuant to this  
30 act.

31

1 (13) "Local construction regulation board" means a  
2 board, composed of not fewer than three residents of a county  
3 or municipality, which the governing body of that county or  
4 municipality may create and appoint to maintain the proper  
5 standard of construction of that county or municipality.

6 (14)--"Pollutant-storage-systems-specialty-contractor"  
7 means-a-contractor-who-installs-a-pollutant-storage-tank

8 (15)--"Pollutant-storage-tank" means-a-tank-together  
9 with-associated-piping-or-dispensing-facilities,-which-is-or  
10 could-be-used-for-the-storage-or-supply-of-pollutants-as  
11 defined-in-sr-376,301-and-which-is-required-to-be-registered  
12 under-chapter-17-61-of-the-Florida-Administrative-Code-or-for  
13 which-notification-must-be-submitted-under-Subtitle-I-of-the  
14 Resource-Conservation-and-Recovery-Act;

15 (16)--"Tank" means-any-container-other-than-one-which  
16 is-aboveground-and-either-elevated-or-situated-upon-an  
17 impermeable-surface,-or-which-is-located-in-an-accessible  
18 underground-area-and-either-elevated-or-situated-upon-an  
19 impermeable-surface-therein,-in-such-manner-that-any-leak-in  
20 such-container-may-be-readily-detected;

21 (17)--"Registered-precision-tank-tester" means-any  
22 precision-tank-tester-who-has-registered-with-the-department  
23 pursuant-to-sr-489,113(12);--This-registration-shall-be-exempt  
24 from-the-provisions-of-prior-municipality,-county,-or  
25 development-district-registration,-as-required-under-sr  
26 489,117,-and-shall-be-registered-on-a-statewide-basis;

27 Section 4. Section 489.107, Florida Statutes, is  
28 amended to read:

29 489.107 Construction Industry Licensing Board.--

30 (1) To carry out the provisions of this part act,  
31 there is created within the Department of Professional

Regulation the Construction Industry Licensing Board. Members  
and-alternate-members shall be appointed by the Governor,  
subject to confirmation by the Senate. Effective October 1,  
1988 Initially, the Governor shall appoint four members, each  
for a term of 1 year; five members, each for a term of 2  
years; four members, each for a term of 3 years; and five  
members, each for a term of 4 years seven-members-and-three  
alternate-members,-each-for-a-term-of-4-years,-and-seven  
members-and-two-alternate-members,-each-for-a-term-of-3-years.  
Thereafter, successors shall be appointed for 4-year terms. A  
vacancy on the board shall be filled for the unexpired portion  
of the term in the same manner as the original appointment.  
No member shall serve more than two consecutive 4-year terms  
or more than 11 years on the board.

(2) The board shall consist of:

(a)--Seventeen-regular eighteen members, of whom:

(a)1: four Three are primarily engaged in business as  
general contractors;

(b)2: Three are primarily engaged in business as  
building contractors or residential contractors, however, at  
least one building contractor and one residential contractor  
shall be appointed;

(c)3: One is primarily engaged in business as a  
roofing contractor;

(d)4: One is primarily engaged in business as a sheet  
metal contractor;

(e)5: One is primarily engaged in business as an air  
conditioning contractor;

(f)6: One is primarily engaged in business as a  
mechanical contractor;

- 1           (g)7. One is primarily engaged in business as a pool  
2 contractor;
- 3           (h)8. One is primarily engaged in business as a  
4 plumbing contractor;
- 5           (i)9. One is primarily engaged in business as an  
6 underground utility contractor;
- 7           (j)10. Two are lay persons who are not, and have never  
8 been, members or practitioners of a profession regulated by  
9 the board or members of any closely related profession; and
- 10           (k)11. Two are building officials of a municipality or  
11 county, † and
- 12           ~~(b) -- Six alternate members, of whom:~~
- 13           ~~1. -- One is primarily engaged in business as a roofing~~  
14 ~~contractor;~~
- 15           ~~2. -- One is primarily engaged in business as a sheet~~  
16 ~~metal contractor;~~
- 17           ~~3. -- One is primarily engaged in business as an air~~  
18 ~~conditioning contractor;~~
- 19           ~~4. -- One is primarily engaged in business as a~~  
20 ~~mechanical contractor;~~
- 21           ~~5. -- One is primarily engaged in business as a pool~~  
22 ~~contractor; and~~
- 23           ~~6. -- One is primarily engaged in business as a plumbing~~  
24 ~~contractor.~~
- 25           (3) To be eligible for appointment, each contractor  
26 member and alternate member must have been certified by the  
27 board to operate as a contractor in the category with respect  
28 to which he is appointed, be actively engaged in the  
29 construction business, and have been so engaged for a period  
30 of not less than 5 consecutive years before the date of his  
31

1 appointment. Each appointee must be a citizen and resident of  
2 the state.

3 ~~(4)--An alternate member may attend any meeting of the~~  
4 ~~board, and, if the member and the corresponding alternate~~  
5 ~~member are both present and voting, each shall have only one~~  
6 ~~half vote; however, if either the member or the corresponding~~  
7 ~~alternate member is absent, the member or alternate member~~  
8 ~~present shall have one vote.~~

9 ~~(4)(5)~~ The board shall be divided into two divisions,  
10 Division I and Division II.

11 (a) Division I is comprised of the general contractor,  
12 building contractor, and residential contractor members of the  
13 board; one of the members appointed pursuant to paragraph  
14 (2)(j) ~~subparagraph-(2)(a)(i);~~; and one of the members  
15 appointed pursuant to paragraph (2)(k) ~~subparagraph-(2)(a)(i);~~  
16 and has jurisdiction over the examination and regulation of  
17 general contractors, building contractors, and residential  
18 contractors.

19 (b) Division II is comprised of the ~~regular and~~  
20 ~~alternate roofing contractor, sheet metal contractor, air~~  
21 ~~conditioning contractor, mechanical contractor, pool~~  
22 ~~contractor, plumbing contractor, and underground utility~~  
23 ~~contractor members of the board; one of the members appointed~~  
24 ~~pursuant to paragraph (2)(j) subparagraph-(2)(a)(i);~~; and one  
25 ~~of the members appointed pursuant to paragraph (2)(k)~~  
26 ~~subparagraph-(2)(a)(i);~~ and has jurisdiction over the  
27 examination and regulation of roofing contractors, sheet metal  
28 contractors, air conditioning contractors, mechanical  
29 contractors, pool contractors, plumbing contractors, and  
30 underground utility contractors.

1           ~~(5)(6)~~ Five members of Division I constitute a quorum,  
2 and five members votes of Division II constitute a quorum.  
3 The combined divisions shall meet together, at such times as  
4 the board deems necessary; but neither division, nor any  
5 committee thereof, shall take action on any matter under the  
6 jurisdiction of the other division. However, if either  
7 division is unable to obtain a quorum for the purpose of  
8 conducting disciplinary proceedings, it may request members of  
9 the other division, who are otherwise qualified to serve on  
10 the division unable to obtain a quorum, to join in its  
11 deliberations. Such additional members shall vote and count  
12 toward a quorum only during those disciplinary proceedings.

13           (6)(a) The board shall establish at least one, but not  
14 more than two, probable cause panels for each division to meet  
15 the responsibilities set out in s. 455.225(3). Each probable  
16 cause panel shall be composed of two members. One probable  
17 cause panel member of each panel may, if provided for in  
18 administrative rule, be a past board member who is not  
19 currently appointed to the board.

20           (b) During the time members are appointed to a  
21 probable cause panel, they shall attempt to complete their  
22 work on every case presented to them. In the event that  
23 consideration of a case is begun but not completed during the  
24 term of those members on the panel, they may reconvene as a  
25 probable cause panel, in addition to the panels established  
26 under paragraph (6)(a), for the purpose of completing their  
27 deliberations on that case.

28           Section 5. Section 489.109, Florida Statutes, is  
29 amended to read:

30           489.109 Fees.--  
31



1 (1) The board, by rule, shall establish reasonable  
2 fees to be paid for applications, examination, certification  
3 and renewal, registration and renewal, and recordmaking and  
4 recordkeeping. ~~Effective-October-1, 1979, The fees shall be~~  
5 established as follows:

6 (a) With respect to an applicant for a certificate,  
7 the initial application and examination fee shall not exceed  
8 \$250, and the initial certification fee and the biennial  
9 renewal fee shall not exceed \$100; and

10 (b) With respect to an applicant for registration, the  
11 initial application fee shall not exceed \$50, and the initial  
12 certification fee and the biennial renewal fee shall not  
13 exceed \$50.

14  
15 Renewal fees for certificates and registrations shall be paid  
16 by June 30 of each biennial period. The fees required by the  
17 board on June 30, 1979, shall remain in effect through  
18 September 30, 1979. The board, by rule, may also establish  
19 penalty fees for late renewal not to exceed ~~\$40~~ \$20 for  
20 certification and \$20 for ~~\$10~~ registration for renewal  
21 applications made within 90 days after the end of the biennial  
22 period. The board shall establish fees which are adequate to  
23 ensure the continued operation of the board. Fees shall be  
24 based on department estimates of the revenue required to  
25 implement this part act and the provisions of law with respect  
26 to the regulation of the construction industry.

27 (2) Failure to renew an active or voluntary inactive  
28 certificate or registration at the time of biennial renewal  
29 will result in the certificate or registration becoming  
30 involuntarily inactive. Failure to reactivate an  
31 involuntarily inactive certificate or registration after two

1 consecutive renewal periods have lapsed will result in the  
2 certificate or registration becoming null and void without  
3 further action of the board. The department shall notify  
4 certificateholders and registrants who have failed to  
5 reactivate their certificates or registrations for a renewal  
6 period that such certificates or registrations shall become  
7 null and void if not renewed by the end of the second period.

8       (3) A certificate or registration which is  
9 involuntarily inactive may be reactivated by application to  
10 the department, including payment of an application fee for  
11 reactivation not to exceed \$100 as established by board rule,  
12 complying with any background investigation that may be  
13 required by the board, and upon payment of the current renewal  
14 fee for each biennium in which the certificate or registration  
15 was involuntarily inactive and the penalty fee.

16       (4) The department shall notify those  
17 certificateholders and registrants currently in an inactive  
18 status of the provisions of this section at the time of the  
19 next biennial renewal period.

20       (5) A certificateholder or registrant whose license  
21 has become null and void may reapply to the board for  
22 certification or registration. The board may waive education  
23 and experience requirements as promulgated by board rule upon  
24 reapplication; however, the board may require any additional  
25 current requirements for certification or registration,  
26 including reexamination. A certificate or registration which  
27 is inactive because of failure to renew shall be restored  
28 on payment of the proper renewal fee, if the application for  
29 restoration is made within 90 days after June 30 of the  
30 renewal year. If the application for restoration is not made  
31 within the 90-day period, the fee for restoration shall be

1 ~~equal to the original application fee plus the renewal fee for~~  
2 ~~each additional period the license has been delinquent; and in~~  
3 ~~addition, the board may require reexamination of the~~  
4 ~~applicant;~~

5 (6)(3) A person who is registered or holds a valid  
6 certificate from the board may go on voluntary inactive status  
7 during which time he shall not engage in contracting but may  
8 ~~retain his certificate or registration on an inactive basis on~~  
9 payment of a biennial renewal fee during the inactive period,  
10 not to exceed \$20 per biennial period. To go off voluntary  
11 inactive status, such person shall be required only to pay the  
12 regular biennial renewal fee for certification or  
13 registration.

14 (7)(4) In addition to the fees provided in subsection  
15 (1) for application and renewal for certification and  
16 registration, all certificateholders and registrants licensees  
17 shall pay a fee of \$4 to the department at the time of  
18 application or biennial renewal. The funds shall be  
19 transferred at the end of each biennial licensing period to  
20 the Department of Education to fund projects relating to the  
21 building construction industry or continuing education  
22 programs offered to persons engaged in the building  
23 construction industry in Florida. The board shall, at the  
24 time the funds are transferred, advise the Department of  
25 Education on the most needed areas of research or continuing  
26 education based on significant changes in the industry's  
27 practices or on the most common types of consumer complaints  
28 or on problem costing the state or local governmental entities  
29 substantial waste. The board's advice is not binding on the  
30 Department of Education. The Department of Education shall  
31 ~~allocate for distribution in the following manner:~~

1           (a) fifty percent of the funds to shall be allocated  
2 ~~to fund research projects relating to the building~~  
3 ~~construction industry in a graduate program in building~~  
4 ~~construction in a Florida university and~~

5           (b) fifty percent of the funds to shall be apportioned  
6 among all accredited private and state universities and  
7 community colleges within the state offering approved courses  
8 in building construction, with each university or college  
9 receiving a pro rata share of such funds based upon the number  
10 of full-time building construction students enrolled at the  
11 institution. The Department of Education shall ensure the  
12 distribution of research reports and the availability of  
13 continuing education programs to all segments of the building  
14 construction industry to which they relate. The Department of  
15 Education shall cause a to be made to the board in October of  
16 each year, summarizing the allocation of the funds by  
17 institution and summarizing the new projects funded and the  
18 status of previously funded projects. Each ~~institution~~  
19 ~~receiving funds under this subsection shall utilize such funds~~  
20 ~~for research projects relating to the building construction~~  
21 ~~industry or for continuing education programs to be offered to~~  
22 ~~those engaged in the building construction industry in~~  
23 ~~Florida.~~

24           Section 6. Paragraph (c) of subsection (2) and  
25 paragraph (b) of subsection (3) of section 489.111, Florida  
26 Statutes, are amended to read:

27           489.111 Examinations.--

28           (2) A person shall be entitled to take the examination  
29 for the purpose of determining whether he is qualified to  
30 engage in contracting throughout this state if the person:

31

1 (c) Meets eligibility requirements according to one of  
2 the following criteria:

3 1. Has received a baccalaureate degree from an  
4 accredited 4-year college in the appropriate field of  
5 engineering, architecture, or building construction and has 1  
6 year of proven experience in the category in which the person  
7 seeks to qualify. For the purpose of this part act, a minimum  
8 of 2,000 man-hours shall be used in determining full-time  
9 equivalency.

10 2. Has a total of at least 4 3 years of active  
11 experience as a workman who has learned his trade by serving  
12 an apprenticeship, or as a skilled workman who is able to  
13 command the rate of a mechanic in his particular trade, or as  
14 ~~a and-has-at-least-1-year-of-active-experience-at-the-level-of~~  
15 foreman who is in charge of a group of workmen and usually is  
16 responsible to a superintendent or a contractor or his  
17 equivalent, provided, however, that at least 1 year of active  
18 experience shall be as a foreman.

19 3. Has a combination of not less than 1 year of  
20 experience as a foreman and not less than 3 years of credits  
21 for any accredited college-level courses; has a combination of  
22 not less than 1 year of experience as a skilled workman, 1  
23 year of experience as a foreman, and not less than 2 years of  
24 credits for any accredited college level courses; or has a  
25 combination of not less than 2 years of experience as a  
26 skilled workman, 1 year of experience as a foreman, and not  
27 less than 1 year of credits for any accredited college-level  
28 courses. For the number of years of credits for any  
29 accredited college-level courses, the applicant shall show  
30 completion of an equal number of courses in the appropriate  
31 field of engineering, architecture, or building construction.

1 All junior college or community college-level courses shall be  
2 considered accredited college-level courses.

3       4.a. An active certified residential contractor is  
4 eligible to take the building contractors' examination if he  
5 possesses a minimum of 3 years of proven experience in the  
6 classification in which he is certified.

7       b. An active certified residential contractor is  
8 eligible to take the general contractors' examination if he  
9 possesses a minimum of 4 years of proven experience in the  
10 classification in which he is certified.

11       c. An active certified building contractor is eligible  
12 to take the general contractors' examination if he possesses a  
13 minimum of 4 years of proven experience in the classification  
14 in which he is certified.

15       5.a. An active certified air conditioning Class C  
16 contractor is eligible to take the air conditioning Class B  
17 contractors' examination if he possesses a minimum of 3 years  
18 of proven experience in the classification in which he is  
19 certified.

20       b. An active certified air conditioning Class C  
21 contractor is eligible to take the air conditioning Class A  
22 contractors' examination if he possesses a minimum of 4 years  
23 of proven experience in the classification in which he is  
24 certified.

25       c. An active certified air conditioning Class B  
26 contractor is eligible to take the air conditioning Class A  
27 contractors' examination if he possesses a minimum of 1 year  
28 of proven experience in the classification in which he is  
29 certified.

30       6.a. An active certified swimming pool servicing  
31 contractor is eligible to take the residential swimming pool

1 contractors' examination if he possesses a minimum of 3 years  
2 of proven experience in the classification in which he is  
3 certified.

4       b. An active certified swimming pool servicing  
5 contractor is eligible to take the swimming pool commercial  
6 contractors' examination if he possesses a minimum of 4 years  
7 of proven experience in the classification in which he is  
8 certified.

9       c. An active certified residential swimming pool  
10 contractor is eligible to take the commercial swimming pool  
11 contractors' examination if he possesses a minimum of 1 year  
12 of proven experience in the classification in which he is  
13 certified.

14       (3)

15       (b) When an applicant is found to be unqualified for a  
16 certificate license because of a lack of good moral character,  
17 the board shall furnish the applicant a statement containing  
18 the findings of the board, a complete record of the evidence  
19 upon which the determination was based, and a notice of the  
20 rights of the applicant to a rehearing and appeal.

21       Section 7. Section 489.113, Florida Statutes, is  
22 amended to read:

23       489.113 Qualifications for practice; restrictions.--

24       (1) Any person who desires to engage in contracting on  
25 a statewide basis shall, as a prerequisite thereto, establish  
26 his competency and qualifications to be certified pursuant to  
27 this part act. To establish his competency, a person shall  
28 pass the appropriate examination administered by the  
29 department. Any person who desires to engage in contracting  
30 on other than a statewide basis shall, as a prerequisite  
31 thereto, be registered pursuant to this part act, unless

1 ~~exempted by this part act. Registration shall be required of~~  
2 ~~specialty contractors when licensing is required by a county~~  
3 ~~or municipality in which the specialty contractor practices.~~

4       (2) No person who is not certified or registered a  
5 licensee shall engage in the business of contracting in this  
6 state. To enforce this subsection:

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

15       (b) A county or municipality may issue a cease and  
16 desist order to prohibit any person from engaging in the  
17 business of contracting who does not hold the required  
18 certification or registration for the work being performed  
19 under this part.

20       (3) A contractor shall subcontract the electrical,  
21 mechanical, plumbing, roofing, sheet metal, commercial  
22 swimming pool, and air conditioning work for which a local  
23 examination for a certificate of competency or a license is  
24 required, unless such contractor holds a state certificate of  
25 competency or license of the respective trade category, as  
26 required by the appropriate local authority. However, a  
27 general, building, or residential contractor shall not be  
28 required to subcontract the installation of wood shingles,  
29 wood shakes, or asphalt or fiberglass shingle roofing  
30 materials on a new building of his own construction, and a  
31 general contractor shall not be required to subcontract



1 structural swimming pool work. Further, a general contractor,  
2 on new site development work, site redevelopment work, mobile  
3 home parks, and commercial properties, shall not be required  
4 to subcontract the construction of the main sanitary sewer  
5 collection system, the storm collection system, and the water  
6 distribution system, not including the continuation of utility  
7 lines from the mains to the buildings. Further, as to mobile  
8 home parks, the general contractor shall not be required to  
9 subcontract the continuation of utility lines from the mains,  
10 and the continuations are to be considered a part of the main  
11 sewer collection and main water distribution systems. This  
12 subsection does not apply if the local authority does not  
13 require a certificate of competency or license for such trade.  
14 However, no general, building, or residential contractor  
15 certified after 1973 shall act as, hold himself out to be, or  
16 advertise himself to be a roofing contractor unless he is  
17 certified or registered as a roofing contractor.

18 (4) When a certificateholder desires to engage in  
19 contracting in any area of the state, as a prerequisite  
20 therefor, he shall be required only to exhibit to the local  
21 building official, tax collector, or other person in charge of  
22 the issuance of licenses and building permits in the area  
23 evidence of holding a current certificate and to pay the fee  
24 for the occupational license and building permit required of  
25 other persons. However, a local construction regulation board  
26 may deny the issuance of a building permit to a certified  
27 contractor, or issue a permit with specific conditions, if the  
28 local construction regulation board has found such contractor,  
29 through the public hearing process, to be guilty of fraud or a  
30 willful building code violation within the county or  
31 municipality that the local construction regulation board

1 represents or if the local construction regulation board has  
2 proof that such contractor, through the public hearing  
3 process, has been found guilty in another county or  
4 municipality within the past 12 months, of fraud or a willful  
5 building code violation and finds, after providing notice to  
6 the contractor, that such fraud or violation would have been  
7 fraud or a violation if committed in the county or  
8 municipality that the local construction board represents.  
9 Notification of and information concerning such permit denial  
10 shall be submitted to the Department of Professional  
11 Regulation within 15 days after the local construction  
12 regulation board decides to deny the permit.

13 (5) The certificate is not transferable.

14 (6) The board shall, by rule, designate those types of  
15 specialty contractors which may be certified under this part  
16 act.

17 ~~(7)--The board shall, by July 1, 1987, adopt rules~~  
18 ~~providing standards for certification of pollutant storage~~  
19 ~~systems specialty contractors and by July 1, 1988, amend such~~  
20 ~~rules to include persons who remove such systems.--The~~  
21 ~~Department of Environmental Regulation shall review and~~  
22 ~~comment on such rules prior to adoption.--The rules shall~~  
23 ~~include, but not be limited to~~

24 ~~(a)--Standards for operating as a pollutant storage~~  
25 ~~systems specialty contractor.~~

26 ~~(b)--Requirements for certification as a pollutant~~  
27 ~~storage systems specialty contractor.~~

28 ~~(c)--Requirements for certification without examination~~  
29 ~~of pollutant storage systems specialty contractors for any~~  
30 ~~person who has passed a local licensure examination, a~~  
31 ~~licensure examination in another state, or a licensure~~

1 ~~examination of a national organization, which is at least as~~  
2 ~~stringent as the examination adopted by the board.~~

3       ~~(d) Requirements for certification without examination~~  
4 ~~of pollutant storage systems specialty contractors for any~~  
5 ~~certified mechanical contractor, any certified plumbing~~  
6 ~~contractor, and any registered mechanical or plumbing~~  
7 ~~contractor who has passed a local examination judged by the~~  
8 ~~board to be at least as stringent as the equivalent state~~  
9 ~~mechanical or plumbing contractor's examination, provided that~~  
10 ~~such contractor has been certified prior to July 1, 1986, or~~  
11 ~~has been registered and passed such local examination prior to~~  
12 ~~July 1, 1986.~~

13  
14 ~~The board may use standards and examinations of national~~  
15 ~~organizations if such standards and examinations are adequate~~  
16 ~~to ensure competent installation and removal of pollutant~~  
17 ~~storage tanks. All such standards and examinations shall be~~  
18 ~~designed to ensure that leaks and other discharges are~~  
19 ~~eliminated to the greatest extent possible.~~

20       ~~(5)(a) Any person who has operated as a pollutant~~  
21 ~~storage systems specialty contractor during the 5 years~~  
22 ~~preceding September 1, 1986, shall receive within 30 days~~  
23 ~~after written request a temporary certificate permitting such~~  
24 ~~person to continue operating without certification until July~~  
25 ~~1, 1989, if such person:~~

26       ~~1. Notifies the department in writing that he intends~~  
27 ~~to continue such operation and submits an application fee set~~  
28 ~~by the board not to exceed \$50; and~~

29       ~~2. Provides a history of successful operation as a~~  
30 ~~pollutant storage systems specialty contractor within such~~  
31 ~~time period:~~

1           ~~(b)--A contractor seeking to be certified pursuant to~~  
2 ~~paragraph (7)(d) shall receive within 30 days after written~~  
3 ~~request a temporary certificate permitting such contractor to~~  
4 ~~continue operating without certification until the board~~  
5 ~~determines whether he qualifies for a certificate under~~  
6 ~~paragraph (7)(d); provided that such contractor:~~

7           ~~1.--Notifies the department in writing that he intends~~  
8 ~~to apply for certification under paragraph (7)(d); and~~

9           ~~2.--Provides the board sufficient information to~~  
10 ~~determine that such contractor qualifies on the basis of~~  
11 ~~certification or registration and the passage of an~~  
12 ~~examination;~~

13  
14 ~~The board may revoke or refuse to issue such temporary~~  
15 ~~certificate for violation of s. 489.127 or s. 489.129.~~

16           ~~(9)(a)--Effective October 1, 1986, notwithstanding any~~  
17 ~~provision of this chapter to the contrary, no person shall~~  
18 ~~engage in contracting as a pollutant storage systems specialty~~  
19 ~~contractor unless such person is certified as a pollutant~~  
20 ~~storage systems specialty contractor pursuant to this part,~~  
21 ~~nor shall any official authorized to issue building or other~~  
22 ~~related permits issue a permit or permits for the installation~~  
23 ~~of a pollutant storage tank unless such official ascertains~~  
24 ~~that the applicant for such permit or permits is certified as~~  
25 ~~a pollutant storage systems specialty contractor.~~

26           ~~(b)--The Department of Environmental Regulation may~~  
27 ~~inspect the installation of any pollutant storage tank.--Any~~  
28 ~~person installing a pollutant storage tank after July 1, 1987,~~  
29 ~~shall certify that such installation is in accordance with the~~  
30 ~~standards adopted pursuant to s. 376.303.--The Department of~~

31

1 Environmental Regulation shall promulgate a form for such  
2 certification which shall at a minimum include:

3       1.--A signed statement by the certified pollutant  
4 storage systems specialty contractor that such installation is  
5 in accordance with standards adopted pursuant to s. 376.303,  
6 and

7       2.--Signed statements by the onsite persons performing  
8 or supervising the installation of a pollutant storage tank  
9 which statements shall be required of tasks that are necessary  
10 for the proper installation of such tank.

11       (c)1.--The Department of Environmental Regulation  
12 shall, to the greatest extent possible, contract with local  
13 governments to provide for the administration of its  
14 responsibilities under this subsection.--Such contracts may  
15 allow for administration outside the jurisdictional boundaries  
16 of a local government.--However, no such contract shall be  
17 entered into unless the local government is deemed capable of  
18 carrying out such responsibilities to the satisfaction of the  
19 Department of Environmental Regulation.

20       2.--To this end, the Department of Environmental  
21 Regulation shall inform local governments as to the provisions  
22 of this section and as to their options hereunder.--At its  
23 option, any local government may apply to the Department of  
24 Environmental Regulation for such purpose, on forms to be  
25 provided by the Department of Environmental Regulation and  
26 shall supply such information as the Department of  
27 Environmental Regulation may require.

28       (d)--The Department of Environmental Regulation may  
29 enjoin the installation or use of any pollutant storage tank  
30 that has been or is being installed in violation of this part.  
31

1           ~~(c)~~--The Department of Environmental Regulation shall  
2 establish a pilot program providing for inspections of  
3 pollutant storage tanks in a county of less than 300,000  
4 population. ~~The Department of Environmental Regulation shall~~  
5 ~~adopt rules providing for such inspection program, which rules~~  
6 ~~shall provide for an inspection prior to placing a pollutant~~  
7 ~~storage tank in the excavation, an inspection after assembly~~  
8 ~~but before connection to the tank, and an inspection prior to~~  
9 ~~placing the pollutant storage tank in service.~~ ~~All such~~  
10 ~~inspections shall be conducted pursuant to the standards~~  
11 ~~adapted under s. 376.303.~~ ~~Inspection fees shall be set by~~  
12 ~~rule and shall not exceed \$200 per pollutant storage tank,~~  
13 ~~which fees shall fund the inspection program.~~ ~~The Department~~  
14 ~~of Environmental Regulation may contract, pursuant to~~  
15 ~~paragraph (c), with the county government to perform such~~  
16 ~~inspections, in which case the county government shall receive~~  
17 ~~the inspection fees to fund the program.~~ ~~The county~~  
18 ~~government shall make application to the Department of~~  
19 ~~Environmental Regulation for the administration of the~~  
20 ~~program.~~ ~~If more than one county government applies, the~~  
21 ~~Department of Environmental Regulation shall determine which~~  
22 ~~county is most capable of administering the program and may~~  
23 ~~contract with that county.~~ ~~If no county of less than 300,000~~  
24 ~~in population applies to administer the program by September~~  
25 ~~1, 1987, all counties in the state shall be eligible to~~  
26 ~~administer the program, regardless of population.~~ ~~The county~~  
27 ~~government shall not require any additional inspections,~~  
28 ~~except for electrical inspections, of a pollutant storage tank~~  
29 ~~installed during the term of the pilot inspection program.~~  
30 ~~Such program shall be established within 30 days after~~  
31 ~~execution of a contract with a county or, if no county applies~~

1 ~~by December 1, 1987, within 30 days after the date on which~~  
2 ~~the Department of Environmental Regulation designates the~~  
3 ~~county in which it will administer the program, but in any~~  
4 ~~event no later than July 1, 1988. The program shall be~~  
5 ~~continued for a period of 36 months. Within 3 months after~~  
6 ~~the conclusion of this program, the Department of~~  
7 ~~Environmental Regulation shall report to the legislature on~~  
8 ~~the results of the program.~~

9 (7)(10) If an eligible applicant fails any  
10 contractor's written examination, except the general and  
11 building contractors' examination, and provides the board with  
12 acceptable proof of lack of comprehension of written  
13 examinations, the applicant may petition the board to be  
14 administered a uniform oral examination, subject to the  
15 following conditions:

16 (a) The applicant documents 10 years of experience in  
17 the appropriate construction craft.

18 (b) The applicant files written recommendations  
19 concerning his competency in the appropriate construction  
20 craft.

21 (c) The applicant is administered only one oral  
22 examination within a period of 1 year.

23 (8)(11) Any public record of the board, when certified  
24 by the executive director of the board or his representative,  
25 may be received as prima facie evidence in any administrative  
26 or judicial proceeding.

27 ~~(12) The board shall by January 1, 1988, adopt rules~~  
28 ~~providing standards for registration of precision tank testers~~  
29 ~~who precision test a pollutant storage tank. The Department~~  
30 ~~of Environmental Regulation shall review and comment on such~~  
31 ~~rules prior to adoption.~~

1 Section 8. Subsections (2), (3), (4), and (5) of  
2 section 489.115, Florida Statutes, are amended to read:

3 489.115 Certification and registration; endorsement;  
4 renewals.--

5 (2) The board shall certify as qualified for  
6 certification by endorsement any applicant who:

7 (a) Meets the requirements for certification as set  
8 forth in this section; has passed a national, regional, state,  
9 or United States territorial licensing examination that is  
10 substantially equivalent to the examination required by this  
11 part; and has satisfied the requirements set forth in s.  
12 489.111; or

13 (b) Holds a valid license to practice contracting  
14 issued by another state or territory of the United States, if  
15 the criteria for issuance of such license was substantially  
16 equivalent to the certification criteria that existed in this  
17 state at the time the license was issued, adopt-rules  
18 prescribing-procedures-for-the-certification-or-registration  
19 of-contractors-who-have-been-licensed-in-states-which-have  
20 standards-substantially-similar-to,-or-more-stringent-than,  
21 the-standards-of-this-state-and-who-meet-the-other  
22 requirements-established-pursuant-to-this-act;

23 (3)(a) Each certificateholder or registrant licensee  
24 who desires to continue as a certificateholder or registrant  
25 licensee shall renew his certificate and registration every 2  
26 years. The department shall mail each certificateholder and  
27 registrant licensee an application for renewal.

28 (b) The certificateholder or registrant licensee shall  
29 complete, sign, and forward the renewal application to the  
30 department, together with the appropriate fee. Upon receipt  
31



1 of the application and fee, the department shall renew the  
2 certificate or registration.

3       (4) As a prerequisite to the initial issuance or the  
4 renewal of a certificate, the applicant shall submit an  
5 affidavit on a form provided by the board attesting to the  
6 fact that the applicant satisfactory-evidence-that-he has  
7 obtained public liability and property damage insurance for  
8 the safety and welfare of the public in amounts determined by  
9 rule of the board. The board shall by rule establish a  
10 procedure to verify the accuracy of such affidavits based upon  
11 a random sample method. In addition to the affidavit of  
12 insurance, as a prerequisites to the initial issuance of a  
13 certificate, and the applicant shall furnish evidence of  
14 financial responsibility, credit, and business reputation of  
15 either himself or the business organization he desires to  
16 qualify. The board shall adopt rules defining financial  
17 responsibility based upon the applicant's credit history,  
18 ability to be bonded, and any history of bankruptcy or  
19 assignment of receivers. Such rules shall specify the  
20 financial responsibility grounds on which the board may refuse  
21 to qualify an applicant for certification. If, within 60 days  
22 from the date the applicant is notified that he has qualified,  
23 he does not provide the evidence required, he shall apply to  
24 the department for an extension of time which shall be granted  
25 upon a showing of just cause.

26       (5) An initial applicant shall, along with his  
27 application, and a certificateholder or registrant licensee  
28 shall, upon requesting a change of status, submit to the board  
29 a credit report from a nationally recognized credit agency  
30 that reflects the financial responsibility of the applicant or  
31 certificateholder or registrant licensee. The credit report

1 required for the initial applicant shall be considered the  
2 minimum evidence necessary to satisfy the board that he is  
3 financially responsible to be certified, that he has the  
4 necessary credit and business reputation to engage in  
5 contracting in the state, and that he has the minimum  
6 financial stability necessary to avoid the problem of  
7 ~~financial mismanagement or misconduct~~ diversion-of-funds. The  
8 board shall, by rule, adopt guidelines for determination of  
9 financial stability.

10 Section 9. Subsections (4) and (5) of section 489.117,  
11 Florida Statutes, are amended to read:

12 489.117 Registration.--

13 (4) The application for a temporary registration  
14 license shall constitute appointment of the Department of  
15 State as an agent of the applicant for service of process in  
16 any action or proceeding against the applicant arising out of  
17 any transaction or operation connected with or incidental to  
18 the practice of contracting for which the temporary license  
19 was issued.

20 ~~(5)--A-special-registration-shall-be-granted-to-a~~  
21 ~~specialty-contractor-whose-work-is-limited-to-a-specific-phase~~  
22 ~~of-construction-and-whose-responsibility-is-likewise-limited~~  
23 ~~to-that-particular-phase-of-construction,provided-local~~  
24 ~~licensing-is-required-for-that-phase-of-construction.~~

25 Section 10. Subsections (2), (3), (5), (6), and (7) of  
26 section 489.119, Florida Statutes, are amended to read:

27 489.119 Business organizations; qualifying agents.--

28 (2) If the applicant proposes to engage in contracting  
29 as a partnership, corporation, business trust, or other legal  
30 entity, the applicant shall apply through a qualifying agent;  
31 the application shall state the name of the partnership and of

1 its partners, the name of the corporation and of its officers  
2 and directors, the name of the business trust and its  
3 trustees, or the name of such other legal entity and its  
4 members; and the applicant shall furnish evidence of statutory  
5 compliance if a fictitious name is used. Such application  
6 shall also show that the qualifying agent is legally qualified  
7 to act for the business organization in all matters connected  
8 with its contracting business and that he has authority to  
9 supervise construction undertaken by such business  
10 organization. A joint venture, including a joint venture  
11 composed of qualified business organizations, is itself a  
12 separate and distinct organization that must be qualified in  
13 accordance with board rules. The registration or  
14 certification, when issued upon application of a business  
15 organization, shall be in the name of the qualifying agent,  
16 and the name of the business organization shall be noted  
17 thereon. If there is a change in any information that is  
18 required to be stated on the application, the business  
19 organization shall, within 45 days after such change occurs,  
20 mail the correct information to the department.

21 (3)(a) The qualifying agent shall be certified or  
22 registered under this part act in order for the business  
23 organization to be certified or registered in the category of  
24 the business conducted for which the qualifying agent is  
25 certified or registered. If any qualifying agent ceases to be  
26 affiliated with such business organization, he shall so inform  
27 the department. In addition, if such qualifying agent is the  
28 only certified or registered individual affiliated with the  
29 business organization, the business organization shall notify  
30 the department of the termination of the qualifying agent and  
31 shall have a ~~minimum of~~ 60 days from the termination of the

1 qualifying agent's affiliation with the business organization  
2 in which to employ another qualifying agent. The business  
3 organization may not engage in contracting until a qualifying  
4 agent is employed.

5 (b) The qualifying agent shall inform the department  
6 in writing when he proposes to engage in contracting in his  
7 own name or in affiliation with another business organization,  
8 and he or such new business organization shall supply the same  
9 information to the department as required of applicants under  
10 this part act.

11 (c) Upon a favorable determination by the board, after  
12 investigation of the financial responsibility, credit, and  
13 business reputation of the qualifying agent and the new  
14 business organization, the department shall issue, without an  
15 examination, a new certificate or registration in the  
16 qualifying agent's name, and the name of the new business  
17 organization shall be noted thereon.

18 (5)(a) Each registered or certified contractor shall  
19 affix the number of his registration or certification to each  
20 application for a building permit and on each building permit  
21 issued and recorded. Each city or county building department  
22 shall require, as a precondition for the issuance of the  
23 building permit, that the contractor taking out the permit  
24 must provide verification giving his Construction Industry  
25 Licensing Board registration or certification license number.

26 (b) The registration or certification number of each  
27 contractor shall appear in any newspaper, airwave  
28 transmission, phone directory, or other advertising medium  
29 used by that contractor.

30 (6) Each qualifying agent shall pay the department an  
31 amount equal to the original fee for certification or

1 registration of a new business organization entity. If the  
2 qualifying agent for a business organization entity desires to  
3 qualify additional business organizations entities, the board  
4 shall require him to appear-before-it-and present evidence of  
5 ability and financial responsibility of each such organization  
6 entity. The issuance of such certification or registration is  
7 discretionary with the board.

8 (7) If a business organization entity or any of its  
9 partners, officers, directors, trustees, or members is fined  
10 for violating s. 489.129(2), the board may, on that basis  
11 alone, deny issuance of a certificate or registration to a  
12 qualifying agent on behalf of that business organization  
13 entity.

14 Section 11. Section 489.1195, Florida Statutes, is  
15 created to read:

16 489.1195 Responsibilities.--

17 (1) A qualifying agent is a primary qualifying agent  
18 unless he is a secondary qualifying agent under this section.  
19 All primary qualifying agents for a business organization are  
20 jointly and equally responsible for supervision of all  
21 operations of the business organization; for all field work at  
22 all sites; and for financial matters, both for the  
23 organization in general and for each specific job.

24 (2) One of the qualifying agents for a business  
25 organization that has more than one qualifying agent may be  
26 designated as the sole primary qualifying agent for the  
27 business organization by a joint agreement that is executed,  
28 on a form provided by the board, by all qualifying agents for  
29 the business organization. The joint agreement must be  
30 submitted to the board for approval. If the board determines  
31 that the joint agreement is in good order, it shall approve

1 the designation and immediately notify the qualifying agents  
2 of such approval. The designation made by the joint agreement  
3 is effective upon receipt of the notice by the qualifying  
4 agents. The qualifying agent designated for a business  
5 organization by a joint agreement is the sole primary  
6 qualifying agent for the business organization, and all other  
7 qualifying agents for the business organization are secondary  
8 qualifying agents.

9       (a) A designated sole primary qualifying agent has all  
10 the responsibilities and duties of a primary qualifying agent,  
11 notwithstanding that there are secondary qualifying agents for  
12 specified jobs. The designated sole primary qualifying agent  
13 is jointly and equally responsible with secondary qualifying  
14 agents for field work supervision.

15       (b) A secondary qualifying agent is responsible only  
16 for:

- 17       1. The supervision of field work at sites where his  
18 license was used to obtain the building permit; and  
19       2. Any other work for which he accepts responsibility.

20  
21 A secondary qualifying agent is not responsible for  
22 supervision of financial matters.

23       (3)(a) A qualifying agent who has been designated by a  
24 joint agreement as the sole primary qualifying agent for a  
25 business organization may terminate his status as such by  
26 giving actual notice to the business organization, to the  
27 board, and to all secondary qualifying agents of his intention  
28 to terminate his status. His notice to the board must include  
29 proof satisfactory to the board that he has given the notice  
30 required in this paragraph. The status of the qualifying  
31 agent shall cease upon the designation of a new primary

1 qualifying agent or 60 days after satisfactory notice of  
2 termination has been provided to the board, whichever first  
3 occurs. If no new primary qualifying agent has been  
4 designated within 60 days, all secondary qualifying agents for  
5 the business organization shall become primary qualifying  
6 agents unless the joint agreement specifies that one or more  
7 of them shall become sole qualifying agents under such  
8 circumstances, in which case only they shall become sole  
9 qualifying agents.

10 (b) Any change in the status of a qualifying agent is  
11 prospective only. A qualifying agent is not responsible for  
12 his predecessor's actions but is responsible, even after a  
13 change in status, for matters for which he was responsible  
14 while in a particular status.

15 Section 12. Section 489.121, Florida Statutes, is  
16 amended to read:

17 489.121 Emergency registration upon death of  
18 contractor.--If an incomplete contract exists at the time of  
19 death of a contractor, the contract may be completed by any  
20 person even though not certified or registered. Such person  
21 shall notify the board, within 30 days after the death of the  
22 contractor, of his name and address, his knowledge of the  
23 contract, and his ability to complete it. If the board  
24 approves, he may proceed with the contract. For purposes of  
25 this section, an incomplete contract is one which has been  
26 awarded to, or entered into by, the contractor before his  
27 death, or on which he was the low bidder and the contract is  
28 subsequently awarded to him, regardless of whether any actual  
29 work has commenced under the contract before his death.

30 Section 13. Section 489.127, Florida Statutes, is  
31 amended to read:

1 489.127 Prohibitions; penalties.--

2 (1) No person shall:

3 (a) Falsely hold himself out as a certificateholder or  
4 registrant licensee;

5 (b) Falsely impersonate a certificateholder or  
6 registrant licensee;

7 (c) Present as his own the certificate or registration  
8 of another;

9 (d) Give false or forged evidence to the board or a  
10 member thereof for the purpose of obtaining a certificate or  
11 registration;

12 (e) Use or attempt to use a certificate or  
13 registration which has been suspended or revoked; or

14 (f) Engage in the business or act in the capacity of a  
15 contractor or advertise himself as available to engage in the  
16 business or act in the capacity of a contractor without being  
17 duly registered or certified; or -

18 (g) Operate a business organization engaged in  
19 contracting after 60 days following the termination of its  
20 only qualifying agent without designating another primary  
21 qualifying agent.

22 (2) Any person who violates any of the provisions of  
23 subsection (1) this part is guilty of a misdemeanor of the  
24 first degree, punishable as provided in s. 775.082, s.  
25 775.083, or s. 775.084.

26 (3) Each county or municipality may, at its option,  
27 designate one or more of its code inspectors, as defined in  
28 chapter 162, to enforce, as set out in this subsection, the  
29 provisions of paragraph (1)(f), against persons who engage in  
30 activity for which certification or registration under this  
31 part is required.



1 (a) A code inspector designated pursuant to this  
2 subsection may issue a citation for any violation of paragraph  
3 (1)(f) whenever, based upon personal investigation, the  
4 officer has reasonable and probable grounds to believe that  
5 such a violation has occurred.

6 (b) A citation issued by a code inspector must be in a  
7 form prescribed by the local governing body of the county or  
8 municipality and must state the time and date of issuance, the  
9 name and address of the violator, the date of the violation, a  
10 description of the violation, the name of the code inspector,  
11 and the timeframe during which the person charged must appear  
12 in court if the citation is appealed.

13 (c) The act for which the citation is issued must be  
14 ceased upon receipt of the citation; and the person charged  
15 with the violation, or other person designated in writing by  
16 the person charged, may, within 3 days, exclusive of weekends  
17 and legal holidays, submit a written request to the  
18 enforcement or licensing board for an appearance before the  
19 enforcement or licensing board to challenge the validity of  
20 the citation, to show that the violation has been corrected,  
21 or to establish a time before which the violation must be  
22 corrected.

23 1. Hearings by the enforcement or licensing board  
24 shall be conducted pursuant to the requirements of ss. 162.07  
25 and 162.08.

26 2. If the person charged, or his designated  
27 representative, shows that the citation is invalid or that the  
28 violation has been corrected prior to appearing before the  
29 enforcement or licensing board, the enforcement or licensing  
30 board shall dismiss the citation. If the violation is  
31 corrected within the time set by the enforcement or licensing

1 board for correction, the enforcement or licensing board shall  
2 dismiss the citation, but if the violation has not been  
3 corrected within that time, the provisions of paragraph (d)  
4 apply.

5       3. If the enforcement or licensing board determines  
6 that the violation is irreparable or irreversible in nature,  
7 the enforcement or licensing board shall impose a civil  
8 penalty pursuant to paragraph (e).

9       4. Each day a willful, knowing violation continues  
10 shall constitute a separate offense under the provisions of  
11 this subsection.

12       (d)1. A person cited for a violation pursuant to this  
13 subsection is deemed to be charged with a noncriminal  
14 infraction and cited to appear in court, unless the citation  
15 is dismissed pursuant to the provisions of paragraph (c).

16       2. A person cited for a violation pursuant to this  
17 subsection may post a bond equal in amount to the applicable  
18 civil penalty established pursuant to paragraph (e) or sign  
19 and accept a citation indicating a promise to appear. If he  
20 refuses to post a bond or accept and sign the citation and  
21 does not submit a written request to the enforcement or  
22 licensing board for an appearance before the enforcement or  
23 licensing board pursuant to the provisions of paragraph (c),  
24 he is in violation of this act and shall be punished in  
25 accordance with paragraph (e).

26       3. If a person cited for a violation pursuant to this  
27 subsection pays the applicable civil penalty established  
28 pursuant to paragraph (e) before the date he is to appear in  
29 court, he shall have the option to admit the commission of the  
30 infraction or to indicate that he does not wish to contest the  
31 citation. If such a person forfeits the bond he has posted by

1 not appearing at the designated time and location, he is  
2 deemed to have admitted the commission of the infraction.  
3       (e) The civil penalty required for the disposition of  
4 violations of this subsection shall be a fine not to exceed  
5 \$500. An enforcement or licensing board, upon notification by  
6 the code inspector that an order of the enforcement or  
7 licensing board has not been complied with by the set time or,  
8 upon finding that the same violation has been repeated by the  
9 same violator, may order the violator to pay a fine not to  
10 exceed \$250 for each day the violation continues past the date  
11 set for compliance or for each time the violation has been  
12 repeated, and a hearing shall not be necessary for issuance of  
13 the order. In determining the amount of the fine, if any, the  
14 enforcement or licensing board shall consider the following  
15 factors:  
16       1. The gravity of the violation;  
17       2. Any actions taken by the violator to correct the  
18 violation; and  
19       3. Any previous violations committed by the violator.  
20       (f) This subsection does not authorize or permit a  
21 code enforcement officer to perform any function or duty of a  
22 law enforcement officer other than a function or duty that is  
23 authorized in this subsection.  
24       (g) The local governing body of the county or  
25 municipality may enact an ordinance establishing procedures  
26 for implementing this subsection.  
27       (h) An aggrieved party, including the local governing  
28 body, may appeal a final administrative order of an  
29 enforcement or licensing board to the circuit court. Such an  
30 appeal shall not be a hearing de novo but shall be limited to  
31 appellate review of the record created before the enforcement

1 or licensing board. An appeal shall be filed within 30 days  
2 of the execution of the order to be appealed.

3 (i) All notices required by this subsection shall be  
4 provided to the alleged violator by certified mail, return  
5 receipt requested; by hand delivery by the sheriff or other  
6 law enforcement officer or code inspector; or by leaving the  
7 notice at the violator's usual place of residence with some  
8 person of his family above 15 years of age and informing such  
9 person of the contents of the notice.

10 (j) For those counties which enact ordinances to  
11 implement this subsection and which have local construction  
12 licensing boards or local government code enforcement boards,  
13 the local construction licensing board or local government  
14 code enforcement board shall be responsible for the  
15 administration of such citation program and training of  
16 investigators. The local governing body of the county shall  
17 enter into interlocal agreements with any municipalities in  
18 the county so that such municipalities may by ordinance,  
19 resolution, policy, or administrative order, authorize  
20 individuals to enforce the provisions of this section. Such  
21 individuals shall be subject to the requirements of training  
22 as specified by the local construction licensing board.

23 ~~(3)--Any-person-who-operates-as-a-pollutant-storage~~  
24 ~~systems-specialty-contractor-in-violation-of-this-part-or-any~~  
25 ~~person-who-violates-sr-489.113(9)(a)-is-guilty-of-a-felony-of~~  
26 ~~the-third-degree,-punishable-as-provided-in-sr-775.082,-sr~~  
27 ~~775.083,-or-sr-775.084r~~

28 Section 14. Section 489.129, Florida Statutes, is  
29 amended to read:

30 489.129 Disciplinary proceedings.--  
31

1 (1) The board may revoke, suspend, or deny the  
2 issuance or renewal of the certificate or registration of a  
3 contractor, require financial restitution to a consumer, and  
4 impose an administrative fine not to exceed \$5,000, place a  
5 contractor on probation, require continuing education or  
6 reprimand or censure a contractor if the contractor, or if the  
7 business organization entity or any general partner, officer,  
8 director, trustee, or member of a business entity for which  
9 the contractor is a primary qualifying agent or is a secondary  
10 qualifying agent responsible under s. 489.1195, is found  
11 guilty of any of the following acts:

12 (a) Obtaining ~~Upon proof that~~ a certificate or  
13 registration has been obtained by fraud or misrepresentation.

14 (b) Being convicted or found guilty, regardless of  
15 adjudication, of a crime in any jurisdiction which directly  
16 relates to the practice of contracting or the ability to  
17 practice contracting.

18 (c) Violating ~~Violation of~~ chapter 455.

19 (d) Willfully or deliberately disregarding and  
20 violating ~~Willful or deliberate disregard and violation of~~ the  
21 applicable building codes or laws of the state or of any  
22 municipalities or counties thereof.

23 (e) Performing any act which assists a person or  
24 entity in engaging in the prohibited uncertified and  
25 unregistered practice of contracting, if the certificateholder  
26 or registrant knows or has reasonable grounds to know that the  
27 person or entity was uncertified and unregistered. ~~Aiding or~~  
28 ~~abetting any uncertified or unregistered person to evade any~~  
29 ~~provision of this act.~~

30 (f) Knowingly combining or conspiring with an  
31 uncertified or unregistered person by allowing his one's

1 certificate or registration to be used by ~~the~~ any uncertified  
2 or unregistered person with intent to evade the provisions of  
3 this part act. When a certificateholder or registrant allows  
4 his certificate or registration to be used by one or more  
5 business organizations companies without having any active  
6 participation in the operations, management, or control of  
7 such business organizations companies, such act constitutes  
8 prima facie evidence of an intent to evade the provisions of  
9 this part act.

10 (g) Acting in the capacity of a contractor under any  
11 certificate or registration issued hereunder except in the  
12 name of the certificateholder or registrant as set forth on  
13 the issued certificate or registration, or in accordance with  
14 the personnel of the certificateholder or registrant as set  
15 forth in the application for the certificate or registration,  
16 or as later changed as provided in this part act.

17 (h) Committing Financial mismanagement or misconduct  
18 in the practice of contracting that causes financial harm to a  
19 customer. Financial mismanagement or misconduct occurs when:

20 1. Valid liens have been recorded against the property  
21 of a contractor's customer for supplies or services ordered by  
22 the contractor for the customer's job; the contractor has  
23 received funds from the customer to pay for the supplies or  
24 services; and the contractor has not had the liens removed  
25 from the property, by payment or by bond, within 30 days after  
26 the date of such liens.

27 2. The contractor has abandoned a customer's job and  
28 the percentage of completion is less than the percentage of  
29 the total contract price paid to the contractor as of the time  
30 of abandonment, unless the contractor is entitled to retain  
31 such funds under the terms of the contract or refunds the

1 excess funds within 30 days after the date the job is  
2 abandoned.

3           3. The contractor's job has been completed, and it is  
4 shown that the customer has had to pay more for the contracted  
5 job than the original contract price, as adjusted for  
6 subsequent change orders, unless such increase in cost was the  
7 result of circumstances beyond the control of the contractor,  
8 was the result of circumstances caused by the customer, or was  
9 otherwise permitted by the terms of the contract between the  
10 contractor and the customer.

11           (i) Being disciplined Disciplinary-action by any  
12 municipality or county for an act or violation of this part,  
13 which discipline action shall be reviewed by the state board  
14 before the state board takes any disciplinary action of its  
15 own.

16           (j) Failing Failure in any material respect to comply  
17 with the provisions of this part act.

18           (k) Abandoning Abandonment-of a construction project  
19 in which the contractor is engaged or under contract as a  
20 contractor. A project is to be considered abandoned after 90  
21 days if the contractor terminates the project without  
22 notification to the prospective owner and without just cause.

23           (l) Signing a statement with respect to a project or  
24 contract falsely indicating that the work is bonded; falsely  
25 indicating that payment has been made for all subcontracted  
26 work, labor, and materials which results in a financial loss  
27 to the owner, purchaser, or contractor; or falsely indicating  
28 that workers' compensation and public liability insurance are  
29 provided.

30  
31

1           (m) ~~Being found Upon proof that the licensee is~~ guilty  
2 of fraud or deceit or of gross negligence, incompetency, or  
3 misconduct in the practice of contracting.

4           (n) ~~Proceeding on any job without obtaining applicable~~  
5 ~~local building department permits and inspections.~~

6           (2) If a contractor disciplined under subsection (1)  
7 is a qualifying agent for a business organization entity and  
8 the violation was performed in connection with a construction  
9 project undertaken by that business organization entity, the  
10 board may impose an additional administrative fine not to  
11 exceed \$5,000 against the business organization entity or  
12 against any partner, officer, director, trustee, or member if  
13 such person participated in the violation or knew or should  
14 have known of the violation and failed to take reasonable  
15 corrective action.

16           (3) The board may specify by rule the acts or  
17 omissions which constitute violations of this section.

18           (4) ~~In recommending penalties in any proposed~~  
19 ~~recommended final order, the department shall follow the~~  
20 ~~penalty guidelines established by the board by rule. The~~  
21 ~~department shall advise the hearing officer of the appropriate~~  
22 ~~penalty, including mitigating and aggravating circumstances,~~  
23 ~~and the specific rule citation.~~

24           (5) ~~The board may not reinstate the certification or~~  
25 ~~registration of, or cause a certificate or registration to be~~  
26 ~~issued to, a person who the board has determined unqualified~~  
27 ~~until it is satisfied that such person has complied with all~~  
28 ~~the terms and conditions set forth in the final order and is~~  
29 ~~capable of competently engaging in the business of~~  
30 ~~contracting.~~

31



1 Section 15. Section 489.1295, Florida Statutes, is  
2 created to read:

3 489.1295 Delegation of disciplinary authority.--

4 (1) Notwithstanding the provisions of s. 455.225(3),  
5 the board may delegate to the department the authority to  
6 exercise the board's disciplinary powers when:

7 (a) Such delegation of authority is set out in a  
8 written agreement between the board and the department;

9 (b) The department is constrained, for purposes of  
10 such delegation, to follow the rules promulgated by the board  
11 purrsuant to this part;

12 (c) The delegation of authority limits violations on  
13 which the department may act under the delegation to  
14 violations that do not involve financial or physical harm to  
15 the public;

16 (d) The delegation of authority limits the violations  
17 on which the department may act under the delegation to  
18 violations for which the board's disciplinary guideline rules  
19 recommend a letter of guidance or a fine of \$100 or less;

20 (e) The delegation of authority limits the  
21 disciplinary action that may be taken by the department under  
22 the delegation to a letter of guidance or a fine of \$100 or  
23 less;

24 (f) The department completes disciplinary action under  
25 the delegation within 1 year of the date that the violation  
26 should reasonably have been discovered or reported;

27 (g) All disciplinary actions taken by the department  
28 are reported to the board on a monthly basis; and

29 (h) The delegation of authority provides that the  
30 board may at any time rescind the delegation or reduce the  
31 powers delegated to the department.

1       (2) If the probable cause panel concludes during any  
2 investigation that one or more violations within the scope of  
3 the delegation have been committed by a contractor and that no  
4 more serious violations outside the scope of the delegation  
5 have been committed, the department shall prepare and provide  
6 the person with a citation concerning the minor violations.  
7 The citation shall cite the statute alleged to have been  
8 violated, the penalty, a brief statement of facts sufficient  
9 to give the person reasonable notice as to the conduct alleged  
10 to have violated the statute, a brief explanation of the  
11 person's rights, and a provision for the person to indicate  
12 thereon his acceptance or rejection of, and to sign, the  
13 citation.

14       (a) If the person refuses to accept the citation,  
15 returns the citation indicating thereon his rejection, or  
16 fails to timely respond, then the processing of the matter  
17 shall continue as set forth in s. 455.225.

18       (b) If the person acknowledges the violation and  
19 accepts the citation by affixing his full mailing address and  
20 notarized signature thereon and timely returning it to the  
21 department within 20 days of his receipt of the citation,  
22 receipt of the completed citation by the department shall  
23 constitute final agency action imposing discipline on the  
24 person in accordance with the terms of the citation.

25       (c) The department may, at any time before its final  
26 receipt of a completed citation, withdraw the citation upon  
27 the grounds that the violations for which the person was cited  
28 were outside the delegation. Upon such withdrawal, the  
29 processing of the case shall continue as otherwise provided in  
30 s. 455.225.

31

1 (3)(a) The department shall provide notice to the  
2 person of its receipt of the completed citation by certified  
3 mail directed to the address provided by the person on the  
4 citation. Payment of a fine to the department shall be due  
5 not later than 45 days after the person's receipt of such  
6 notice.

7 (b) The department shall have standing to institute a  
8 civil action to collect the fine and reasonable legal,  
9 administrative, and other costs associated with the collection  
10 action.

11 (4) When the department receives the completed  
12 citation, the person shall be subject to no further  
13 disciplinary action by the department pursuant to the  
14 delegation, or by the board under this part, for the violation  
15 on which the completed citation was based.

16 Section 16. Section 489.131, Florida Statutes, is  
17 amended to read:

18 489.131 Applicability.--

19 (1) This part set applies to any contractor performing  
20 work for the state or any county or municipality. Officers of  
21 the state or any county or municipality shall determine  
22 compliance with this part set before awarding any contract for  
23 construction, improvement, remodeling, or repair.

24 (2) The state or any county or municipality shall may  
25 require that bids submitted for construction, improvement,  
26 remodeling, or repair of public buildings be accompanied by  
27 evidence that the bidder holds an appropriate certificate or  
28 registration, unless the work to be performed is exempt under  
29 s. 489.103, or the contractor is not domiciled in this state  
30 and can satisfactorily show that he will comply with s.  
31 489.117(3).

1 (3) Nothing in this part act limits the power of a  
2 municipality or county:

3 (a) To regulate the quality and character of work  
4 performed by contractors through a system of permits, fees,  
5 and inspections which is designed to secure compliance with  
6 and aid in the implementation of state and local building  
7 laws.

8 (b) To enforce other laws for the protection of the  
9 public health and safety.

10 (c) To collect occupational license and inspection  
11 fees for engaging in contracting or examination fees from  
12 persons who are registered with the board pursuant to local  
13 examination requirements. However, nothing in this part act  
14 shall be construed to require general contractors, building  
15 contractors, or residential contractors to obtain additional  
16 occupational licenses for specialty work when such specialty  
17 work is performed by employees of such contractors on projects  
18 for which they have substantially full responsibility and such  
19 contractors do not hold themselves out to the public as being  
20 specialty contractors.

21 (d) To adopt any system of permits requiring  
22 submission to and approval by the municipality or county of  
23 plans and specifications for work to be performed by  
24 contractors before commencement of the work.

25 (e) To require one a bond for each contractor  
26 contractors in an amount not to exceed \$5,000, which bond  
27 shall be conditioned only upon compliance with the applicable  
28 state minimum building code and applicable local building code  
29 requirements adopted pursuant to s. 553.73. Any such bond  
30 must be equally available to all contractors without regard to  
31 the period of time a contractor has been certified or

1 registered and without regard to any financial responsibility  
2 requirements. Any such bonds shall be payable to the Governor  
3 and filed in each county or municipality in which a building  
4 permit is requested. Bond reciprocity shall be granted  
5 statewide. All such bonds shall be included in meeting any  
6 financial responsibility requirements imposed by any statute  
7 or rule. Any contractor who provides a third party insured  
8 warranty policy in connection with a new building or structure  
9 for the benefit of the purchaser or owner shall be exempt from  
10 the bond requirements under this subsection with respect to  
11 such building or structure.

12 (f) To refuse to issue permits or issue permits with  
13 specific conditions to a contractor who has committed multiple  
14 violations, when he has been disciplined for each of them by  
15 the board and when each disciplinary action has involved  
16 revocation or suspension of a license, imposition of an  
17 administrative fine of at least \$1,000, or probation, or to  
18 issue permits with specific conditions to a contractor who,  
19 within the previous 12 months, has had final action taken  
20 against him by the department or by a local board or agency  
21 which licenses contractors and has reported the action  
22 pursuant to paragraph (6)(c), for engaging in the business or  
23 acting in the capacity of a contractor without a license.

24 (4) Nothing in this part act shall be construed to  
25 waive any requirement of any existing ordinance or resolution  
26 existing on October 1, 1979, of a board of county  
27 commissioners regulating the type of work required to be  
28 performed by a specialty contractor.

29 (5) Any official authorized to issue building or other  
30 related permits shall, before issuing a permit, ascertain that  
31

1 the applicant contractor is certified or is registered in the  
2 area where the construction is to take place.

3 (6)(a) Municipalities or counties may continue to  
4 provide examinations for their territorial area, provided that  
5 ~~no examination is given to the holder of a certificate.~~

6 (b)(a) To engage in contracting in the territorial  
7 area, an applicant shall also be registered with the board,

8 (c)(b) Each local board or agency which licenses  
9 contractors transmits ~~monthly~~ annually during May to the board  
10 a report of any disciplinary action taken against contractors  
11 and of any administrative or disciplinary action taken against  
12 unlicensed persons for engaging in the business or acting in  
13 the capacity of a contractor including any cease and desist  
14 orders issued pursuant to s. 489.113(2)(b) and any fine issued  
15 pursuant to s. 489.127(3), the licensee, and

16 ~~(c)--No examination is given the holder of a~~  
17 ~~certificate.~~

18 (7) The right to create local boards in the future by  
19 any municipality or county is preserved.

20 (8) A Division I contractor, except as otherwise  
21 provided in this part, shall be responsible for any  
22 construction or alteration of a structural component of a  
23 building or structure. The term "structural component" is  
24 defined, for purposes of this subsection, to mean any vertical  
25 or horizontal load-bearing member of a structure which  
26 supports dead or live loads in addition to its own weight and  
27 includes, but is not limited to, a foundation, an exterior or  
28 interior load-bearing wall, a column, a column beam, a floor,  
29 and a roof structure. No provision of this act shall be  
30 construed to permit a contractor to perform mechanical or  
31 plumbing work for which an examination for a certificate of

competency or a license is required, unless such contractor  
2 holds such certificates of competency or such licenses as may  
3 be required by the appropriate local authority. -- If the  
4 appropriate local authority does not require a certificate of  
5 competency or a license for such trade, the provisions of this  
6 subsection do not apply.

7 Section 17. Section 489.133, Florida Statutes, is  
8 created to read:

9 489.133 Pollutant storage systems specialty  
10 contractors; definitions; certification; restrictions. --

11 (1) As used in this part:

12 (a) "Pollutant storage systems specialty contractor"  
13 means a contractor who installs a pollutant storage tank.

14 (b) "Pollutant storage tank" means a tank, together  
15 with associated piping or dispensing facilities, which is or  
16 could be used for the storage or supply of pollutants as  
17 defined in s. 376.301 and which is required to be registered  
18 under chapter 17-61 of the Florida Administrative Code or for  
19 which notification must be submitted under Subtitle I of the  
20 Resource Conservation and Recovery Act.

21 (c) "Tank" means any container other than one which is  
22 aboveground and either elevated or situated upon an  
23 impermeable surface, or which is located in an accessible  
24 underground area and either elevated or situated upon an  
25 impermeable surface therein, in such manner that any leak in  
26 such container may be readily detected.

27 (d) "Registered precision tank tester" means any  
28 precision tank tester who has registered with the department  
29 pursuant to subsection (2). This registration shall be exempt  
30 from the provisions of prior municipality, county, or

31

1 development district registration, as required under s.  
2 489.117, and shall be registered on a statewide basis.

3 (2) The board shall adopt rules providing standards  
4 for registration of precision tank testers who precision test  
5 a pollutant storage tank. The Department of Environmental  
6 Regulation shall review and comment on such rules prior to  
7 adoption.

8 (3) The board shall adopt rules providing standards  
9 for certification of pollutant storage systems specialty  
10 contractors and, by July 1, 1988, amend such rules to include  
11 persons who remove such systems. The board shall provide the  
12 proposed rules to the Department of Environmental Regulation  
13 for review and comment prior to adoption. The rules shall  
14 include, but not be limited to:

15 (a) Standards for operating as a pollutant storage  
16 systems specialty contractor.

17 (b) Requirements for certification as a pollutant  
18 storage systems specialty contractor.

19 (c) Requirements for certification without examination  
20 of pollutant storage systems specialty contractors for any  
21 person who has passed a local licensure examination, a  
22 licensure examination in another state, or a licensure  
23 examination of a national organization, which is at least as  
24 stringent as the examination adopted by the board.

25 (d) Requirements for certification without examination  
26 of pollutant storage systems specialty contractors for any  
27 certified mechanical contractor, any certified plumbing  
28 contractor, and any registered mechanical or plumbing  
29 contractor who has passed a local examination judged by the  
30 board to be at least as stringent as the equivalent state  
31 mechanical or plumbing contractor's examination, provided that



1 such contractor has been certified prior to July 1, 1986, or  
2 has been registered and passed such local examination prior to  
3 July 1, 1986.

4 (e) Requirements for certification by practical  
5 examination, demonstrating the ability to competently install  
6 or remove pollutant storage tanks, of pollutant storage  
7 systems specialty contractors for any person who has received  
8 a temporary certificate under paragraph (4)(a) and has  
9 operated as a pollutant storage systems specialty contractor  
10 since September 1, 1981, provided that such person pays for  
11 the actual cost of the practical examination,

12  
13 The board may use standards and examinations of national  
14 organizations if such standards and examinations are adequate  
15 to ensure competent installation and removal of pollutant  
16 storage tanks. All such standards and examinations shall be  
17 designed to ensure that leaks and other discharges are  
18 eliminated to the greatest extent possible.

19 (4)(a) Any person who has operated as a pollutant  
20 storage systems specialty contractor during the 5 years  
21 preceding September 1, 1986, shall receive within 30 days  
22 after written request a temporary certificate permitting such  
23 person to continue operating without certification until July  
24 1, 1989, if such person:

25 1. Notifies the department in writing that he intends  
26 to continue such operation and submits an application fee set  
27 by the board not to exceed \$50.

28 2. Provides a history of successful operation as a  
29 pollutant storage systems specialty contractor within such  
30 time period.

1 (b) A contractor seeking to be certified pursuant to  
2 paragraph (3)(d) shall receive within 30 days after written  
3 request a temporary certificate permitting such contractor to  
4 continue operating without certification until the board  
5 determines whether he qualifies for a certificate under  
6 paragraph (3)(d), provided that such contractor:

7 1. Notifies the department in writing that he intends  
8 to apply for certification under paragraph (3)(d).

9 2. Provides the board sufficient information to  
10 determine that such contractor qualifies on the basis of  
11 certification or registration and the passage of an  
12 examination.

13  
14 The board may revoke or refuse to issue such temporary  
15 certificate for violation of s. 489.127 or s. 489.129.

16 (5)(a) Notwithstanding any provision of this part to  
17 the contrary, no person shall engage in contracting as a  
18 pollutant storage systems specialty contractor unless such  
19 person is certified as a pollutant storage systems specialty  
20 contractor pursuant to this part, nor shall any official  
21 authorized to issue building or other related permits issue  
22 permit or permits for the installation of a pollutant storage  
23 tank unless such official ascertains that the applicant for  
24 such permit or permits is certified as a pollutant storage  
25 systems specialty contractor.

26 (b) Any person installing a pollutant storage tank  
27 shall perform such installation in accordance with the  
28 standards adopted pursuant to s. 376.303.

29 (6) Any person who operates as a pollutant storage  
30 systems specialty contractor in violation of this section or  
31 any person who violates subsection (5) is guilty of a felony

1 of the third degree, punishable as provided in s. 775.082, s.  
2 775.083, or s. 775.084.

3 Section 18. Subsection (3) is added to section  
4 376.303, Florida Statutes, to read:

5 376.303 Powers and duties of the Department of  
6 Environmental Regulation.--

7 (3)(a) The department may inspect the installation of  
8 any pollutant storage tank. Any person installing a pollutant  
9 storage tank, as defined in s. 489.133, shall certify that  
10 such installation is in accordance with the standards adopted  
11 pursuant to this section. The department shall promulgate a  
12 form for such certification which shall at a minimum include:

13 1. A signed statement by the certified pollutant  
14 storage systems specialty contractor, as defined in s.  
15 489.133, that such installation is in accordance with  
16 standards adopted pursuant to this section; and

17 2. Signed statements by the onsite persons performing  
18 or supervising the installation of a pollutant storage tank,  
19 which statements shall be required of tasks that are necessary  
20 for the proper installation of such tank.

21 (b)1. The department shall, to the greatest extent  
22 possible, contract with local governments to provide for the  
23 administration of its responsibilities under this subsection.  
24 Such contracts may allow for administration outside the  
25 jurisdictional boundaries of a local government. However, no  
26 such contract shall be entered into unless the local  
27 government is deemed capable of carrying out such  
28 responsibilities to the satisfaction of the department.

29 2. To this end, the department shall inform local  
30 governments as to the provisions of this section and as to  
31 their options hereunder. At its option, any local government

1 may apply to the department for such purpose, on forms to be  
2 provided by the department, and shall supply such information  
3 as the department may require.

4 (c) The department may enjoin the installation or use  
5 of any pollutant storage tank that has been or is being  
6 installed in violation of this section or of s. 489.133.

7 (d) The department shall establish a pilot program  
8 providing for inspections of pollutant storage tanks in a  
9 county of less than 300,000 population. The department shall  
10 adopt rules providing for such inspection program, which rules  
11 shall provide for an inspection prior to placing a pollutant  
12 storage tank in the excavation, an inspection after assembly  
13 but before connection to the tank, and an inspection prior to  
14 placing the pollutant storage tank in service. All such  
15 inspections shall be conducted pursuant to the standards  
16 adopted under this section. Inspection fees shall be set by  
17 rule and shall not exceed \$200 per pollutant storage tank,  
18 which fees shall fund the inspection program. The department  
19 may contract, pursuant to paragraph (b), with the county  
20 government to perform such inspections, in which case the  
21 county government shall receive the inspection fees to fund  
22 the program. The county government shall make application to  
23 the department for the administration of the program. If more  
24 than one county government applies, the department shall  
25 determine which county is most capable of administering the  
26 program and may contract with that county. If no county of  
27 less than 300,000 population applies to administer the program  
28 by September 1, 1987, all counties in the state shall be  
29 eligible to administer the program, regardless of population.  
30 The county government shall not require any additional  
31 inspections, except for electrical inspections, of a pollutant

1 storage tank installed during the term of the pilot inspection  
2 program. Such program shall be established within 30 days  
3 after execution of a contract with a county or, if no county  
4 applies by December 1, 1987, within 30 days after the date on  
5 which the department designates the county in which it will  
6 administer the program, but in any event no later than July 1,  
7 1988. The program shall be continued for a period of 18  
8 months. Within 3 months after the conclusion of this program,  
9 the department shall report to the Legislature on the results  
10 of the program.

11 Section 19. Subsection (2) of section 455.209, Florida  
12 Statutes, is amended to read:

13 455.209 Accountability and liability of board  
14 members.--

15 (2) Each board member, and each past board member  
16 serving on a probable cause panel pursuant to s.  
17 459.107(6)(a), shall be exempt from civil liability for any  
18 act or omission when acting in his official capacity, and the  
19 department or the Department of Legal Affairs shall defend any  
20 such member in any action against any board or member of a  
21 board arising from any such act or omission. In providing  
22 such defense, the department or the Department of Legal  
23 Affairs may employ or utilize the legal services of outside  
24 counsel.

25 Section 20. (1) The Secretary of the Department of  
26 Professional Regulation shall appoint a committee to consider  
27 the basis and validity of complaints by consumers against  
28 persons who are engaged in the practice of contracting  
29 regulated under part I of chapter 459, Florida Statutes. The  
30 committee shall focus on complaints involving:

31 (a) Homestead Property.

1 (b) Actual financial harm to the person.

2 (c) Statutory violations of part I of chapter 489,  
3 Florida Statutes, or of county or municipal practice acts, or  
4 unlicensed activity.

5 (2) The following persons shall be invited to serve on  
6 the committee:

7 (a) The Director of the Division of Consumer Services  
8 in the Department of Agriculture and Consumer Services or his  
9 designee.

10 (b) A member of the Construction Industry Licensing  
11 Board who is certified under part I of chapter 489, Florida  
12 Statutes.

13 (c) Two local building officials suggested by the  
14 Building Officials Association of Florida.

15 (d) The secretary or his designee.

16 (e) A certified Division I contractor who is primarily  
17 engaged in the construction of residential property.

18 (f) A consumer who is not certified or registered  
19 under part I of chapter 489, Florida Statutes, and has no  
20 ongoing financial interests with any person who is so  
21 certified or registered.

22 (g) A person suggested by the Florida League of  
23 Cities.

24 (3) Members of the committee shall serve without  
25 compensation, but shall be entitled to receive reimbursement  
26 for per diem and traveling expenses as provided in s. 112.061,  
27 Florida Statutes.

28 (4) Notwithstanding the provisions of s. 489.109(7),  
29 Florida Statutes, the committee shall be funded during the  
30 1968-1969 fiscal year in the amount appropriated by the  
31 Legislature up to \$75,000 from the additional \$4 fee paid at  
32

1 the time of each contractor's biennial renewal of his  
2 certification or registration.

3 (5) On or before March 1, 1989, the secretary shall  
4 submit the committee's final findings and recommendations to  
5 the Legislature.

6 (6) This section shall take effect July 1, 1988, or  
7 upon this act becoming a law, whichever occurs later.

8 Section 21. Notwithstanding the provisions of the  
9 Regulatory Sunset Act or of any other provision of law which  
10 provides for review and repeal in accordance with s. 11.61,  
11 Florida Statutes, and except as otherwise specifically  
12 provided herein, part I of chapter 489, Florida Statutes,  
13 shall not stand repealed on October 1, 1988, and shall  
14 continue in full force and effect as amended herein.

15 Section 22. Part I of chapter 489, Florida Statutes,  
16 is repealed on October 1, 1990, and shall be reviewed by the  
17 Legislature pursuant to s. 11.61, Florida Statutes.

18 Section 23. Section 489.5331, Florida Statutes, is  
19 renumbered as section 768.0425, Florida Statutes, and amended  
20 to read:

21 768.0425 Damages in actions against contractors for  
22 injuries sustained from negligence, malfeasance, or  
23 misfeasance.-- 489-5331--Civil-remedies--

24 (1) For purposes of this section only, the term  
25 "contractor" means any person who contracts to perform any  
26 construction or building service which is regulated by any  
27 state or local law, including, but not limited to, this  
28 chapter ~~489~~ and chapter 633; and the term "consumer" means a  
29 person who contracts for the performance of any construction  
30 or building service which is regulated by any state or local  
31 law, including, but not limited to, chapters 489 and 633.

1 (2) In any action against a contractor for injuries  
2 sustained resulting from the contractor's negligence,  
3 malfeasance, or misfeasance, the consumer shall be entitled to  
4 three times the actual compensatory damages sustained in  
5 addition to costs and attorney's fees if the contractor is  
6 neither certified as a contractor by the state nor licensed as  
7 a contractor pursuant to the laws of the municipality or  
8 county within which he is conducting business.

9 Section 24. Notwithstanding the provisions of the  
10 Regulatory Sunset Act or of any other provision of law which  
11 provides for review and repeal in accordance with s. 11.61,  
12 Florida Statutes, and except as otherwise specifically  
13 provided herein, s. 768.0425, Florida Statutes, shall not  
14 stand repealed on October 1, 1988, and shall continue in full  
15 force and effect as amended herein.

16 Section 25. There is hereby appropriated to the  
17 Department of Professional Regulation from the Professional  
18 Regulation Trust Fund for the fiscal year 1988-1989 the sum of  
19 \$28,050 for the purpose of conducting the study provided for  
20 in section 20 of this act.

21 Section 26. Except as otherwise provided herein, this  
22 act shall take effect October 1, 1988.  
23  
24  
25  
26  
27  
28  
29  
30  
31



\*\*\*\*\*

HOUSE SUMMARY

Revises state law governing the construction industry to make consistent changes in terminology in the law, to include persons who install spas or hot tubs with regulated contractors, to revise the membership of the Construction Industry Licensing Board, to provide for probable cause panels, to revise examination requirements, to provide enforcement mechanisms, to revise language with respect to certification, registration, and endorsement, to provide for responsibilities of contracting agents, to provide for local enforcement, to revise language with respect to disciplinary proceedings, and to provide for delegation of disciplinary authority.

Creates a provision under the construction contracting provisions with respect to pollutant storage systems specialty contractors. Provides for powers and duties of the Department of Environmental Regulation with respect to pollutant storage tanks. Directs the Department of Professional Regulation to appoint a committee to consider consumer complaints and report to the Legislature. See bill for details.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

By the Committee on Economic, Community, & Consumer Affairs

A bill to be entitled

An act relating to contracting; amending s. 489.103, F.S., revising exemptions from regulation under part I, ch. 489, F.S.; amending s. 489.105, F.S.; providing definitions applicable to said part; including underground utility contractors and specialty contractors among the categories of Division II contractors; amending s. 489.107, F.S.; revising composition of the Construction Industry Licensing Board; amending s. 489.109, F.S.; providing for regulatory fees; providing for the disposition of certain fees; requiring annual summaries of allocations by institution and of projects funded; amending s. 489.111, F.S.; revising requirements for examination for certification; amending s. 489.113, F.S.; revising requirements for engaging in contracting in the state; amending s. 489.115, F.S.; providing for certification or registration as a contractor; revising requirements for licensure by endorsement; providing for renewal; creating s. 489.1155, F.S.; providing for certification of journeymen in certain contracting trades; amending s. 489.117, F.S.; revising requirements relating to temporary limited registration; amending s. 489.119, F.S.; providing for licensure of business organizations, including joint ventures; providing for submission of bids by joint ventures, creating s. 489.1195, F.S.;

This publication was produced at an average cost of 1.5 cents per page for the information of members of the Legislature and the public.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

1       prescribing classes of qualifying agents;  
2       defining responsibilities of such agents;  
3       amending s. 489.129, F.S.; providing grounds  
4       and penalties for disciplinary action;  
5       providing for recommendations by hearing  
6       officers concerning penalties; providing for  
7       reinstatement; amending s. 489.131, F.S.;  
8       providing for applicability of the part;  
9       providing for local examination to engage in  
10       contracting; permitting structural components  
11       of buildings to be constructed or altered only  
12       by Division I contractors; reviving and  
13       readopting ss. 489.101-489.107, 489.109-  
14       489.131, F.S., notwithstanding their scheduled  
15       repeal; providing for future review and repeal  
16       of ss. 489.101-489.131, F.S.; reviving,  
17       readopting, transferring, and amending s.  
18       489.5331, F.S., relating to damages in certain  
19       actions against contractors; clarifying the  
20       application of said section; repealing s. 16,  
21       ch. 87-310, Laws of Florida, relating to Sunset  
22       termination of said section; providing an  
23       effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27       Section 1. Section 489.103, Florida Statutes, is  
28 amended to read:

29       489.103 Exemptions.--This part act does not apply to:  
30  
31

1           (1) Contractors in work on bridges, roads, streets,  
2 highways, railroads, or utilities and services incidental  
3 thereto.

4           (2) Any employee of a licensee who is a subordinate of  
5 such licensee if the employee does not hold himself out for  
6 hire or engage in contracting except as an employee.

7           (3) An authorized employee of the United States, this  
8 state, or any municipality, county, or other political  
9 subdivision if the employee does not hold himself out for hire  
10 or otherwise engage in contracting except in accordance with  
11 his employment.

12           (4) An officer appointed by a court when he is acting  
13 within the scope of his office as defined by law or court  
14 order. When construction projects which were not underway at  
15 the time of appointment of the officer are undertaken, the  
16 officer shall employ or contract with a licensee.

17           (5) Public utilities on construction, maintenance, and  
18 development work performed by their employees, which work is  
19 incidental to their business.

20           (6) The sale or installation of any finished products,  
21 materials, or articles of merchandise which are not fabricated  
22 into and do not become a permanent fixed part of the  
23 structure, except for inground or aboveground swimming pools  
24 with a capacity in excess of 500 gallons. This subsection  
25 shall not be construed to limit the exemptions provided in  
26 subsection (7).

27           (7) Owners of property when acting as their own  
28 contractor and providing all material supervision themselves,  
29 when building or improving farm outbuildings or one-family or  
30 two-family residences on such property for the occupancy or  
31 use of such owners and not offered for sale, or building or

1 improving commercial buildings at a cost of under \$25,000 on  
2 such property for the occupancy or use of such owners and not  
3 offered for sale or lease. In an action brought under this  
4 part act, proof of the sale or lease, or offering for sale or  
5 lease, of more than one such structure by the owner-builder  
6 within 1 year after completion of same is presumptive evidence  
7 that the construction was undertaken for purposes of sale or  
8 lease. This subsection does not exempt any person who is  
9 engaged by such owner or any person other than the owner who  
10 acts in the capacity of a contractor.

11 (8) Any construction, alteration, improvement, or  
12 repair carried on within the limits of any site the title to  
13 which is in the United States or with respect to which federal  
14 law supersedes this part act.

15 (9) Any work or operation of a casual, minor, or  
16 inconsequential nature in which the aggregate contract price  
17 for labor, materials, and all other items is less than \$1,000,  
18 but this exemption does not apply:

19 (a) If the construction, repair, remodeling, or  
20 improvement is a part of a larger or major operation, whether  
21 undertaken by the same or a different contractor, or in which  
22 a division of the operation is made in contracts of amounts  
23 less than \$500 for the purpose of evading this part act or  
24 otherwise.

25 (b) To a person who advertises that he is a contractor  
26 or otherwise represents that he is qualified to engage in  
27 contracting.

28 (10)(a) Any construction or operation incidental to  
29 the construction or repair of irrigation and drainage ditches;

30 (b) Regularly constituted irrigation districts or  
31 reclamation districts; or

1 (c) Clearing or other work on the land in rural  
2 districts for fire prevention purposes or otherwise except  
3 when performed by a licensee.

4 (11) A registered architect, engineer, or residential  
5 designer acting in his professional capacity or any person  
6 exempted by the law regulating architects and engineers.

7 (12) Any person who only furnishes materials or  
8 supplies without fabricating them into, or consuming them in  
9 the performance of, the work of the contractor.

10 (13) Any person who is licensed pursuant to chapter  
11 527 when such person is performing the work authorized by such  
12 license.

13 (14) Any person who sells, services, or installs  
14 heating or air conditioning units which have a capacity no  
15 greater than 3 tons or 36,000 Btu, which have no ducts, and  
16 which have a factory-installed electrical cord and plug.

17 (15) The installation and maintenance of water  
18 conditioning units for domestic, commercial, or industrial  
19 purposes by operators of water conditioning services. No  
20 municipality or county may adopt an ordinance, rule, or  
21 regulation which requires such an operator to become licensed,  
22 certified, or registered as a plumber or which otherwise  
23 prevents the installation and maintenance of such water  
24 conditioning units by an operator.

25 Section 2. Section 489.105, Florida Statutes, is  
26 amended to read:

27 489.105 Definitions.--As used in this part act:

28 (1) "Board" means the Construction Industry Licensing  
29 Board.

30 (2) "Department" means the Department of Professional  
31 Regulation.

1           (3) "Contractor" means the person who is qualified for  
2 and responsible for the entire project contracted for and  
3 means, except as exempted in this part act, the person who,  
4 for compensation, undertakes to, submits a bid to, or does  
5 himself or by others construct, repair, alter, remodel, add  
6 to, subtract from, or improve any building or structure,  
7 including related improvements to real estate, for others or  
8 for resale to others. Contractors are subdivided into two  
9 divisions, Division I, consisting of those contractors defined  
10 in paragraphs (a)-(c), and Division II, consisting of those  
11 contractors defined in paragraphs (d)-~~(o)~~~~(m)~~:

12           (a) "General contractor" means a contractor whose  
13 services are unlimited as to the type of work which he may do,  
14 except as provided in this part act.

15           (b) "Building contractor" means a contractor whose  
16 services are limited to construction of commercial buildings  
17 and single-dwelling or multiple-dwelling residential  
18 buildings, which commercial or residential buildings do not  
19 exceed three stories in height, and accessory use structures  
20 in connection therewith or a contractor whose services are  
21 limited to remodeling, repair, or improvement of any size  
22 building if the services do not affect the structural members  
23 of the building.

24           (c) "Residential contractor" means a contractor whose  
25 services are limited to construction, remodeling, repair, or  
26 improvement of one-family, two-family, or three-family  
27 residences not exceeding two stories in height and accessory  
28 use structures in connection therewith.

29           (d) "Sheet metal contractor" means a contractor whose  
30 services are unlimited in the sheet metal trade and who has  
31 the experience, knowledge, and skill necessary for the

1 manufacture, fabrication, assembling, handling, erection,  
2 installation, dismantling, conditioning, adjustment,  
3 alteration, repair, servicing, or design, when not prohibited  
4 by law, of ferrous or nonferrous metal work of U. S. No. 10  
5 gauge or its equivalent or lighter gauge and of other  
6 materials, including but not limited to fiberglass, used in  
7 lieu thereof and of air-handling systems, including the  
8 setting of air-handling equipment and reinforcement of same  
9 and including the balancing of air-handling systems.

10 (e) "Roofing contractor" means a contractor whose  
11 services are unlimited in the roofing trade and who has the  
12 experience, knowledge, and skill to install, maintain, repair,  
13 alter, extend, or design, when not prohibited by law, and use  
14 materials and items used in the installation, maintenance,  
15 extension, and alteration of all kinds of roofing and  
16 waterproofing, including all kinds of roof coating. However,  
17 it is not necessary to be licensed in order to apply a coating  
18 to a roof when the coating is not represented to protect,  
19 repair, waterproof, stop leaks, or extend the life of the  
20 roof.

21 (f) "Class A air conditioning contractor" means any  
22 person whose services are unlimited in the execution of  
23 contracts requiring the experience, knowledge, and skill to  
24 install, maintain, repair, fabricate, alter, extend, or  
25 design, when not prohibited by law, central air conditioning,  
26 refrigeration, heating, and ventilating systems, including  
27 duct work in connection with a complete system only to the  
28 extent such duct work is performed by the contractor as is  
29 necessary to make complete an air-distribution system, boiler  
30 and unfired pressure vessel systems, and all appurtenances,  
31 apparatus, or equipment used in connection therewith; and to



1 install, maintain, repair, fabricate, alter, extend, or  
 2 design, when not prohibited by law, piping, insulation of  
 3 pipes, vessels and ducts, pressure and process piping, and  
 4 pneumatic control piping; to install power wiring on the load  
 5 side of the disconnect switch and low-voltage heating,  
 6 ventilating, and air conditioning control wiring; 7 and to  
 7 install ~~installation-of~~ a condensate drain from an air  
 8 conditioning unit to an existing safe waste or other approved  
 9 disposal other than a direct connection to a sanitary system.  
 10 The scope of work for such contractor shall also include any  
 11 excavation work incidental thereto, but shall not include any  
 12 work such as liquefied petroleum or natural gas fuel lines  
 13 within buildings, potable waterlines or connections thereto,  
 14 sanitary sewer lines, swimming pool piping and filters, or  
 15 electrical power wiring on the line side of the disconnect  
 16 switch

17 (g) "Class B air conditioning contractor" means any  
 18 person whose services are limited to 25 tons of cooling and  
 19 500,000 Btu of heating in any one system in the execution of  
 20 contracts requiring the experience, knowledge, and skill to  
 21 install, maintain, repair, fabricate, alter, extend, or  
 22 design, when not prohibited by law, central air conditioning,  
 23 refrigeration, heating, and ventilating systems, including  
 24 duct work in connection with a complete system only to the  
 25 extent such duct work is performed by the contractor as is  
 26 necessary to make complete an air-distribution system being  
 27 installed under this classification; 7-and to install,  
 28 maintain, repair, fabricate, alter, extend, or design, when  
 29 not prohibited by law, piping and insulation of pipes,  
 30 vessels, and ducts; to install power wiring on the load side  
 31 of the disconnect switch and low-voltage heating, ventilating,

1 and air conditioning control wiring; and to install  
 2 ~~installation-of~~ a condensate drain from an air conditioning  
 3 unit to an existing safe waste or other approved disposal  
 4 other than a direct connection to a sanitary system.

5 (h) "Class C air conditioning contractor" means any  
 6 person whose business is limited to the servicing of air  
 7 conditioning, heating, or refrigeration systems, including  
 8 duct alterations in connection with those systems he is  
 9 servicing.

10 (i) 1. "Mechanical contractor" means any person whose  
 11 services are unlimited in the execution of contracts requiring  
 12 the experience, knowledge, and skill to install, maintain,  
 13 repair, fabricate, alter, extend, or design, when not  
 14 prohibited by law, central air conditioning, refrigeration,  
 15 heating, and ventilating systems, including duct work in  
 16 connection with a complete system only to the extent such duct  
 17 work is performed by the contractor as is necessary to make  
 18 complete an air-distribution system, boiler and unfired  
 19 pressure vessel systems, lift station equipment and piping,  
 20 and all appurtenances, apparatus, or equipment used in  
 21 connection therewith, and to install, maintain, repair,  
 22 fabricate, alter, extend, or design, when not prohibited by  
 23 law, piping, insulation of pipes, vessels and ducts, pressure  
 24 and process piping, pneumatic control piping, gasoline tanks  
 25 and pump installations and piping for same, standpipes, air  
 26 piping, vacuum line piping, oxygen lines, nitrous oxide  
 27 piping, ink and chemical lines, and fuel transmission lines;  
 28 to install power wiring on the load side of the disconnect  
 29 switch and low-voltage heating, ventilating, and air  
 30 conditioning control wiring; and to install ~~installation-of~~ a  
 31 condensate drain from an air conditioning unit to an existing

1 safe waste or other approved disposal other than a direct  
 2 connection to a sanitary system. The scope of work for such  
 3 contractor shall also include any excavation work incidental  
 4 thereto, but shall not include any work such as liquefied  
 5 petroleum or natural gas fuel lines within buildings, potable  
 6 waterlines or connections thereto, sanitary sewer lines,  
 7 swimming pool piping and filters, or electrical power wiring.

8 2. "Journeyman in the mechanical trade" means a person  
 9 who performs mechanical work while employed by and under the  
 10 supervision of a certified or registered mechanical contractor  
 11 and who has successfully completed a 4-year apprenticeship  
 12 program or who has a minimum of 5 years of work experience in  
 13 the employ of a certified or registered mechanical contractor,  
 14 or comparable work experience with a licensed mechanical  
 15 contractor in another state.

16 (1) "Commercial pool contractor" means any person  
 17 whose scope of work involves, but is not limited to, the  
 18 construction, repair, water treatment, and servicing of any  
 19 swimming pool, whether public, private, or otherwise,  
 20 regardless of use. The scope of such work includes layout,  
 21 excavation, operation of construction pumps for dewatering  
 22 purposes, steelwork, installation of light niches, pouring of  
 23 floors, guniting, fibreglassing, installation of tile and  
 24 coping, installation of all perimeter and filter piping,  
 25 installation of all filter equipment and chemical feeders of  
 26 any type, plastering of the interior, pouring of decks,  
 27 construction of equipment rooms or housing for pool equipment,  
 28 and installation of package pool heaters. However, the scope  
 29 of such work does not include direct connections to a sanitary  
 30 sewer system or to potable waterlines.

31

1 (k) "Residential pool contractor" means any person  
 2 whose scope of work involves, but is not limited to, the  
 3 construction, repair, water treatment, and servicing of any  
 4 residential swimming pool, regardless of use. The scope of  
 5 such work includes layout, excavation, operation of  
 6 construction pumps for dewatering purposes, steelwork,  
 7 installation of light niches, pouring of floors, guniting,  
 8 fibreglassing, installation of tile and coping, installation  
 9 of all perimeter and filter piping, installation of all filter  
 10 equipment and chemical feeders of any type, plastering of the  
 11 interior, pouring of decks, installation of housing for pool  
 12 equipment, and installation of package pool heaters. However,  
 13 the scope of such work does not include direct connections to  
 14 a sanitary sewer system or to potable waterlines.

15 (l) "Swimming pool servicing contractor" means any  
 16 person whose scope of work involves the servicing, repair,  
 17 water treatment, including but not limited to the direct  
 18 infusion of chlorine gas, and maintenance of any swimming  
 19 pool, whether public or private. The scope of such work may  
 20 include any necessary piping and repairs, replacement and  
 21 repair of existing equipment, or installation of new  
 22 additional equipment as necessary. The scope of such work  
 23 includes the reinstallation of tile and coping, repair and  
 24 replacement of all piping, filter equipment, and chemical  
 25 feeders of any type, replastering, repouring of decks, and  
 26 reinstallation or addition of pool heaters.

27 (m)1. "Plumbing contractor" is a contractor whose  
 28 contracting business consists of the execution of contracts  
 29 requiring the experience, financial means, knowledge, and  
 30 skill to install, maintain, repair, alter, extend, or, when  
 31 not prohibited by law, design plumbing. A plumbing contractor

1 may install, maintain, repair, alter, extend, or, when not  
2 prohibited by law, design the following without obtaining any  
3 additional local regulatory license, certificate, or  
4 registration sanitary drainage or storm drainage facilities;  
5 venting systems; public or private water supply systems;  
6 septic tanks, drainage and supply wells; swimming pool piping,  
7 irrigation systems; or solar heating water systems and all  
8 appurtenances, apparatus, or equipment used in connection  
9 therewith, including boilers and pressure process piping and  
10 including the installation of water, natural gas (excluding  
11 liquid petroleum gases), and storm and sanitary sewer lines;  
12 and water and sewer plants and substations. The scope of work  
13 of the plumbing contractor also includes the design, when not  
14 prohibited by law, and installation, maintenance, repair,  
15 alteration, or extension of air-piping, vacuum line piping,  
16 oxygen line piping, nitrous oxide piping, and all related  
17 medical gas systems; fire line standpipes and fire sprinklers  
18 to the extent authorized by law; ink and chemical lines; fuel  
19 oil and gasoline piping and tank and pump installation, except  
20 bulk storage plants; and pneumatic control piping systems, all  
21 in such a manner as to comply with all plans, specifications,  
22 codes, laws, and regulations applicable. The scope of work of  
23 the plumbing contractor shall apply to private property and  
24 public property, shall include any excavation work incidental  
25 thereto, and shall include the work of the specialty plumbing  
26 contractor. Such contractor shall subcontract, with a  
27 qualified contractor in the field concerned, all other work  
28 incidental to the work but which is specified herein as being  
29 the work of a trade other than that of a plumbing contractor.  
30 Nothing in this definition shall be construed to limit the  
31

1 scope of work of any specialty contractor certified pursuant  
2 to s. 489.113(6).

3 2. "Journeyman plumber" means a plumber who performs  
4 plumbing work while employed by and under the supervision of a  
5 certified or registered plumbing contractor and who has  
6 successfully completed a 4-year apprenticeship program or has  
7 a minimum of 5 years of work experience in the employ of a  
8 certified or registered plumbing contractor, or comparable  
9 work experience with a licensed plumbing contractor in another  
10 state.

11 (n) "Underground utility contractor" means a  
12 contractor whose services are limited to the construction,  
13 installation, and repair, on public or private property, of  
14 main sanitary sewer collection systems, main water  
15 distribution systems, and storm sewer collection systems, and  
16 the continuation of utility lines from the main systems to a  
17 point of termination up to and including the meter location  
18 for the individual occupancy, sewer collections systems at  
19 property line on residential or single-occupancy commercial  
20 properties or on multioccupancy properties at manhole or wye  
21 lateral extended to an invert elevation as engineered to  
22 accommodate future building sewers, or storm sewer collection  
23 systems at storm sewer structures. An underground utility  
24 contractor may not install any piping that is an integral part  
25 of a fire protection system, as defined in s. 633.021,  
26 beginning at the point where the piping is used exclusively  
27 for such system.

28 (o) "Specialty contractor" means any contractor whose  
29 work is limited to a specific phase of construction and whose  
30 responsibility is likewise limited to that phase of  
31 construction.

1           (4) "Primary qualifying agent" means a person who  
2 possesses the requisite skill, knowledge, and experience, and  
3 has the responsibility, to supervise, direct, manage, and  
4 control the contracting activities of the business entity with  
5 which he is connected; who has the responsibility to  
6 supervise, direct, manage, and control construction activities  
7 on a job for which he has obtained the building permit; and  
8 whose technical and personal qualifications have been  
9 determined by investigation and examination as provided in  
10 this part act, as attested by the department.

11           (5) "Secondary qualifying agent" means a person who  
12 possesses the requisite skill, knowledge, and experience, and  
13 has the responsibility, to supervise, direct, manage, and  
14 control construction activities on a job for which he has  
15 obtained a permit, and whose technical and personal  
16 qualifications have been determined by investigation and  
17 examination as provided in this part, as attested by the  
18 department

19           (6)~~5~~ "Contracting" means, except as exempted in this  
20 part act, engaging in business as a contractor.

21           (7)~~6~~ "Certificate" means a certificate of competency  
22 issued by the department as provided in this part act.

23           (8)~~7~~ "Certified contractor" means any contractor who  
24 possesses a certificate of competency issued by the department  
25 and who may contract in any jurisdiction in the state without  
26 being required to fulfill the competency requirements of that  
27 jurisdiction.

28           (9)~~8~~ "Registration" means registration with the  
29 department as provided in this part act.

30           (10)~~9~~ "Registered contractor" means any contractor  
31 who has registered with the department pursuant to fulfilling

1 the competency requirements in the jurisdiction for which the  
 2 registration is issued. Registered contractors may contract  
 3 only in these areas.

4 (11)~~(10)~~ "Certification" means the act of obtaining or  
 5 holding a certificate of competency from the department as  
 6 provided in this part act.

7 ~~(11)--"Specialty-contractor"--means-any-contractor-who~~  
 8 ~~does-not-fall-within-the-categories-established-in-paragraphs~~  
 9 ~~(a)-(m)-of-subsection-(3);~~

10 (12) "Licensee" means a holder of a certificate issued  
 11 pursuant to this part act or a person registered pursuant to  
 12 this part act.

13 (13) "Local construction regulation board" means a  
 14 board, composed of not fewer than three residents of a county  
 15 or municipality, which the governing body of that county or  
 16 municipality may create and appoint to maintain the proper  
 17 standard of construction of that county or municipality.

18 (14) "Pollutant storage systems specialty contractor"  
 19 means a contractor who installs or removes a pollutant storage  
 20 tank.

21 (15) "Pollutant storage tank" means a tank, together  
 22 with associated piping or dispensing facilities, which is or  
 23 could be used for the storage or supply of pollutants as  
 24 defined in s. 376.301 and which is required to be registered  
 25 under chapter 17-61 of the Florida Administrative Code or for  
 26 which notification must be submitted under Subtitle I of the  
 27 Resource Conservation and Recovery Act.

28 (16) "Tank" means any container other than one which  
 29 is aboveground and either elevated or situated upon an  
 30 impermeable surface, or which is located in an accessible  
 31 underground area and either elevated or situated upon an



1 impermeable surface therein, in such manner that any leak in  
2 such container may be readily detected.

3 (17) "Registered precision tank tester" means any  
4 precision tank tester who has registered with the department  
5 pursuant to s. 489.113(12). This registration shall be exempt  
6 from the provisions of prior municipality, county, or  
7 development district registration, as required under s.  
8 489.117, and shall be registered on a statewide basis.

9 Section 3. Section 489.107, Florida Statutes, is  
10 amended to read:

11 489.107 Construction Industry Licensing Board.--

12 (1) To carry out the provisions of this part act,  
13 there is created within the Department of Professional  
14 Regulation the Construction Industry Licensing Board. Members  
15 ~~and-alternate-members~~ shall be appointed by the Governor,  
16 subject to confirmation by the Senate. Effective October 1,  
17 1988 Initially, the Governor shall appoint four members, each  
18 for a term of 1 year; four members, each for a term of 2  
19 years; four members, each for a term of 3 years; and five  
20 members, each for a term of 4 years ~~seven-members-and-three~~  
21 ~~alternate-members,-each-for-a-term-of-4-years,-and-seven~~  
22 ~~members-and-two-alternate-members,-each-for-a-term-of-3-years.~~  
23 Thereafter, successors shall be appointed for 4-year terms. A  
24 vacancy on the board shall be filled for the unexpired portion  
25 of the term in the same manner as the original appointment.  
26 No member shall serve more than two consecutive full terms on  
27 the board.

28 (2) The board shall consist of:

29 ~~(a)~~ seventeen ~~regular~~ members, of whom:

30 ~~(a)1-~~ Three are primarily engaged in business as  
31 general contractors;

1           **(b)2**- Three are primarily engaged in business as  
2 building contractors or residential contractors;

3           **(c)3**- One is primarily engaged in business as a  
4 roofing contractor;

5           **(d)4**- One is primarily engaged in business as a sheet  
6 metal contractor;

7           **(e)5**- One is primarily engaged in business as an air  
8 conditioning contractor;

9           **(f)6**- One is primarily engaged in business as a  
10 mechanical contractor;

11           **(g)7**- One is primarily engaged in business as a pool  
12 contractor;

13           **(h)8**- One is primarily engaged in business as a  
14 plumbing contractor;

15           **(i)9**- One is primarily engaged in business as an  
16 underground utility contractor;

17           **(j)10**- Two are lay persons who are not, and have never  
18 been, members or practitioners of a profession regulated by  
19 the board or members of any closely related profession; and

20           **(k)11**- Two are building officials of a municipality or  
21 county, and

22           **~~(b)--Six-alternate-members;-of-whom:~~**

23           **~~1--One-is-primarily-engaged-in-business-as-a-roofing~~**  
24 **~~contractor;~~**

25           **~~2--One-is-primarily-engaged-in-business-as-a-sheet~~**  
26 **~~metal-contractor;~~**

27           **~~3--One-is-primarily-engaged-in-business-as-an-air~~**  
28 **~~conditioning-contractor;~~**

29           **~~4--One-is-primarily-engaged-in-business-as-a~~**  
30 **~~mechanical-contractor;~~**

31

1           ~~5. One is primarily engaged in business as a pool~~  
2 ~~contractor, and~~

3           ~~6. One is primarily engaged in business as a plumbing~~  
4 ~~contractor.~~

5           (3) To be eligible for appointment, each contractor  
6 member ~~and alternate member~~ must have been certified by the  
7 board to operate as a contractor in the category with respect  
8 to which he is appointed, be actively engaged in the  
9 construction business, and have been so engaged for a period  
10 of not less than 5 consecutive years before the date of his  
11 appointment. Each appointee must be a citizen and resident of  
12 the state.

13           ~~(4) An alternate member may attend any meeting of the~~  
14 ~~board, and, if the member and the corresponding alternate~~  
15 ~~member are both present and voting, each shall have only one~~  
16 ~~half vote; however, if either the member or the corresponding~~  
17 ~~alternate member is absent, the member or alternate member~~  
18 ~~present shall have one vote.~~

19           (4)(5) The board shall be divided into two divisions,  
20 Division I and Division II.

21           (a) Division I is comprised of the general contractor,  
22 building contractor, and residential contractor members of the  
23 board; one of the members appointed pursuant to paragraph  
24 (2)(j) ~~subparagraph (2)(a)10;~~; and one of the members  
25 appointed pursuant to paragraph (2)(k) ~~subparagraph (2)(a)11;~~  
26 and has jurisdiction over the examination and regulation of  
27 general contractors, building contractors, and residential  
28 contractors.

29           (b) Division II is comprised of the ~~regular and~~  
30 ~~alternate~~ roofing contractor, sheet metal contractor, air  
31 conditioning contractor, mechanical contractor, pool

1 contractor, plumbing contractor, and underground utility  
 2 contractor members of the board; one of the members appointed  
 3 pursuant to paragraph (2)(j) ~~subparagraph-(2)(a)10~~; and one  
 4 of the members appointed pursuant to paragraph (2)(k)  
 5 ~~subparagraph-(2)(a)11~~ and has jurisdiction over the  
 6 examination and regulation of roofing contractors, sheet metal  
 7 contractors, air conditioning contractors, mechanical  
 8 contractors, pool contractors, plumbing contractors, and  
 9 underground utility contractors, and specialty contractors.

10 ~~(5)(6)~~ Five members of Division I constitute a quorum,  
 11 and five members ~~votes~~ of Division II constitute a quorum.  
 12 The combined divisions shall meet together, at such times as  
 13 the board deems necessary; but neither division, nor any  
 14 committee thereof, shall take action on any matter under the  
 15 jurisdiction of the other division.

16 Section 4. Subsections (1) and (4) of section 489.109,  
 17 Florida Statutes, are amended to read:

18 **489.109 Fees.--**

19 (1) The board, by rule, shall establish reasonable  
 20 fees to be paid for applications, examination, certification  
 21 and renewal, registration and renewal, and recordmaking and  
 22 recordkeeping. ~~Effective-October-17-1979~~; The fees shall be  
 23 established as follows:

24 (a) With respect to an applicant for a certificate,  
 25 the initial application and examination fee shall not exceed  
 26 \$250, and the biennial renewal fee shall not exceed \$100; and

27 (b) With respect to an applicant for registration, the  
 28 initial application fee shall not exceed \$50, and the biennial  
 29 renewal fee shall not exceed \$50.

30

31

1 ~~The fees required by the board on June 30, 1979 shall remain~~  
2 ~~in effect through September 30, 1979.~~

3  
4 The board, by rule, may also establish penalty fees for late  
5 renewal not to exceed \$20 for certification and \$10  
6 registration. The board shall establish fees which are  
7 adequate to ensure the continued operation of the board. Fees  
8 shall be based on department estimates of the revenue required  
9 to implement this part act and the provisions of law with  
10 respect to the regulation of the construction industry.

11 (4) In addition to the fees provided in subsection (1)  
12 for application and renewal for certification and  
13 registration, all licensees shall pay a fee of \$4 to the  
14 department at the time of application or biennial renewal.  
15 The funds shall be transferred at the end of each biennial  
16 licensing period to the Department of Education for  
17 distribution in the following manner:

18 (a) Fifty percent shall be allocated to fund research  
19 projects relating to the building construction industry in a  
20 graduate program in building construction in a Florida  
21 university.

22 (b) Fifty percent shall be apportioned among all  
23 accredited private and state universities and community  
24 colleges within the state offering approved courses in  
25 building construction, with each university or college  
26 receiving a pro rata share of such funds based upon the number  
27 of full-time building construction students enrolled at the  
28 institution. Each institution receiving funds under this  
29 subsection shall utilize such funds for research projects  
30 relating to the building construction industry or for  
31

1 continuing education programs to be offered to those engaged  
2 in the building construction industry in Florida.

3  
4 A report shall be made by the Department of Education to the  
5 board in October of each year, summarizing the allocation of  
6 the funds by institution and summarizing the new projects  
7 funded and the status of previously funded projects.

8 Section 5. Subsection (2) of section 489.111, Florida  
9 Statutes, is amended to read:

10 489.111 Examinations.--

11 (2) A person shall be entitled to take the examination  
12 for the purpose of determining whether he is qualified to  
13 engage in contracting throughout this state if the person:

14 (a) Is 18 years of age;

15 (b) Is of good moral character; and

16 (c) Meets eligibility requirements according to one of  
17 the following criteria:

18 1. Has received a baccalaureate degree from an  
19 accredited 4-year college in the appropriate field of  
20 engineering, architecture, or building construction and has 1  
21 year of proven experience in the category in which the person  
22 seeks to qualify. For the purpose of this part act, a minimum  
23 of 2,000 man-hours shall be used in determining full-time  
24 equivalency.

25 2. Has a combination of at least 4 3 years of active  
26 experience as a workman, foreman, or supervisor who has  
27 learned his trade by serving an apprenticeship or ~~as~~ a skilled  
28 workman who is able to command the rate of a mechanic in his  
29 particular trade, which experience must include and has at  
30 least 1 year of active experience at the level of a foreman  
31 who is in charge of a group of workmen and is usually ~~is~~

1 responsible to a superintendent or a contractor or his  
2 equivalent.

3           3. Has a combination of not less than 1 year of  
4 experience as a foreman and not less than 3 years of credits  
5 for any accredited college-level courses in the appropriate  
6 field of engineering, architecture, or building construction;  
7 or has a combination of not less than 2 years of experience as  
8 a skilled workman, 1 year of experience as a foreman, and not  
9 less than 1 year of credits for any accredited college-level  
10 courses in the appropriate field of engineering, architecture,  
11 or building construction. All junior college or community  
12 college-level courses shall be considered accredited college-  
13 level courses.

14           4.a. An active certified residential contractor is  
15 eligible to take the building contractors' examination if he  
16 possesses a minimum of 3 years of proven experience in the  
17 classification in which he is certified.

18           b An active certified residential contractor is  
19 eligible to take the general contractors' examination if he  
20 possesses a minimum of 4 years of proven experience in the  
21 classification in which he is certified.

22           c An active certified building contractor is eligible  
23 to take the general contractors' examination if he possesses a  
24 minimum of 4 years of proven experience in the classification  
25 in which he is certified.

26           5.a. An active certified air conditioning Class C  
27 contractor is eligible to take the air conditioning Class B  
28 contractors' examination if he possesses a minimum of 3 years  
29 of proven experience in the classification in which he is  
30 certified.

31

1           b. An active certified air conditioning Class C  
2 contractor is eligible to take the air conditioning Class A  
3 contractors' examination if he possesses a minimum of 4 years  
4 of proven experience in the classification in which he is  
5 certified.

6           c. An active certified air conditioning Class B  
7 contractor is eligible to take the air conditioning Class A  
8 contractors' examination if he possesses a minimum of 1 year  
9 of proven experience in the classification in which he is  
10 certified.

11          6.a. An active certified swimming pool servicing  
12 contractor is eligible to take the residential swimming pool  
13 contractors' examination if he possesses a minimum of 3 years  
14 of proven experience in the classification in which he is  
15 certified.

16          b. An active certified swimming pool servicing  
17 contractor is eligible to take the swimming pool commercial  
18 contractors' examination if he possesses a minimum of 4 years  
19 of proven experience in the classification in which he is  
20 certified.

21          c. An active certified residential swimming pool  
22 contractor is eligible to take the commercial swimming pool  
23 contractors' examination if he possesses a minimum of 1 year  
24 of proven experience in the classification in which he is  
25 certified.

26           Section 6. Subsections (1), (3), and (6) of section  
27 489.113, Florida Statutes, are amended to read:

28           489.113 Qualifications for practice; restrictions.--

29           (1) Any person who desires to engage in contracting on  
30 a statewide basis shall, as a prerequisite thereto, establish  
31 his competency and qualifications to be certified pursuant to



1 this part act. To establish his competency, a person shall  
2 pass the appropriate examination administered by the  
3 department. Any person who desires to engage in contracting  
4 on other than a statewide basis shall, as a prerequisite  
5 thereto, be registered pursuant to this part act, unless  
6 exempted by this part act. ~~Registration shall be required of~~  
7 ~~specialty contractors when licensing is required by a county~~  
8 ~~or municipality in which the specialty contractor practices.~~

9 (3) A contractor shall subcontract the electrical,  
10 mechanical, plumbing, roofing, sheet metal, commercial  
11 swimming pool, and air conditioning work for which a local  
12 examination for a certificate of competency or a license is  
13 required, unless such contractor holds a state certificate of  
14 competency or license of the respective trade category, as  
15 required by the appropriate local authority. However, a  
16 general, building, or residential contractor shall not be  
17 required to subcontract the installation of wood shingles,  
18 wood shakes, or asphalt or fiberglass shingle roofing  
19 materials on a new building of his own construction, and a  
20 general contractor shall not be required to subcontract  
21 structural swimming pool work. Further, a general contractor,  
22 on new site development work, site redevelopment work, mobile  
23 home parks, and commercial properties, shall not be required  
24 to subcontract the construction of the main sanitary sewer  
25 collection system and the water distribution system, not  
26 including the continuation of utility lines from the mains to  
27 the buildings, and the storm collection system. Further, as  
28 to mobile home parks, the general contractor shall not be  
29 required to subcontract the continuation of utility lines from  
30 the mains, and the continuations are to be considered a part  
31 of the main sewer collection and main water distribution

1 systems. This subsection does not apply if the local  
2 authority does not require a certificate of competency or  
3 license for such trade. However, no general, building, or  
4 residential contractor certified after 1973 shall act as, hold  
5 himself out to be, or advertise himself to be a roofing  
6 contractor unless he is certified or registered as a roofing  
7 contractor.

8 (6) The board shall, by rule, designate those types of  
9 specialty contractors which may be certified under this part  
10 act.

11 Section 7. Subsections (2), (4), and (5) of section  
12 489.115, Florida Statutes, are amended to read:

13 489.115 Certification and registration; endorsement;  
14 renewals.--

15 (2) The board shall certify as qualified for licensure  
16 by endorsement any applicant who

17 (a) Meets the requirements for certification as set  
18 forth in this section; has passed a national, regional, state,  
19 or United States territorial licensing examination that is  
20 substantially equivalent to the examination required by this  
21 part; and has satisfied the requirements set forth in s.  
22 489.111; or

23 (b) Holds a valid license to practice contracting  
24 issued by another state or territory of the United States, if  
25 the criteria for issuance of such license were substantially  
26 equivalent to the licensure criteria that existed in this  
27 state at the time the license was issued. ~~adopt-rules~~  
28 ~~prescribing-procedures-for-the-certification-or-registration~~  
29 ~~of-contractors-who-have-been-licensed-in-states-which-have~~  
30 ~~standards-substantially-similar-to,-or-more-stringent-than,~~

1 ~~the standards of this state and who meet the other~~  
2 ~~requirements established pursuant to this act;~~

3 (4) As a prerequisite to the initial issuance or the  
4 renewal of a certificate, the applicant shall submit  
5 satisfactory evidence that he has obtained public liability  
6 and property damage insurance for the safety and welfare of  
7 the public in amounts determined by rule of the board. As a  
8 prerequisite to the initial issuance of a certificate, and the  
9 applicant shall furnish evidence of financial responsibility,  
10 credit, and business reputation of either himself or the  
11 business organization he desires to qualify. The board shall  
12 adopt rules defining financial responsibility based upon the  
13 applicant's credit history, ability to be bonded, and any  
14 history of bankruptcy or assignment of receivers. Such rules  
15 shall specify the financial responsibility grounds on which  
16 the board may refuse to qualify an applicant for  
17 certification. If, within 60 days from the date the applicant  
18 is notified that he has qualified, he does not provide the  
19 evidence required, he shall apply to the department for an  
20 extension of time which shall be granted upon a showing of  
21 just cause.

22 (5) An initial applicant shall, along with his  
23 application, and a licensee shall, upon requesting a change of  
24 status, submit to the board a credit report from a nationally  
25 recognized credit agency that reflects the financial  
26 responsibility of the applicant or licensee. The credit  
27 report required for the initial applicant shall be considered  
28 the minimum evidence necessary to satisfy the board that he is  
29 financially responsible to be certified, that he has the  
30 necessary credit and business reputation to engage in  
31 contracting in the state, and that he has the minimum

1 financial stability necessary to avoid the problem of  
2 financial mismanagement or misconduct ~~diversion-of-funds~~. The  
3 board shall, by rule, adopt guidelines for determination of  
4 financial stability.

5 Section 8. Section 489.1155, Florida Statutes, is  
6 created to read:

7 489.1155 Journeyman, voluntary certification.--Any  
8 person working as a journeyman in the mechanical trade or as a  
9 journeyman plumber who applies to the department in writing  
10 and who passes the certification examination shall be  
11 certified by the board as a journeyman in the mechanical trade  
12 or journeyman plumber and may perform the work of a journeyman  
13 in the respective trade throughout the state. The board shall  
14 establish by rule procedures and guidelines for the  
15 certification and discipline of journeymen certified in  
16 accordance with this section.

17 Section 9. Subsection (3) of section 489.117, Florida  
18 Statutes, is amended to read:

19 489.117 Registration.--

20 (3) Upon findings of fact supporting the need  
21 therefor, the board may grant a limited nonrenewable  
22 registration to a contractor not domiciled in the state, for  
23 one project. Such registration may not be granted until the  
24 contractor has satisfied the licensing requirements of the  
25 jurisdiction in which the project will be located. During the  
26 period of such registration, the board may require compliance  
27 with this and any other statute of the state.

28 Section 10. Section 489.119, Florida Statutes, is  
29 amended to read:

30 489.119 Business organizations; qualifying agents.--  
31

1           (1) If an individual proposes to engage in contracting  
2 in his own name, registration or certification may be issued  
3 only to that individual.

4           (2) If the applicant proposes to engage in contracting  
5 as a partnership, corporation, business trust, or other legal  
6 entity, the applicant shall apply through a qualifying agent;  
7 the application shall state the name of the partnership and of  
8 its partners, the name of the corporation and of its officers  
9 and directors, the name of the business trust and its  
10 trustees, or the name of such other legal entity and its  
11 members; and the applicant shall furnish evidence of statutory  
12 compliance if a fictitious name is used. Such application  
13 shall also show that the qualifying agent is legally qualified  
14 to act for the business organization in all matters connected  
15 with its contracting business and that he has authority to  
16 supervise construction undertaken by such business  
17 organization. A joint venture, including a joint venture  
18 composed of qualified business entities, is itself a separate  
19 and distinct entity that must be qualified. The registration  
20 or certification, when issued upon application of a business  
21 organization, shall be in the name of the qualifying agent,  
22 and the name of the business organization shall be noted  
23 thereon. If there is a change in any information that is  
24 required to be stated on the application, the business  
25 organization shall, within 45 days after such change occurs,  
26 mail the correct information to the department.

27           (3)(a) The qualifying agent shall be certified or  
28 registered under this part act in order for the business  
29 organization to be certified or registered in the category of  
30 the business conducted for which the qualifying agent is  
31 certified or registered. If any qualifying agent ceases to be

1 affiliated with such business organization, he shall so inform  
2 the department. In addition, if such qualifying agent is the  
3 only certified or registered individual affiliated with the  
4 business organization, the business organization shall notify  
5 the department of the termination of the qualifying agent and  
6 shall have ~~a minimum of~~ 60 days from the termination of the  
7 qualifying agent's affiliation with the business organization  
8 in which to employ another qualifying agent. The business  
9 organization may not engage in contracting until a qualifying  
10 agent is employed.

11 (b) The qualifying agent shall inform the department  
12 in writing when he proposes to engage in contracting in his  
13 own name or in affiliation with another business organization,  
14 and he or such new business organization shall supply the same  
15 information to the department as required of applicants under  
16 this part act.

17 (c) Upon a favorable determination by the board, after  
18 investigation of the financial responsibility, credit, and  
19 business reputation of the qualifying agent and the new  
20 business organization, the department shall issue, without an  
21 examination, a new certificate or registration in the  
22 qualifying agent's name, and the name of the new business  
23 organization shall be noted thereon.

24 (4) When a certified qualifying agent, on behalf of a  
25 business organization, makes application for an occupational  
26 license in any municipality or county of this state, the  
27 application shall be made with the tax collector in the name  
28 of the qualifying agent and the name of the business  
29 organization; and the license, when issued, shall be issued to  
30 the qualifying agent and the business organization, upon  
31 payment of the appropriate licensing fee and exhibition to the

1 tax collector of a valid certificate issued by the department,  
2 and the state license number shall be noted thereon.

3 (5)(a) A joint venture, of which one or more of the  
4 participants is not a licensed contractor under this part, may  
5 submit a bid on a construction project under the following  
6 circumstances:

7 1. The joint venture agreement must be in writing;

8 2. One of the joint venturers must be a business  
9 entity that is properly qualified by a licensed contractor;

10 3. Each participant must sign a statement of authority  
11 giving the licensed contractor full authority to conduct the  
12 contracting business of the participant;

13 4. A bonding company must issue a letter of  
14 bondability of the joint venture participants which guarantees  
15 the subsequent performance of the contract; and

16 5. Copies of the joint venture agreement, statements  
17 of authority, and the letter of bondability must be received  
18 and approved by the board prior to the time of the bid.

19 (b) If the joint venture is awarded the contract, the  
20 licensed contractor must qualify all business entities  
21 participating in the joint venture within 60 days.

22 (c) A licensed contractor is restricted to one use of  
23 this method of limited qualification at any one time.

24 (d) A licensed contractor who uses this method of  
25 limited qualification must maintain on file with the board up-  
26 -to-date information, as required on the application,  
27 concerning all business entities that he qualifies.

28 (e) This method of limited qualification may not be  
29 used by any business entity whose application is subject to  
30 denial under subsection (8) due to an officer's, partner's,

31

1 director's, or member's having been fined pursuant to s.  
2 489.129(2).

3 (f) The board may limit the qualification issued, as  
4 to the project or projects bid upon, and prescribe the time  
5 period for which the qualification is to remain effective.

6 (6)†5†(a) Each registered or certified contractor  
7 shall affix the number of his registration or certification to  
8 each application for a building permit and on each building  
9 permit issued and recorded. Each city or county building  
10 department shall require, as a precondition for the issuance  
11 of the building permit, that the contractor taking out the  
12 permit must provide verification giving his Construction  
13 Industry Licensing Board license number.

14 (b) The registration or certification number of each  
15 contractor shall appear in any newspaper, airwave  
16 transmission, phone directory, or other advertising medium  
17 used by that contractor.

18 (7)†6† Each qualifying agent shall pay the department  
19 an amount equal to the original fee for certification or  
20 registration of a new business entity. If the qualifying  
21 agent for a business entity desires to qualify additional  
22 business entities, the board shall require him to appear  
23 before it and present evidence of ability and financial  
24 responsibility of each such entity. The issuance of such  
25 certification or registration is discretionary with the board.

26 (8)†7† If a business entity or any of its partners,  
27 officers, directors, trustees, or members is fined for  
28 violating s. 489.129(2), the board may, on that basis alone,  
29 deny issuance of a certificate or registration to a qualifying  
30 agent on behalf of that business entity.

31



1 Section 11. Section 489.1195, Florida Statutes, is  
2 created to read

3 489.1195 Primary and secondary qualifying agents;  
4 responsibilities.--

5 (1) A qualifying agent is a primary qualifying agent  
6 unless he is a secondary qualifying agent under this section.  
7 All primary qualifying agents for a business organization are  
8 jointly and equally responsible for supervision of all  
9 operations of the business organization; for all field work at  
10 all sites; and for financial matters, both for the  
11 organization in general and for each specific job.

12 (2) One of the qualifying agents for a business  
13 organization that has more than one qualifying agent may be  
14 designated as the sole primary qualifying agent for the  
15 business organization by a joint agreement that is executed,  
16 or a form provided by the board, by all qualifying agents for  
17 the business organization. The joint agreement must be  
18 submitted to the board for approval. If the board determines  
19 that the joint agreement is in good order, it shall approve  
20 the designation and immediately notify the qualifying agents  
21 of such approval. The designation made by the joint agreement  
22 is effective upon receipt of the notice by the qualifying  
23 agents. The qualifying agent designated for a business  
24 organization by a joint agreement is the sole primary  
25 qualifying agent for the business organization, and all other  
26 qualifying agents for the business organization are secondary  
27 qualifying agents.

28 (a) A designated sole primary qualifying agent has all  
29 the responsibilities and duties of a primary qualifying agent,  
30 notwithstanding that there are secondary qualifying agents for  
31 specified jobs. The designated sole primary qualifying agent

1 is jointly and equally responsible with secondary qualifying  
2 agents for field work supervision.

3 (b) A secondary qualifying agent is responsible only  
4 for:

- 5 1. The supervision of field work at sites where his
  - 6 license was used to obtain the building permit; and
  - 7 2. Any other work for which he accepts responsibility.
- 8

9 A secondary qualifying agent is not responsible for  
10 supervision of financial matters.

11 (3)(a) A qualifying agent who has been designated by a  
12 joint agreement as the sole primary qualifying agent for a  
13 business organization may unilaterally terminate his status as  
14 such. To terminate his status, he must give actual notice to  
15 all secondary qualifying agents of his intention to terminate  
16 his status and, within 30 days after giving such notice, apply  
17 to the board for change of status. His application must  
18 include proof satisfactory to the board that he has given the  
19 notice required in this paragraph. If the board determines  
20 that the application is in good order, it shall approve the  
21 termination; and the status of the qualifying agent will cease  
22 upon the designation of a new sole primary qualifying agent or  
23 on the 60th day after the approval of his application by the  
24 board, whichever first occurs. All qualifying agents for a  
25 business organization become primary qualifying agents if the  
26 status of the sole primary qualifying agent terminates and  
27 another sole primary qualifying agent has not been designated.

28 (b) Any change in the status of a qualifying agent is  
29 prospective only. A qualifying agent is not responsible for  
30 his predecessor's actions but is responsible, even after a  
31

1 change in status, for matters for which he was responsible  
2 while in a particular status.

3 Section 12. Paragraphs (e), (f), (g), and (j) of  
4 subsection (1) of section 489.129, Florida Statutes, are  
5 amended, and subsections (4) and (5) are added to said  
6 section, to read:

7 489.129 Disciplinary proceedings.--

8 (1) The board may revoke, suspend, or deny the  
9 issuance or renewal of the certificate or registration of a  
10 contractor and impose an administrative fine not to exceed  
11 \$5,000, place a contractor on probation, or reprimand or  
12 censure a contractor if the contractor, or if the business  
13 entity or any general partner, officer, director, trustee, or  
14 member of a business entity for which the contractor is a  
15 qualifying agent, is found guilty of any of the following  
16 acts:

17 (e) Performing any act which in fact assists any  
18 person or entity in engaging in the prohibited, unlicensed  
19 practice of contracting, if the licensee knows or has  
20 reasrnable grounds to know that the person or entity is  
21 unlicensed ~~Aiding-or-abetting-any-uncertified-or-unregistered~~  
22 ~~person-to-evade-any-provision-of-this-act.~~

23 (f) Knowingly combining or conspiring with an  
24 uncertified or unregistered person by allowing one's  
25 certificate or registration to be used by any uncertified or  
26 unregistered person with intent to evade the provisions of  
27 this part act. When a certificateholder or registrant allows  
28 his certificate or registration to be used by one or more  
29 companies without having any active participation in the  
30 operations, management, or control of such companies, such act

31

1 constitutes prima facie evidence of an intent to evade the  
2 provisions of this part act.

3 (g) Acting in the capacity of a contractor under any  
4 certificate or registration issued hereunder except in the  
5 name of the certificateholder or registrant as set forth on  
6 the issued certificate or registration, or in accordance with  
7 the personnel of the certificateholder or registrant as set  
8 forth in the application for the certificate or registration,  
9 or as later changed as provided in this part act.

10 (j) Failure in any material respect to comply with the  
11 provisions of this part act.

12 (4) In recommending penalties after any formal  
13 hearing, a hearing officer shall generally follow the penalty  
14 guidelines established by the board by rule. Any deviation  
15 from these guidelines by the hearing officer must be explained  
16 in detail in the recommended order.

17 (5) The board may not reinstate the license of, or  
18 cause a license to be issued to, a person who the board has  
19 determined unqualified until it is satisfied that such person  
20 has complied with all the terms and conditions set forth in  
21 the final order and is capable of competently engaging in the  
22 business of contracting.

23 Section 13. Section 489.131, Florida Statutes, is  
24 amended to read:

25 489.131 Applicability.--

26 (1) This part act applies to any contractor performing  
27 work for the state or any county or municipality. Officers of  
28 the state or any county or municipality shall determine  
29 compliance with this part act before awarding any contract for  
30 construction, improvement, remodeling, or repair.

31

1           (2) The state or any county or municipality shall ~~may~~  
2 require that bids submitted for construction, improvement,  
3 remodeling, or repair of public buildings be accompanied by  
4 evidence that the bidder holds an appropriate certificate or  
5 registration.

6           (3) Nothing in this part act limits the power of a  
7 municipality or county:

8           (a) To regulate the quality and character of work  
9 performed by contractors through a system of permits, fees,  
10 and inspections which is designed to secure compliance with  
11 and aid in the implementation of state and local building  
12 laws.

13           (b) To enforce other laws for the protection of the  
14 public health and safety.

15           (c) To collect occupational license and inspection  
16 fees for engaging in contracting or examination fees from  
17 persons who are registered with the board pursuant to local  
18 examination requirements. However, nothing in this part act  
19 shall be construed to require general contractors, building  
20 contractors, or residential contractors to obtain additional  
21 occupational licenses for specialty work when such specialty  
22 work is performed by employees of such contractors on projects  
23 for which they have substantially full responsibility and such  
24 contractors do not hold themselves out to the public as being  
25 specialty contractors.

26           (d) To adopt any system of permits requiring  
27 submission to and approval by the municipality or county of  
28 plans and specifications for work to be performed by  
29 contractors before commencement of the work.

30           (e) To require a bond for contractors in an amount not  
31 to exceed \$5,000, which bond shall be conditioned only upon

1 compliance with the applicable state minimum building code and  
 2 applicable local building code requirements adopted pursuant  
 3 to s. 553.73. Any such bond must be equally available to all  
 4 contractors without regard to the period of time a contractor  
 5 has been certified or registered and without regard to any  
 6 financial responsibility requirements. Any such bonds shall  
 7 be payable to the Governor and filed in each county or  
 8 municipality in which a building permit is requested. Bond  
 9 reciprocity shall be granted statewide. All such bonds shall  
 10 be included in meeting any financial responsibility  
 11 requirements imposed by any statute or rule. Any contractor  
 12 who provides a third party insured warranty policy in  
 13 connection with a new building or structure for the benefit of  
 14 the purchaser or owner shall be exempt from the bond  
 15 requirements under this subsection with respect to such  
 16 building or structure.

17 ~~(4)--Nothing in this act shall be construed to waive~~  
 18 ~~any requirement of any existing ordinance or resolution of a~~  
 19 ~~board of county commissioners regulating the type of work~~  
 20 ~~required to be performed by a specialty contractor.~~

21 (4)(5) Any official authorized to issue building or  
 22 other related permits shall, before issuing a permit,  
 23 ascertain that the applicant contractor is certified or is  
 24 registered in the area where the construction is to take  
 25 place.

26 (5)(6) Municipalities or counties may continue to  
 27 provide examinations for their territorial area, provided  
 28 that:

29 (a) To engage in contracting in the territorial area,  
 30 an applicant shall also be registered with the board;

31

1 (b) Each local board or agency which licenses  
2 contractors transmits monthly ~~annually-during-May~~ to the board  
3 a report of any disciplinary action taken against the  
4 licensee; and

5 (c) No examination is given the holder of a  
6 certificate.

7 ~~(6)(7)~~ The right to create local boards in the future  
8 by any municipality or county is preserved.

9 (7) Only a Division I contractor may construct or  
10 alter a structural component of a building or structure. The  
11 term "structural component" is defined, for purposes of this  
12 subsection, to mean any vertical or horizontal load-bearing  
13 member of a structure which supports dead or live loads in  
14 addition to its own weight and includes, but is not limited  
15 to, a foundation, an exterior or interior load-bearing wall, a  
16 column, a column beam, a floor, and a roof structure.

17 ~~(8)--No provision of this act shall be construed to~~  
18 ~~permit a contractor to perform mechanical or plumbing work for~~  
19 ~~which an examination for a certificate of competency or a~~  
20 ~~license is required, unless such contractor holds such~~  
21 ~~certificates of competency or such licenses as may be required~~  
22 ~~by the appropriate local authority,--if the appropriate local~~  
23 ~~authority does not require a certificate of competency or a~~  
24 ~~license for such trade, the provisions of this subsection do~~  
25 ~~not apply.~~

26 Section 14. Notwithstanding the provisions of chapter  
27 81-318, chapter 82-179, and chapter 86-159, Laws of Florida,  
28 sections 489.101, 489.103, 489.105, 489.107, 489.109, 489.111,  
29 489.113, 489.115, 489.117, 489.119, 489.121, 489.123, 489.125,  
30 489.127, 489.129, and 489.131, Florida Statutes, shall not  
31 stand repealed or expire October 1, 1988, as scheduled by such

1 laws, but said sections, as amended, are hereby revived and  
2 readopted.

3 Section 15. Sections 489.101, 489.103, 489.105,  
4 489.107, 489.108, 489.109, 489.111, 489.113, 489.115,  
5 489.1155, 489.117, 489.119, 489.1195, 489.121, 489.123,  
6 489.125, 489.127, 489.129, and 489.131, Florida Statutes, are  
7 repealed October 1, 1998, and shall be reviewed by the  
8 Legislature prior to that date pursuant to section 11.61,  
9 Florida Statutes.

10 Section 16. Section 16 of chapter 87-310, Laws of  
11 Florida, is repealed; and section 489.5331, Florida Statutes,  
12 is revived and readopted and transferred, renumbered as  
13 section 768.0425, Florida Statutes, and amended to read:

14 768.0425 ~~489-5331~~ Damages in actions against  
15 contractors for injuries sustained from negligence,  
16 malfeasance, or misfeasance and remedies.--

17 (1) For purposes of this section only, the term  
18 "contractor" means any person who contracts to perform any  
19 construction or building service which is regulated by any  
20 state or local law, including, but not limited to, this  
21 chapter and chapter 633; and; the term "consumer" means a  
22 person who contracts for the performance of any construction  
23 or building service which is regulated by any state or local  
24 law, including, but not limited to, chapters 489 and 633.

25 (2) In any action against a contractor for injuries  
26 sustained resulting from the contractor's negligence,  
27 malfeasance, or misfeasance, the consumer shall be entitled to  
28 three times the actual compensatory damages sustained in  
29 addition to costs and attorney's fees if the contractor is  
30 neither certified as a contractor by the state nor licensed as  
31



1 a contractor pursuant to the laws of the municipality or  
2 county within which he is conducting business.

3 Section 17. This act shall take effect October 1,  
4 1988.

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

\*\*\*\*\*

## SENATE SUMMARY

Pursuant to Sunset review, continues part I, ch. 489, F.S., relating to regulation of various contracting trades, with revisions, until October 1, 1998, in advance of which the part will again be reviewed.

Includes underground utility contractors and specialty contractors among the categories of Division II contractors. Provides for certification of journeymen in the mechanical trade and of journeyman plumbers.

Revises composition of the Construction Industry Licensing Board, by staggering terms and eliminating all provisions for alternate members. Also revises requirements for taking the certification examination, for certification by endorsement, and for temporary limited registration.

Provides for licensure of joint ventures and for submission of bids by joint ventures. Also provides for designation of a qualifying agent for a business organization as a sole primary qualifying agent for the organization and prescribes the responsibilities of such agent and of secondary qualifying agents.

Revises grounds for disciplinary actions and requires hearing officers generally to follow the penalty guidelines set by the Construction Industry Licensing Board and, whenever they deviate from the guidelines, to explain in their recommended orders why they have done so.

Permits structural components of a building or structure to be constructed or altered only by a Division I contractor.

See bill for additional details.

By the Committee on Economic, Community and Consumer Affairs

This publication was produced at an estimated cost of 1.5 cents per page for the information of members of the Legislature and the public.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

A bill to be entitled  
An act relating to contracting; amending s.  
489.103, F.S., revising exemptions from  
regulation under part I, ch. 489, F.S.;  
amending s. 489.105, F.S.; providing  
definitions applicable to said part; providing  
for regulation of persons who perform work with  
respect to hot tubs or spas and with respect to  
roof coating and persons who use fiberglass for  
sheet-metal type work; including underground  
utility contractors and specialty contractors  
among the categories of Division II  
contractors; amending s. 489.107, F.S.;  
revising composition of the Construction  
Industry Licensing Board; amending s. 489.109,  
F.S.; providing for regulatory fees; providing  
for the disposition of certain fees; requiring  
annual summaries of allocations by institution  
and of projects funded, amending s. 489.111,  
F.S.; revising requirements for examination for  
certification; providing for cease and desist  
orders against persons who do not hold the  
required certification or registration;  
amending s. 489.113, F.S.; revising  
requirements for engaging in contracting in the  
state; amending s. 489.115, F.S.; providing for  
certification or registration as a contractor;  
revising requirements for licensure by  
endorsement; providing for renewal; amending s.  
489.117, F.S.; revising requirements relating  
to temporary limited registration; amending s.

1 489.119, F.S.; providing for licensure of  
2 business organizations, including joint  
3 ventures; providing for submission of bids by  
4 joint ventures; creating s. 489.1195, F.S.;  
5 prescribing classes of qualifying agents;  
6 defining responsibilities of such agents;  
7 amending s. 489.129, F.S.; providing grounds  
8 and penalties for disciplinary action;  
9 providing for recommendations by hearing  
10 officers concerning penalties; providing for  
11 reinstatement; amending s. 489.131, F.S.;  
12 providing for applicability of the part;  
13 providing for local examination to engage in  
14 contracting; permitting structural components  
15 of buildings to be constructed or altered only  
16 by Division I contractors; reviving and  
17 readopting ss. 489.101-489.107, 489.109-  
18 489.131, F.S., notwithstanding their scheduled  
19 repeal; providing for future review and repeal  
20 of ss. 489.101-489.131, F.S.; reviving,  
21 readopting, transferring, and amending s.  
22 489.5331, F.S., relating to damages in certain  
23 actions against contractors; clarifying the  
24 application of said section; repealing s. 16,  
25 ch. 87-310, Laws of Florida, relating to Sunset  
26 termination of said section; providing an  
27 effective date.

28  
29 Be It Enacted by the Legislature of the State of Florida:  
30  
31

1 Section 1. Section 489.103, Florida Statutes, is  
2 amended to read:

3 489.103 Exemptions.--This part ~~act~~ does not apply to:

4 (1) Contractors in work on bridges, roads, streets,  
5 highways, railroads, or utilities and services incidental  
6 thereto.

7 (2) Any employee of a licensee who is a subordinate of  
8 such licensee if the employee does not hold himself out for  
9 hire or engage in contracting except as an employee.

10 (3) An authorized employee of the United States, this  
11 state, or any municipality, county, or other political  
12 subdivision if the employee does not hold himself out for hire  
13 or otherwise engage in contracting except in accordance with  
14 his employment.

15 (4) An officer appointed by a court when he is acting  
16 within the scope of his office as defined by law or court  
17 order. When construction projects which were not underway at  
18 the time of appointment of the officer are undertaken, the  
19 officer shall employ or contract with a licensee.

20 (5) Public utilities on construction, maintenance, and  
21 development work performed by their employees, which work is  
22 incidental to their business.

23 (6) The sale or installation of any finished products,  
24 materials, or articles of merchandise which are not fabricated  
25 into and do not become a permanent fixed part of the  
26 structure, except for inground or aboveground swimming pools  
27 or spas with a capacity in excess of 200 500 gallons. This  
28 subsection shall not be construed to limit the exemptions  
29 provided in subsection (7).

30 (7) Owners of property when acting as their own  
31 contractor and providing all material supervision themselves,

1 when building or improving farm outbuildings or one-family or  
2 two-family residences on such property for the occupancy or  
3 use of such owners and not offered for sale, or building or  
4 improving commercial buildings at a cost of under \$25,000 on  
5 such property for the occupancy or use of such owners and not  
6 offered for sale or lease. In an action brought under this  
7 part act, proof of the sale or lease, or offering for sale or  
8 lease, of more than one such structure by the owner-builder  
9 within 1 year after completion of same is presumptive evidence  
10 that the construction was undertaken for purposes of sale or  
11 lease. This subsection does not exempt any person who is  
12 engaged by such owner or any person other than the owner who  
13 acts in the capacity of a contractor.

14 (8) Any construction, alteration, improvement, or  
15 repair carried on within the limits of any site the title to  
16 which is in the United States or with respect to which federal  
17 law supersedes this part act.

18 (9) Any work or operation of a casual, minor, or  
19 inconsequential nature in which the aggregate contract price  
20 for labor, materials, and all other items is less than \$1,000,  
21 but this exemption does not apply:

22 (a) If the construction, repair, remodeling, or  
23 improvement is a part of a larger or major operation, whether  
24 undertaken by the same or a different contractor, or in which  
25 a division of the operation is made in contracts of amounts  
26 less than \$500 for the purpose of evading this part act or  
27 otherwise.

28 (b) To a person who advertises that he is a contractor  
29 or otherwise represents that he is qualified to engage in  
30 contracting.

31

1 (10)(a) Any construction or operation incidental to  
2 the construction or repair of irrigation and drainage ditches;

3 (b) Regularly constituted irrigation districts or  
4 reclamation districts; or

5 (c) Clearing or other work on the land in rural  
6 districts for fire prevention purposes or otherwise except  
7 when performed by a licensee.

8 (11) A registered architect, engineer, or residential  
9 designer acting in his professional capacity or any person  
10 exempted by the law regulating architects and engineers.

11 (12) Any person who only furnishes materials or  
12 supplies without fabricating them into, or consuming them in  
13 the performance of, the work of the contractor.

14 (13) Any person who is licensed pursuant to chapter  
15 527 when such person is performing the work authorized by such  
16 license.

17 (14) Any person who sells, services, or installs  
18 heating or air conditioning units which have a capacity no  
19 greater than 3 tons or 36,000 Btu, which have no ducts, and  
20 which have a factory-installed electrical cord and plug.

21 (15) The installation and maintenance of water  
22 conditioning units for domestic, commercial, or industrial  
23 purposes by operators of water conditioning services. No  
24 municipality or county may adopt an ordinance, rule, or  
25 regulation which requires such an operator to become licensed,  
26 certified, or registered as a plumber or which otherwise  
27 prevents the installation and maintenance of such water  
28 conditioning units by an operator.

29 Section 2. Section 489.105, Florida Statutes, is  
30 amended to read:

31 489.105 Definitions.--As used in this part act:

1 (1) "Board" means the Construction Industry Licensing  
2 Board.

3 (2) "Department" means the Department of Professional  
4 Regulation.

5 (3) "Contractor" means the person who is qualified for  
6 and responsible for the entire project contracted for and  
7 means, except as exempted in this part act, the person who,  
8 for compensation, undertakes to, submits a bid to, or does  
9 himself or by others construct, repair, alter, remodel, add  
10 to, subtract from, or improve any building or structure,  
11 including related improvements to real estate, for others or  
12 for resale to others. Contractors are subdivided into two  
13 divisions, Division I, consisting of those contractors defined  
14 in paragraphs (a)-(c), and Division II, consisting of those  
15 contractors defined in paragraphs (d)-~~(e)~~<sup>(f)</sup>:

16 (a) "General contractor" means a contractor whose  
17 services are unlimited as to the type of work which he may do,  
18 except as provided in this part act.

19 (b) "Building contractor" means a contractor whose  
20 services are limited to construction of commercial buildings  
21 and single-dwelling or multiple-dwelling residential  
22 buildings, which commercial or residential buildings do not  
23 exceed three stories in height, and accessory use structures  
24 in connection therewith or a contractor whose services are  
25 limited to remodeling, repair, or improvement of any size  
26 building if the services do not affect the structural members  
27 of the building.

28 (c) "Residential contractor" means a contractor whose  
29 services are limited to construction, remodeling, repair, or  
30 improvement of one-family, two-family, or three-family  
31



1 residences not exceeding two stories in height and accessory  
2 use structures in connection therewith.

3 (d) "Sheet metal contractor" means a contractor whose  
4 services are unlimited in the sheet metal trade and who has  
5 the experience, knowledge, and skill necessary for the  
6 manufacture, fabrication, assembling, handling, erection,  
7 installation, dismantling, conditioning, adjustment,  
8 alteration, repair, servicing, or design, when not prohibited  
9 by law, of ferrous or nonferrous metal work of U. S. No. 10  
10 gauge or its equivalent or lighter gauge and of other  
11 materials, including but not limited to fiberglass, used in  
12 lieu thereof and of air-handling systems, including the  
13 setting of air-handling equipment and reinforcement of same  
14 and including the balancing of air-handling systems.

15 (e) "Roofing contractor" means a contractor whose  
16 services are unlimited in the roofing trade and who has the  
17 experience, knowledge, and skill to install, maintain, repair,  
18 alter, extend, or design, when not prohibited by law, and use  
19 materials and items used in the installation, maintenance,  
20 extension, and alteration of all kinds of roofing and  
21 waterproofing, including all kinds of roof coating. However,  
22 it is not necessary to be licensed in order to apply a coating  
23 to a roof when the coating is not represented to protect,  
24 repair, waterproof, stop leaks, or extend the life of the  
25 roof.

26 (f) "Class A air conditioning contractor" means any  
27 person whose services are unlimited in the execution of  
28 contracts requiring the experience, knowledge, and skill to  
29 install, maintain, repair, fabricate, alter, extend, or  
30 design, when not prohibited by law, central air conditioning,  
31 refrigeration, heating, and ventilating systems, including

1 duct work in connection with a complete system only to the  
2 extent such duct work is performed by the contractor as is  
3 necessary to make complete an air-distribution system, boiler  
4 and unfired pressure vessel systems, and all appurtenances,  
5 apparatus, or equipment used in connection therewith; and to  
6 install, maintain, repair, fabricate, alter, extend, or  
7 design, when not prohibited by law, piping, insulation of  
8 pipes, vessels and ducts, pressure and process piping, and  
9 pneumatic control piping; to disconnect or reconnect power  
10 wiring on the load side of the disconnect switch and low-  
11 voltage heating, ventilating, and air conditioning control  
12 wiring; and to install ~~installation~~ of a condensate drain  
13 from an air conditioning unit to an existing safe waste or  
14 other approved disposal other than a direct connection to a  
15 sanitary system. The scope of work for such contractor shall  
16 also include any excavation work incidental thereto, but shall  
17 not include any work such as liquefied petroleum or natural  
18 gas fuel lines within buildings, potable waterlines or  
19 connections thereto, sanitary sewer lines, swimming pool  
20 piping and filters, or electrical power wiring on the line  
21 side of the disconnect switch.

22 (g) "Class B air conditioning contractor" means any  
23 person whose services are limited to 25 tons of cooling and  
24 500,000 Btu of heating in any one system in the execution of  
25 contracts requiring the experience, knowledge, and skill to  
26 install, maintain, repair, fabricate, alter, extend, or  
27 design, when not prohibited by law, central air conditioning,  
28 refrigeration, heating, and ventilating systems, including  
29 duct work in connection with a complete system only to the  
30 extent such duct work is performed by the contractor as is  
31 necessary to make complete an air-distribution system being

1 installed under this classification; ~~and~~ to install,  
 2 maintain, repair, fabricate, alter, extend, or design, when  
 3 not prohibited by law, piping and insulation of pipes,  
 4 vessels, and ducts; to disconnect or reconnect power wiring on  
 5 the load side of the disconnect switch and low-voltage  
 6 heating, ventilating, and air conditioning control wiring;  
 7 and to install ~~installation-of~~ a condensate drain from an air  
 8 conditioning unit to an existing safe waste or other approved  
 9 disposal other than a direct connection to a sanitary system.

10 (h) "Class C air conditioning contractor" means any  
 11 person whose business is limited to the servicing of air  
 12 conditioning, heating, or refrigeration systems, including  
 13 duct alterations in connection with those systems he is  
 14 servicing.

15 (1) "Mechanical contractor" means any person whose  
 16 services are unlimited in the execution of contracts requiring  
 17 the experience, knowledge, and skill to install, maintain,  
 18 repair, fabricate, alter, extend, or design, when not  
 19 prohibited by law, central air conditioning, refrigeration,  
 20 heating, and ventilating systems, including duct work in  
 21 connection with a complete system only to the extent such duct  
 22 work is performed by the contractor as is necessary to make  
 23 complete an air-distribution system, boiler and unfired  
 24 pressure vessel systems, lift station equipment and piping,  
 25 and all appurtenances, apparatus, or equipment used in  
 26 connection therewith; and to install, maintain, repair,  
 27 fabricate, alter, extend, or design, when not prohibited by  
 28 law, piping, insulation of pipes, vessels and ducts, pressure  
 29 and process piping, pneumatic control piping, gasoline tanks  
 30 and pump installations and piping for same, standpipes, air  
 31 piping, vacuum line piping, oxygen lines, nitrous oxide

1 piping, ink and chemical lines, and fuel transmission lines;  
2 to disconnect or reconnect power wiring on the load side of  
3 the disconnect switch and low-voltage heating, ventilating,  
4 and air conditioning control wiring;7 and to install  
5 ~~installation-of~~ a condensate drain from an air conditioning  
6 unit to an existing safe waste or other approved disposal  
7 other than a direct connection to a sanitary system. The  
8 scope of work for such contractor shall also include any  
9 excavation work incidental thereto, but shall not include any  
10 work such as liquefied petroleum or natural gas fuel lines  
11 within buildings, potable waterlines or connections thereto,  
12 sanitary sewer lines, swimming pool piping and filters, or  
13 electrical power wiring.

14 (j) "Commercial pool/spa contractor" means any person  
15 whose scope of work involves, but is not limited to, the  
16 construction, repair, water treatment, and servicing of any  
17 swimming pool, or hot tub or spa, whether public, private, or  
18 otherwise, regardless of use. The scope of such work includes  
19 layout, excavation, operation of construction pumps for  
20 dewatering purposes, steelwork, installation of light niches,  
21 pouring of floors, guniting, fiberglassing, installation of  
22 tile and coping, installation of all perimeter and filter  
23 piping, installation of all filter equipment and chemical  
24 feeders of any type, plastering of the interior, pouring of  
25 decks, construction of equipment rooms or housing for pool  
26 equipment, and installation of package pool heaters. However,  
27 the scope of such work does not include direct connections to  
28 a sanitary sewer system or to potable waterlines.

29 (k) "Residential pool/spa contractor" means any person  
30 whose scope of work involves, but is not limited to, the  
31 construction, repair, water treatment, and servicing of any

1 residential swimming pool, or hot tub or spa, regardless of  
2 use. The scope of such work includes layout, excavation,  
3 operation of construction pumps for dewatering purposes,  
4 steelwork, installation of light niches, pouring of floors,  
5 guniting, fibreglassing, installation of tile and coping,  
6 installation of all perimeter and filter piping, installation  
7 of all filter equipment and chemical feeders of any type,  
8 plastering of the interior, pouring of decks, installation of  
9 housing for pool equipment, and installation of package pool  
10 heaters. However, the scope of such work does not include  
11 direct connections to a sanitary sewer system or to potable  
12 waterlines.

13 (l) "Swimming pool/spa servicing contractor" means any  
14 person whose scope of work involves the servicing, repair,  
15 water treatment, including but not limited to the direct  
16 infusion of chlorine gas, and maintenance of any swimming  
17 pool, or hot tub or spa, whether public or private. The scope  
18 of such work may include any necessary piping and repairs,  
19 replacement and repair of existing equipment, or installation  
20 of new additional equipment as necessary. The scope of such  
21 work includes the reinstallation of tile and coping, repair  
22 and replacement of all piping, filter equipment, and chemical  
23 feeders of any type, replastering, repouring of decks, and  
24 reinstallation or addition of pool heaters.

25 (m) "Plumbing contractor" is a contractor whose  
26 contracting business consists of the execution of contracts  
27 requiring the experience, financial means, knowledge, and  
28 skill to install, maintain, repair, alter, extend, or, when  
29 not prohibited by law, design plumbing. A plumbing contractor  
30 may install, maintain, repair, alter, extend, or, when not  
31 prohibited by law, design the following without obtaining any

1 additional local regulatory license, certificate, or  
2 registration; sanitary drainage or storm drainage facilities;  
3 venting systems; public or private water supply systems;  
4 septic tanks; drainage and supply wells; swimming pool piping;  
5 irrigation systems; or solar heating water systems and all  
6 appurtenances, apparatus, or equipment used in connection  
7 therewith, including boilers and pressure process piping and  
8 including the installation of water, natural gas (excluding  
9 liquid petroleum gases), and storm and sanitary sewer lines;  
10 and water and sewer plants and substations. The scope of work  
11 of the plumbing contractor also includes the design, when not  
12 prohibited by law, and installation, maintenance, repair,  
13 alteration, or extension of air-piping, vacuum line piping,  
14 oxygen line piping, nitrous oxide piping, and all related  
15 medical gas systems; fire line standpipes and fire sprinklers  
16 to the extent authorized by law; ink and chemical lines; fuel  
17 oil and gasoline piping and tank and pump installation, except  
18 bulk storage plants; and pneumatic control piping systems, all  
19 in such a manner as to comply with all plans, specifications,  
20 codes, laws, and regulations applicable. The scope of work of  
21 the plumbing contractor shall apply to private property and  
22 public property, shall include any excavation work incidental  
23 thereto, and shall include the work of the specialty plumbing  
24 contractor. Such contractor shall subcontract, with a  
25 qualified contractor in the field concerned, all other work  
26 incidental to the work but which is specified herein as being  
27 the work of a trade other than that of a plumbing contractor.  
28 Nothing in this definition shall be construed to limit the  
29 scope of work of any specialty contractor certified pursuant  
30 to s. 489.113(6).

31

1           (n) "Underground utility contractor" means a  
2 contractor whose services are limited to the construction,  
3 installation, and repair, on public or private property, of  
4 main sanitary sewer collection systems, main water  
5 distribution systems, and storm sewer collection systems, and  
6 the continuation of utility lines from the main systems to a  
7 point of termination up to and including the meter location  
8 for the individual occupancy, sewer collections systems at  
9 property line on residential or single-occupancy commercial  
10 properties or on multioccupancy properties at manhole or wye  
11 lateral extended to an invert elevation as engineered to  
12 accommodate future building sewers, or storm sewer collection  
13 systems at storm sewer structures. An underground utility  
14 contractor may not install any piping that is an integral part  
15 of a fire protection system, as defined in s. 633.021,  
16 beginning at the point where the piping is used exclusively  
17 for such system.

18           (o) "Specialty contractor" means any contractor whose  
19 work is limited to a specific phase of construction and whose  
20 responsibility is likewise limited to that phase of  
21 construction.

22           (4) "Primary qualifying agent" means a person who  
23 possesses the requisite skill, knowledge, and experience, and  
24 has the responsibility, to supervise, direct, manage, and  
25 control the contracting activities of the business entity with  
26 which he is connected; who has the responsibility to  
27 supervise, direct, manage, and control construction activities  
28 on a job for which he has obtained the building permit; and  
29 whose technical and personal qualifications have been  
30 determined by investigation and examination as provided in  
31 this part act, as attested by the department.

1           (5) "Secondary qualifying agent" means a person who  
 2 possesses the requisite skill, knowledge, and experience, and  
 3 has the responsibility, to supervise, direct, manage, and  
 4 control construction activities on a job for which he has  
 5 obtained a permit, and whose technical and personal  
 6 qualifications have been determined by investigation and  
 7 examination as provided in this part, as attested by the  
 8 department.

9           (6)†5† "Contracting" means, except as exempted in this  
 10 part act, engaging in business as a contractor.

11           (7)†6† "Certificate" means a certificate of competency  
 12 issued by the department as provided in this part act.

13           (8)†7† "Certified contractor" means any contractor who  
 14 possesses a certificate of competency issued by the department  
 15 and who may contract in any jurisdiction in the state without  
 16 being required to fulfill the competency requirements of that  
 17 jurisdiction.

18           (9)†8† "Registration" means registration with the  
 19 department as provided in this part act.

20           (10)†9† "Registered contractor" means any contractor  
 21 who has registered with the department pursuant to fulfilling  
 22 the competency requirements in the jurisdiction for which the  
 23 registration is issued. Registered contractors may contract  
 24 only in these areas.

25           (11)†10† "Certification" means the act of obtaining or  
 26 holding a certificate of competency from the department as  
 27 provided in this part act.

28           ~~†11†--"Specialty contractor"--means any contractor who~~  
 29 ~~does not fall within the categories established in paragraphs~~  
 30 ~~†a†-†m†-of-subsection-†3†:~~

31



1           (12) "Licensee" means a holder of a certificate issued  
2 pursuant to this part act or a person registered pursuant to  
3 this part act.

4           (13) "Local construction regulation board" means a  
5 board, composed of not fewer than three residents of a county  
6 or municipality, which the governing body of that county or  
7 municipality may create and appoint to maintain the proper  
8 standard of construction of that county or municipality.

9           (14) "Pollutant storage systems specialty contractor"  
10 means a contractor who installs or removes a pollutant storage  
11 tank.

12           (15) "Pollutant storage tank" means a tank, together  
13 with associated piping or dispensing facilities, which is or  
14 could be used for the storage or supply of pollutants as  
15 defined in s. 376.301 and which is required to be registered  
16 under chapter 17-61 of the Florida Administrative Code or for  
17 which notification must be submitted under Subtitle I of the  
18 Resource Conservation and Recovery Act.

19           (16) "Tank" means any container other than one which  
20 is aboveground and either elevated or situated upon an  
21 impermeable surface, or which is located in an accessible  
22 underground area and either elevated or situated upon an  
23 impermeable surface therein, in such manner that any leak in  
24 such container may be readily detected.

25           (17) "Registered precision tank tester" means any  
26 precision tank tester who has registered with the department  
27 pursuant to s. 489.113(12). This registration shall be exempt  
28 from the provisions of prior municipality, county, or  
29 development district registration, as required under s.  
30 489.117, and shall be registered on a statewide basis.

31

1 Section 3. Section 489.107, Florida Statutes, is  
2 amended to read:

3 489.107 Construction Industry Licensing Board.--

4 (1) To carry out the provisions of this part act,  
5 there is created within the Department of Professional  
6 Regulation the Construction Industry Licensing Board. Members  
7 ~~and-alternate-members~~ shall be appointed by the Governor,  
8 subject to confirmation by the Senate. Effective October 1,  
9 1988 Initially, the Governor shall appoint four members, each  
10 for a term of 1 year; four members, each for a term of 2  
11 years; four members, each for a term of 3 years; and five  
12 members, each for a term of 4 years ~~seven-members-and-three~~  
13 ~~alternate-members; each-for-a-term-of-4-years; and-seven~~  
14 ~~members-and-two-alternate-members; each-for-a-term-of-3-years.~~  
15 Thereafter, successors shall be appointed for 4-year terms. A  
16 vacancy on the board shall be filled for the unexpired portion  
17 of the term in the same manner as the original appointment.  
18 ~~No-member-shall-serve-more-than-two-consecutive-terms-on-the~~  
19 ~~board.~~

20 (2) The board shall consist of:

21 (a) seventeen regular members, of whom:

22 (a)1 Three are primarily engaged in business as  
23 general contractors;

24 (b)2 Three are primarily engaged in business as  
25 building contractors or residential contractors;

26 (c)3 One is primarily engaged in business as a  
27 roofing contractor;

28 (d)4 One is primarily engaged in business as a sheet  
29 metal contractor;

30 (e)5 One is primarily engaged in business as an air  
31 conditioning contractor;

1           (f)6+ One is primarily engaged in business as a  
2 mechanical contractor,

3           (g)7+ One is primarily engaged in business as a pool  
4 contractor;

5           (h)8+ One is primarily engaged in business as a  
6 plumbing contractor;

7           (i)9+ One is primarily engaged in business as an  
8 underground utility contractor;

9           (j)10+ Two are lay persons who are not, and have never  
10 been, members or practitioners of a profession regulated by  
11 the board or members of any closely related profession; and

12           (k)11+ Two are building officials of a municipality or  
13 county, and

14           ~~(b) Six alternate members, of whom:~~

15           ~~1. One is primarily engaged in business as a roofing~~  
16 ~~contractor;~~

17           ~~2. One is primarily engaged in business as a sheet~~  
18 ~~metal contractor;~~

19           ~~3. One is primarily engaged in business as an air~~  
20 ~~conditioning contractor;~~

21           ~~4. One is primarily engaged in business as a~~  
22 ~~mechanical contractor;~~

23           ~~5. One is primarily engaged in business as a pool~~  
24 ~~contractor; and~~

25           ~~6. One is primarily engaged in business as a plumbing~~  
26 ~~contractor.~~

27           (3) To be eligible for appointment, each contractor  
28 member ~~and alternate member~~ must have been certified by the  
29 board to operate as a contractor in the category with respect  
30 to which he is appointed, be actively engaged in the  
31 construction business, and have been so engaged for a period

1 of not less than 5 consecutive years before the date of his  
 2 appointment. Each appointee must be a citizen and resident of  
 3 the state.

4 ~~(4)--An alternate member may attend any meeting of the~~  
 5 ~~board, and, if the member and the corresponding alternate~~  
 6 ~~member are both present and voting, each shall have only one~~  
 7 ~~half-vote; however, if either the member or the corresponding~~  
 8 ~~alternate member is absent, the member or alternate member~~  
 9 ~~present shall have one vote.~~

10 (4)(5) The board shall be divided into two divisions,  
 11 Division I and Division II.

12 (a) Division I is comprised of the general contractor,  
 13 building contractor, and residential contractor members of the  
 14 board; one of the members appointed pursuant to paragraph  
 15 (2)(j) ~~subparagraph (2)(a)10-~~; and one of the members  
 16 appointed pursuant to paragraph (2)(k) ~~subparagraph (2)(a)11-~~  
 17 and has jurisdiction over the examination and regulation of  
 18 general contractors, building contractors, and residential  
 19 contractors.

20 (b) Division II is comprised of the ~~regular and~~  
 21 ~~alternate~~ roofing contractor, sheet metal contractor, air  
 22 conditioning contractor, mechanical contractor, pool  
 23 contractor, plumbing contractor, and underground utility  
 24 contractor members of the board; one of the members appointed  
 25 pursuant to paragraph (2)(j) ~~subparagraph (2)(a)10-~~; and one  
 26 of the members appointed pursuant to paragraph (2)(k)  
 27 ~~subparagraph (2)(a)11-~~ and has jurisdiction over the  
 28 examination and regulation of roofing contractors, sheet metal  
 29 contractors, air conditioning contractors, mechanical  
 30 contractors, pool contractors, plumbing contractors, and  
 31 underground utility contractors, and specialty contractors.

1           ~~(5)†6†~~ Five members of Division I constitute a quorum,  
 2 and five members ~~votes~~ of Division II constitute a quorum.  
 3 The combined divisions shall meet together, at such times as  
 4 the board deems necessary; but neither division, nor any  
 5 committee thereof, shall take action on any matter under the  
 6 jurisdiction of the other division.

7           Section 4. Subsections (1) and (4) of section 489.109,  
 8 Florida Statutes, are amended to read:

9           489.109 Fees.--

10           (1) The board, by rule, shall establish reasonable  
 11 fees to be paid for applications, examination, certification  
 12 and renewal, registration and renewal, and recordmaking and  
 13 recordkeeping. ~~Effective-October-17-1979,~~ The fees shall be  
 14 established as follows:

15           (a) With respect to an applicant for a certificate,  
 16 the initial application and examination fee shall not exceed  
 17 \$250, and the biennial renewal fee shall not exceed \$100; and

18           (b) With respect to an applicant for registration, the  
 19 initial application fee shall not exceed \$50, and the biennial  
 20 renewal fee shall not exceed \$50.

21  
 22 ~~The-fees-required-by-the-board-on-June-30,-1979-shall-remain~~  
 23 ~~in-effect-through-September-30,-1979-~~

24  
 25 The board, by rule, may also establish penalty fees for late  
 26 renewal not to exceed \$20 for certification and \$10  
 27 registration. The board shall establish fees which are  
 28 adequate to ensure the continued operation of the board. Fees  
 29 shall be based on department estimates of the revenue required  
 30 to implement this part act and the provisions of law with  
 31 respect to the regulation of the construction industry.

1 (4) In addition to the fees provided in subsection (1)  
2 for application and renewal for certification and  
3 registration, all licensees shall pay a fee of \$4 to the  
4 department at the time of application or biennial renewal.  
5 The funds shall be transferred at the end of each biennial  
6 licensing period to the Department of Education for  
7 distribution in the following manner:

8 (a) Fifty percent shall be allocated to fund research  
9 projects relating to the building construction industry in a  
10 graduate program in building construction in a Florida  
11 university.

12 (b) Fifty percent shall be apportioned among all  
13 accredited private and state universities and community  
14 colleges within the state offering approved courses in  
15 building construction, with each university or college  
16 receiving a pro rata share of such funds based upon the number  
17 of full-time building construction students enrolled at the  
18 institution. Each institution receiving funds under this  
19 subsection shall utilize such funds for research projects  
20 relating to the building construction industry or for  
21 continuing education programs to be offered to those engaged  
22 in the building construction industry in Florida.

23  
24 A report shall be made by the Department of Education to the  
25 board in October of each year, summarizing the allocation of  
26 the funds by institution and summarizing the new projects  
27 funded and the status of previously funded projects.

28 Section 5. Subsection (2) of section 489.111, Florida  
29 Statutes, is amended to read:

30 489.111 Examinations.--  
31

1 (2) A person shall be entitled to take the examination  
 2 for the purpose of determining whether he is qualified to  
 3 engage in contracting throughout this state if the person:

4 (a) Is 18 years of age;

5 (b) Is of good moral character; and

6 (c) Meets eligibility requirements according to one of  
 7 the following criteria:

8 1. Has received a baccalaureate degree from an  
 9 accredited 4-year college in the appropriate field of  
 10 engineering, architecture, or building construction and has 1  
 11 year of proven experience in the category in which the person  
 12 seeks to qualify. For the purpose of this part act, a minimum  
 13 of 2,000 man-hours shall be used in determining full-time  
 14 equivalency.

15 2. Has a combination of at least 4 3 years of active  
 16 experience as a workman, foreman, or supervisor who has  
 17 learned his trade by serving an apprenticeship or ~~as~~ a skilled  
 18 workman who is able to command the rate of a mechanic in his  
 19 particular trade, which experience must include and has at  
 20 least 1 year of active experience at the level of a foreman  
 21 who is in charge of a group of workmen and is usually ~~is~~  
 22 responsible to a superintendent or a contractor or his  
 23 equivalent.

24 3. Has a combination of not less than 1 year of  
 25 experience as a foreman and not less than 3 years of credits  
 26 for any accredited college-level courses in the appropriate  
 27 field of engineering, architecture, or building construction;  
 28 or has a combination of not less than 2 years of experience as  
 29 a skilled workman, 1 year of experience as a foreman, and not  
 30 less than 1 year of credits for any accredited college-level  
 31 courses in the appropriate field of engineering, architecture,

1 or building construction. All junior college or community  
2 college-level courses shall be considered accredited college-  
3 level courses.

4           4.a. An active certified residential contractor is  
5 eligible to take the building contractors' examination if he  
6 possesses a minimum of 3 years of proven experience in the  
7 classification in which he is certified.

8           b. An active certified residential contractor is  
9 eligible to take the general contractors' examination if he  
10 possesses a minimum of 4 years of proven experience in the  
11 classification in which he is certified.

12           c. An active certified building contractor is eligible  
13 to take the general contractors' examination if he possesses a  
14 minimum of 4 years of proven experience in the classification  
15 in which he is certified.

16           5.a. An active certified air conditioning Class C  
17 contractor is eligible to take the air conditioning Class B  
18 contractors' examination if he possesses a minimum of 3 years  
19 of proven experience in the classification in which he is  
20 certified.

21           b. An active certified air conditioning Class C  
22 contractor is eligible to take the air conditioning Class A  
23 contractors' examination if he possesses a minimum of 4 years  
24 of proven experience in the classification in which he is  
25 certified.

26           c. An active certified air conditioning Class B  
27 contractor is eligible to take the air conditioning Class A  
28 contractors' examination if he possesses a minimum of 1 year  
29 of proven experience in the classification in which he is  
30 certified.

31



1           6.a. An active certified swimming pool servicing  
2 contractor is eligible to take the residential swimming pool  
3 contractors' examination if he possesses a minimum of 3 years  
4 of proven experience in the classification in which he is  
5 certified.

6           b. An active certified swimming pool servicing  
7 contractor is eligible to take the swimming pool commercial  
8 contractors' examination if he possesses a minimum of 4 years  
9 of proven experience in the classification in which he is  
10 certified.

11           c. An active certified residential swimming pool  
12 contractor is eligible to take the commercial swimming pool  
13 contractors' examination if he possesses a minimum of 1 year  
14 of proven experience in the classification in which he is  
15 certified.

16           Section 6. Subsections (1), (2), (3), and (6) of  
17 section 489.113, Florida Statutes, are amended to read:

18           489.113 Qualifications for practice; restrictions.--

19           (1) Any person who desires to engage in contracting on  
20 a statewide basis shall, as a prerequisite thereto, establish  
21 his competency and qualifications to be certified pursuant to  
22 this part act. To establish his competency, a person shall  
23 pass the appropriate examination administered by the  
24 department. Any person who desires to engage in contracting  
25 on other than a statewide basis shall, as a prerequisite  
26 thereto, be registered pursuant to this part act, unless  
27 exempted by this part act. ~~Registration shall be required of~~  
28 ~~specialty contractors when licensing is required by a county~~  
29 ~~or municipality in which the specialty contractor practices.~~

1           (2) No person who is not a licensee shall engage in  
2 the business of contracting in this state. To enforce this  
3 subsection:

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

12           (b) A county or municipality may issue a cease and  
13 desist order to prohibit any person from engaging in the  
14 business of contracting who does not hold the required  
15 certification or registration for the work being performed  
16 under this part.

17           (3) A contractor shall subcontract the electrical,  
18 mechanical, plumbing, roofing, sheet metal, commercial  
19 swimming pool, and air conditioning work for which a local  
20 examination for a certificate of competency or a license is  
21 required, unless such contractor holds a state certificate of  
22 competency or license of the respective trade category, as  
23 required by the appropriate local authority. However, a  
24 general, building, or residential contractor shall not be  
25 required to subcontract the installation of wood shingles,  
26 wood shakes, or asphalt or fiberglass shingle roofing  
27 materials on a new building of his own construction, and a  
28 general contractor shall not be required to subcontract  
29 structural swimming pool work. Further, a general contractor,  
30 on new site development work, site redevelopment work, mobile  
31 home parks, and commercial properties, shall not be required

1 to subcontract the construction of the main sanitary sewer  
2 collection system and the water distribution system, not  
3 including the continuation of utility lines from the mains to  
4 the buildings, and the storm collection system. Further, as  
5 to mobile home parks, the general contractor shall not be  
6 required to subcontract the continuation of utility lines from  
7 the mains, and the continuations are to be considered a part  
8 of the main sewer collection and main water distribution  
9 systems. This subsection does not apply if the local  
10 authority does not require a certificate of competency or  
11 license for such trade. However, no general, building, or  
12 residential contractor certified after 1973 shall act as, hold  
13 himself out to be, or advertise himself to be a roofing  
14 contractor unless he is certified or registered as a roofing  
15 contractor.

16 (6) The board shall, by rule, designate those types of  
17 specialty contractors which may be certified under this part  
18 act.

19 Section 7. Subsections (2), (4), and (5) of section  
20 489.115, Florida Statutes, are amended to read:

21 489.115 Certification and registration; endorsement;  
22 renewals.--

23 (2) The board shall certify as qualified for licensure  
24 by endorsement any applicant who

25 (a) Meets the requirements for certification as set  
26 forth in this section; has passed a national, regional, state,  
27 or United States territorial licensing examination that is  
28 substantially equivalent to the examination required by this  
29 part; and has satisfied the requirements set forth in s.  
30 489.111; or  
31

1           (b) Holds a valid license to practice contracting  
2 issued by another state or territory of the United States, if  
3 the criteria for issuance of such license were substantially  
4 equivalent to the licensure criteria that existed in this  
5 state at the time the license was issued. ~~adopt rules~~  
6 ~~prescribing procedures for the certification or registration~~  
7 ~~of contractors who have been licensed in states which have~~  
8 ~~standards substantially similar to, or more stringent than,~~  
9 ~~the standards of this state and who meet the other~~  
10 ~~requirements established pursuant to this act.~~

11           (4) As a prerequisite to the initial issuance or the  
12 renewal of a certificate, the applicant shall submit  
13 satisfactory evidence that he has obtained public liability  
14 and property damage insurance for the safety and welfare of  
15 the public in amounts determined by rule of the board. As a  
16 prerequisite to the initial issuance of a certificate, and the  
17 applicant shall furnish evidence of financial responsibility,  
18 credit, and business reputation of either himself or the  
19 business organization he desires to qualify. The board shall  
20 adopt rules defining financial responsibility based upon the  
21 applicant's credit history, ability to be bonded, and any  
22 history of bankruptcy or assignment of receivers. Such rules  
23 shall specify the financial responsibility grounds on which  
24 the board may refuse to qualify an applicant for  
25 certification. If, within 60 days from the date the applicant  
26 is notified that he has qualified, he does not provide the  
27 evidence required, he shall apply to the department for an  
28 extension of time which shall be granted upon a showing of  
29 just cause.

30           (5) An initial applicant shall, along with his  
31 application, and a licensee shall, upon requesting a change of

1 status, submit to the board a credit report from a nationally  
2 recognized credit agency that reflects the financial  
3 responsibility of the applicant or licensee. The credit  
4 report required for the initial applicant shall be considered  
5 the minimum evidence necessary to satisfy the board that he is  
6 financially responsible to be certified, that he has the  
7 necessary credit and business reputation to engage in  
8 contracting in the state, and that he has the minimum  
9 financial stability necessary to avoid the problem of  
10 financial mismanagement or misconduct diversion-of-funds. The  
11 board shall, by rule, adopt guidelines for determination of  
12 financial stability.

13 Section 8. Subsection (3) of section 489.117, Florida  
14 Statutes, is amended to read:

15 489.117 Registration.--

16 (3) Upon findings of fact supporting the need  
17 therefor, the board may grant a limited nonrenewable  
18 registration to a contractor not domiciled in the state, for  
19 one project. Such registration may not be granted until the  
20 contractor has satisfied the licensing requirements of the  
21 jurisdiction in which the project will be located During the  
22 period of such registration, the board may require compliance  
23 with this and any other statute of the state.

24 Section 9. Section 489.119, Florida Statutes, is  
25 amended to read:

26 489.119 Business organizations; qualifying agents.--

27 (1) If an individual proposes to engage in contracting  
28 in his own name, registration or certification may be issued  
29 only to that individual.

30 (2) If the applicant proposes to engage in contracting  
31 as a partnership, corporation, business trust, or other legal

1 entity, the applicant shall apply through a qualifying agent;  
2 the application shall state the name of the partnership and of  
3 its partners, the name of the corporation and of its officers  
4 and directors, the name of the business trust and its  
5 trustees, or the name of such other legal entity and its  
6 members; and the applicant shall furnish evidence of statutory  
7 compliance if a fictitious name is used. Such application  
8 shall also show that the qualifying agent is legally qualified  
9 to act for the business organization in all matters connected  
10 with its contracting business and that he has authority to  
11 supervise construction undertaken by such business  
12 organization. A joint venture, including a joint venture  
13 composed of qualified business entities, is itself a separate  
14 and distinct entity that must be qualified. The registration  
15 or certification, when issued upon application of a business  
16 organization, shall be in the name of the qualifying agent,  
17 and the name of the business organization shall be noted  
18 thereon. If there is a change in any information that is  
19 required to be stated on the application, the business  
20 organization shall, within 45 days after such change occurs,  
21 mail the correct information to the department.

22 (3)(a) The qualifying agent shall be certified or  
23 registered under this part act in order for the business  
24 organization to be certified or registered in the category of  
25 the business conducted for which the qualifying agent is  
26 certified or registered. If any qualifying agent ceases to be  
27 affiliated with such business organization, he shall so inform  
28 the department. In addition, if such qualifying agent is the  
29 only certified or registered individual affiliated with the  
30 business organization, the business organization shall notify  
31 the department of the termination of the qualifying agent and

1 shall have ~~a minimum of~~ 60 days from the termination of the  
2 qualifying agent's affiliation with the business organization  
3 in which to employ another qualifying agent. The business  
4 organization may not engage in contracting until a qualifying  
5 agent is employed.

6 (b) The qualifying agent shall inform the department  
7 in writing when he proposes to engage in contracting in his  
8 own name or in affiliation with another business organization,  
9 and he or such new business organization shall supply the same  
10 information to the department as required of applicants under  
11 this part act.

12 (c) Upon a favorable determination by the board, after  
13 investigation of the financial responsibility, credit, and  
14 business reputation of the qualifying agent and the new  
15 business organization, the department shall issue, without an  
16 examination, a new certificate or registration in the  
17 qualifying agent's name, and the name of the new business  
18 organization shall be noted thereon.

19 (4) When a certified qualifying agent, on behalf of a  
20 business organization, makes application for an occupational  
21 license in any municipality or county of this state, the  
22 application shall be made with the tax collector in the name  
23 of the qualifying agent and the name of the business  
24 organization; and the license, when issued, shall be issued to  
25 the qualifying agent and the business organization, upon  
26 payment of the appropriate licensing fee and exhibition to the  
27 tax collector of a valid certificate issued by the department,  
28 and the state license number shall be noted thereon.

29 (5)(a) A joint venture, of which one or more of the  
30 participants is not a licensed contractor under this part, may  
31

1 submit a bid on a construction project under the following  
2 circumstances:

3 1. The joint venture agreement must be in writing;

4 2. One of the joint venturers must be a business  
5 entity that is properly qualified by a licensed contractor;

6 3. Each participant must sign a statement of authority  
7 giving the licensed contractor full authority to conduct the  
8 contracting business of the participant;

9 4. A bonding company must issue a letter of  
10 bondability of the joint venture participants which guarantees  
11 the subsequent performance of the contract, and

12 5. Copies of the joint venture agreement, statements  
13 of authority, and the letter of bondability must be received  
14 and approved by the board prior to the time of the bid.

15 (b) If the joint venture is awarded the contract, the  
16 licensed contractor must qualify all business entities  
17 participating in the joint venture within 60 days.

18 (c) A licensed contractor is restricted to one use of  
19 this method of limited qualification at any one time.

20 (d) A licensed contractor who uses this method of  
21 limited qualification must maintain on file with the board up-  
22 to-date information, as required on the application,  
23 concerning all business entities that he qualifies.

24 (e) This method of limited qualification may not be  
25 used by any business entity whose application is subject to  
26 denial under subsection (8) due to an officer's, partner's,  
27 director's, or member's having been fined pursuant to s.  
28 489.129(2).

29 (f) The board may limit the qualification issued, as  
30 to the project or projects bid upon, and prescribe the time  
31 period for which the qualification is to remain effective.



1           ~~(6)+5~~(a) Each registered or certified contractor  
2 shall affix the number of his registration or certification to  
3 each application for a building permit and on each building  
4 permit issued and recorded. Each city or county building  
5 department shall require, as a precondition for the issuance  
6 of the building permit, that the contractor taking out the  
7 permit must provide verification giving his Construction  
8 Industry Licensing Board license number.

9           (b) The registration or certification number of each  
10 contractor shall appear in any newspaper, airwave  
11 transmission, phone directory, or other advertising medium  
12 used by that contractor.

13           ~~(7)+6~~ Each qualifying agent shall pay the department  
14 an amount equal to the original fee for certification or  
15 registration of a new business entity. If the qualifying  
16 agent for a business entity desires to qualify additional  
17 business entities, the board shall require him to appear  
18 before it and present evidence of ability and financial  
19 responsibility of each such entity. The issuance of such  
20 certification or registration is discretionary with the board.

21           ~~(8)+7~~ If a business entity or any of its partners,  
22 officers, directors, trustees, or members is fined for  
23 violating s. 489.129(2), the board may, on that basis alone,  
24 deny issuance of a certificate or registration to a qualifying  
25 agent on behalf of that business entity.

26           Section 10. Section 489.1195, Florida Statutes, is  
27 created to read:

28           489.1195 Primary and secondary qualifying agents;  
29 responsibilities.--

30           (1) A qualifying agent is a primary qualifying agent  
31 unless he is a secondary qualifying agent under this section.

1 All primary qualifying agents for a business organization are  
2 jointly and equally responsible for supervision of all  
3 operations of the business organization; for all field work at  
4 all sites; and for financial matters, both for the  
5 organization in general and for each specific job.

6 (2) One of the qualifying agents for a business  
7 organization that has more than one qualifying agent may be  
8 designated as the sole primary qualifying agent for the  
9 business organization by a joint agreement that is executed,  
10 on a form provided by the board, by all qualifying agents for  
11 the business organization. The joint agreement must be  
12 submitted to the board for approval. If the board determines  
13 that the joint agreement is in good order, it shall approve  
14 the designation and immediately notify the qualifying agents  
15 of such approval. The designation made by the joint agreement  
16 is effective upon receipt of the notice by the qualifying  
17 agents. The qualifying agent designated for a business  
18 organization by a joint agreement is the sole primary  
19 qualifying agent for the business organization, and all other  
20 qualifying agents for the business organization are secondary  
21 qualifying agents.

22 (a) A designated sole primary qualifying agent has all  
23 the responsibilities and duties of a primary qualifying agent,  
24 notwithstanding that there are secondary qualifying agents for  
25 specified jobs. The designated sole primary qualifying agent  
26 is jointly and equally responsible with secondary qualifying  
27 agents for field work supervision.

28 (b) A secondary qualifying agent is responsible only  
29 for:

30 1. The supervision of field work at sites where his  
31 license was used to obtain the building permit; and

1           2. Any other work for which he accepts responsibility.

2  
3 A secondary qualifying agent is not responsible for  
4 supervision of financial matters.

5           (3)(a) A qualifying agent who has been designated by a  
6 joint agreement as the sole primary qualifying agent for a  
7 business organization may unilaterally terminate his status as  
8 such. To terminate his status, he must give actual notice to  
9 all secondary qualifying agents of his intention to terminate  
10 his status and, within 30 days after giving such notice, apply  
11 to the board for change of status. His application must  
12 include proof satisfactory to the board that he has given the  
13 notice required in this paragraph. If the board determines  
14 that the application is in good order, it shall approve the  
15 termination; and the status of the qualifying agent will cease  
16 upon the designation of a new sole primary qualifying agent or  
17 on the 60th day after the approval of his application by the  
18 board, whichever first occurs. All qualifying agents for a  
19 business organization become primary qualifying agents if the  
20 status of the sole primary qualifying agent terminates and  
21 another sole primary qualifying agent has not been designated.

22           (b) Any change in the status of a qualifying agent is  
23 prospective only. A qualifying agent is not responsible for  
24 his predecessor's actions but is responsible, even after a  
25 change in status, for matters for which he was responsible  
26 while in a particular status.

27           Section 11. Paragraphs (d), (e), (f), (g), and (j) of  
28 subsection (1) of section 489.129, Florida Statutes, are  
29 amended, and subsections (4) and (5) are added to said  
30 section, to read:

31           489.129 Disciplinary proceedings.--

1 (1) The board may revoke, suspend, or deny the  
2 issuance or renewal of the certificate or registration of a  
3 contractor and impose an administrative fine not to exceed  
4 \$5,000, place a contractor on probation, or reprimand or  
5 censure a contractor if the contractor, or if the business  
6 entity or any general partner, officer, director, trustee, or  
7 member of a business entity for which the contractor is a  
8 qualifying agent, is found guilty of any of the following  
9 acts:

10 (d) Proceeding on any job without first assuring that  
11 all applicable local building department permit and inspection  
12 requirements have been complied with. ~~Willful or deliberate~~  
13 ~~disregard and violation of the applicable building codes or~~  
14 ~~laws of the state or of any municipalities or counties~~  
15 ~~thereof.~~

16 (e) Performing any act which in fact assists any  
17 person or entity in engaging in the prohibited, unlicensed  
18 practice of contracting, if the licensee knows or has  
19 reasonable grounds to know that the person or entity is  
20 unlicensed ~~Anding or abetting any uncertified or unregistered~~  
21 ~~person to evade any provision of this act.~~

22 (f) Knowingly combining or conspiring with an  
23 uncertified or unregistered person by allowing one's  
24 certificate or registration to be used by any uncertified or  
25 unregistered person with intent to evade the provisions of  
26 this part act. When a certificateholder or registrant allows  
27 his certificate or registration to be used by one or more  
28 companies without having any active participation in the  
29 operations, management, or control of such companies, such act  
30 constitutes prima facie evidence of an intent to evade the  
31 provisions of this part act.

1 (g) Acting in the capacity of a contractor under any  
2 certificate or registration issued hereunder except in the  
3 name of the certificateholder or registrant as set forth on  
4 the issued certificate or registration, or in accordance with  
5 the personnel of the certificateholder or registrant as set  
6 forth in the application for the certificate or registration,  
7 or as later changed as provided in this part act.

8 (j) Failure in any material respect to comply with the  
9 provisions of this part act.

10 (4) In recommending penalties after any formal  
11 hearing, a hearing officer shall generally follow the penalty  
12 guidelines established by the board by rule. Any deviation  
13 from these guidelines by the hearing officer must be explained  
14 in detail in the recommended order.

15 (5) The board may not reinstate the license of, or  
16 cause a license to be issued to, a person who the board has  
17 determined unqualified until it is satisfied that such person  
18 has complied with all the terms and conditions set forth in  
19 the final order and is capable of competently engaging in the  
20 business of contracting.

21 Section 12. Section 489.131, Florida Statutes, is  
22 amended to read:

23 489.131 Applicability.--

24 (1) This part act applies to any contractor performing  
25 work for the state or any county or municipality. Officers of  
26 the state or any county or municipality shall determine  
27 compliance with this part act before awarding any contract for  
28 construction, improvement, remodeling, or repair.

29 (2) The state or any county or municipality shall may  
30 require that bids submitted for construction, improvement,  
31 remodeling, or repair of public buildings be accompanied by

1 evidence that the bidder holds an appropriate certificate or  
2 registration.

3 (3) Nothing in this part act limits the power of a  
4 municipality or county:

5 (a) To regulate the quality and character of work  
6 performed by contractors through a system of permits, fees,  
7 and inspections which is designed to secure compliance with  
8 and aid in the implementation of state and local building  
9 laws.

10 (b) To enforce other laws for the protection of the  
11 public health and safety.

12 (c) To collect occupational license and inspection  
13 fees for engaging in contracting or examination fees from  
14 persons who are registered with the board pursuant to local  
15 examination requirements. However, nothing in this part act  
16 shall be construed to require general contractors, building  
17 contractors, or residential contractors to obtain additional  
18 occupational licenses for specialty work when such specialty  
19 work is performed by employees of such contractors on projects  
20 for which they have substantially full responsibility and such  
21 contractors do not hold themselves out to the public as being  
22 specialty contractors.

23 (d) To adopt any system of permits requiring  
24 submission to and approval by the municipality or county of  
25 plans and specifications for work to be performed by  
26 contractors before commencement of the work.

27 (e) To require a bond for contractors in an amount not  
28 to exceed \$5,000, which bond shall be conditioned only upon  
29 compliance with the applicable state minimum building code and  
30 applicable local building code requirements adopted pursuant  
31 to s. 553.73. Any such bond must be equally available to all

1 contractors without regard to the period of time a contractor  
2 has been certified or registered and without regard to any  
3 financial responsibility requirements. Any such bonds shall  
4 be payable to the Governor and filed in each county or  
5 municipality in which a building permit is requested. ~~Bond~~  
6 reciprocity shall be granted statewide. All such bonds shall  
7 be included in meeting any financial responsibility  
8 requirements imposed by any statute or rule. Any contractor  
9 who provides a third party insured warranty policy in  
10 connection with a new building or structure for the benefit of  
11 the purchaser or owner shall be exempt from the bond  
12 requirements under this subsection with respect to such  
13 building or structure.

14 ~~(4)--Nothing-in-this-act-shall-be-construed-to-waive~~  
15 ~~any-requirement-of-any-existing-ordinance-or-resolution-of-a~~  
16 ~~board-of-county-commissioners-regulating-the-type-of-work~~  
17 ~~required-to-be-performed-by-a-specialty-contractor-~~

18 (4)+5 Any official authorized to issue building or  
19 other related permits shall, before issuing a permit,  
20 ascertain that the applicant contractor is certified or is  
21 registered in the area where the construction is to take  
22 place.

23 (5)+6 Municipalities or counties may continue to  
24 provide examinations for their territorial area, provided  
25 that:

26 (a) To engage in contracting in the territorial area,  
27 an applicant shall also be registered with the board;

28 (b) Each local board or agency which licenses  
29 contractors transmits monthly ~~annually-during-May~~ to the board  
30 a report of any disciplinary action taken against the  
31 licensee; and

1 (c) No examination is given the holder of a  
2 certificate.

3 (6)†7† The right to create local boards in the future  
4 by any municipality or county is preserved.

5 (7) Only a Division I contractor may construct or  
6 alter a structural component of a building or structure. The  
7 term "structural component" is defined, for purposes of this  
8 subsection, to mean any vertical or horizontal load-bearing  
9 member of a structure which supports dead or live loads in  
10 addition to its own weight and includes, but is not limited  
11 to, a foundation, an exterior or interior load-bearing wall, a  
12 column, a column beam, a floor, and a roof structure.

13 ~~†8†--No provision of this act shall be construed to~~  
14 ~~permit a contractor to perform mechanical or plumbing work for~~  
15 ~~which an examination for a certificate of competency or a~~  
16 ~~license is required, unless such contractor holds such~~  
17 ~~certificates of competency or such licenses as may be required~~  
18 ~~by the appropriate local authority,--if the appropriate local~~  
19 ~~authority does not require a certificate of competency or a~~  
20 ~~license for such trade, the provisions of this subsection do~~  
21 ~~not apply.~~

22 Section 13. Notwithstanding the provisions of chapter  
23 81-318, chapter 82-179, and chapter 86-159, Laws of Florida,  
24 sections 489.101, 489.103, 489.105, 489.107, 489.109, 489.111,  
25 489.113, 489.115, 489.117, 489.119, 489.121, 489.123, 489.125,  
26 489.127, 489.129, and 489.131, Florida Statutes, shall not  
27 stand repealed or expire October 1, 1988, as scheduled by such  
28 laws, but said sections, as amended, are hereby revived and  
29 readopted.

30 Section 14. Sections 489.101, 489.103, 489.105,  
31 489.107, 489.108, 489.109, 489.111, 489.113, 489.115, 489.117,



1 489.119, 489.1195, 489.121, 489.123, 489.125, 489.127,  
2 489.129, and 489.131, Florida Statutes, are repealed October  
3 1, 1998, and shall be reviewed by the Legislature prior to  
4 that date pursuant to section 11.61, Florida Statutes.

5 Section 15. Section 16 of chapter 87-310, Laws of  
6 Florida, is repealed; and section 489.5331, Florida Statutes,  
7 is revived and readopted and transferred, renumbered as  
8 section 768.0425, Florida Statutes, and amended to read:

9 768.0425 489-5331 Damages in actions against  
10 contractors for injuries sustained from negligence,  
11 malfeasance, or misfeasance Civl-remedies.--

12 (1) For purposes of this section only, the term  
13 "contractor" means any person who contracts to perform any  
14 construction or building service which is regulated by any  
15 state or local law, including, but not limited to, this  
16 chapter and chapter 633; and, the term "consumer" means a  
17 person who contracts for the performance of any construction  
18 or building service which is regulated by any state or local  
19 law, including, but not limited to, chapters 489 and 633.

20 (2) In any action against a contractor for injuries  
21 sustained resulting from the contractor's negligence,  
22 malfeasance, or misfeasance, the consumer shall be entitled to  
23 three times the actual compensatory damages sustained in  
24 addition to costs and attorney's fees if the contractor is  
25 neither certified as a contractor by the state nor licensed as  
26 a contractor pursuant to the laws of the municipality or  
27 county within which he is conducting business.

28 Section 16. This act shall take effect October 1,  
29 1988.

30  
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 155

- Provisions relating to voluntary certification of journeymen are deleted.
- Inground and aboveground swimming pools and spas with a capacity in excess of 200 gallons are excepted from the exemption for the sale and installation of products not fabricated into or becoming a fixed part of a structure.
- Mechanical and air conditioning contractors may disconnect or reconnect power wiring on the load side of the disconnect switch and low-voltage heating, ventilating, and air conditioning wiring.
- The scope of work of swimming pool contractors includes hot tubs and spas.
- The limitation on the number of terms a board member may serve is deleted.
- The Department of Professional Regulation is required and counties and municipalities are authorized to issue cease and desist orders against unlicensed activity.
- Proceeding on any job without assuring that local permit and inspection requirements are complied with is made a ground for disciplinary action.

Final Legislative Bill Information, 1988 Regular Session

**S 155 GENERAL BILL/CS/ENG by Economic, Community and Consumer Affairs; Economic, Community and Consumer Affairs (Similar CS/H 1646, Compare CS/ENG/H 72, H 1117, CS/H 1647, CS/S 86, S 1020, ENG/S 1031)**

Construction Industry/Regulation. (SUNSET) provides for membership, quorums, & probable cause panels of Construction Industry Licensing Board, provides for renewals & fees, provides enforcement mechanism re persons engaged in contracting who are not certified or registered, provides for certification by endorsement, provides for issuance & renewal of certificates & registrations, provides responsibilities of primary & secondary qualifying agents, etc Amends Ch. 489, 376 303, 317 Appropriation \$28,050 Effective Date 10/01/88 except as otherwise provided

01/14/88 SENATE Prefiled  
01/15/88 SENATE Referred to Economic, Community and Consumer Affairs  
01/19/88 SENATE Referred to Committee agenda--Economic, Community and Consumer Affairs, 02/02/88, 9:00 am, Room-H  
02/02/88 SENATE Comm Report. CS by Economic, Community and Consumer Affairs placed on Calendar  
04/05/88 SENATE Introduced, referred to Economic, Community and Consumer Affairs -SJ 20, Comm Report. CS by Economic, Community and Consumer Affairs, placed on Calendar -SJ 53, CS read first time -SJ 56  
04/19/88 SENATE Placed on Special Order Calendar -SJ 129, CS passed as amended YEAS 40 NAYS 0 -SJ 135, Immediately certified -SJ 141  
04/19/88 HOUSE In Messages  
04/21/88 HOUSE Received, referred to Appropriations -HJ 213  
05/30/88 HOUSE Withdrawn from Appropriations -HJ 902, Placed on Calendar  
05/31/88 HOUSE Substituted for CS/HB 1646 -HJ 1035, Read second time, Amendments adopted, Read third time, CS passed as amended, YEAS 114 NAYS 0 -HJ 1048  
05/31/88 SENATE In Messages  
06/02/88 SENATE Was taken up -SJ 733, Amendments to House amendments adopted, Concurred in House amendments as amended Requested House to concur, Refused to concur in House amendments to House amendments totaling 2, Requested House to recede, CS passed as amended, YEAS 33 NAYS 0 -SJ 749  
06/02/88 HOUSE In Messages  
06/03/88 HOUSE Was taken up -HJ 1283, Refused to recede from House amendment to House amendment, Requested Senate to concur -HJ 1288, Refused to concur in Senate amendments to House amendments, Requested Senate to recede -HJ 1288, Reconsidered -HJ 1288, Refused to recede from House amendments to House amendments, Requested Senate to concur, CS passed as amended, YEAS 118 NAYS 0 -HJ 1289  
06/03/88 SENATE In Messages  
06/07/88 SENATE Receded, Concurred, CS passed as amended, YEAS 33 NAYS 1 -SJ 1091  
06/07/88 Ordered engrossed, then enrolled -SJ 1091  
06/16/88 Signed by Officers and presented to Governor  
07/01/88 Approved by Governor, Chapter No 88-156

**H 1646 GENERAL BILL/CS by Appropriations; Regulatory Reform, Lippman; Kelly; Sansom (Similar CS/ENG/S 155, Compare CS/ENG/H 72, ENG/H 1626, CS/S 86)**

Construction Industry/Regulation. provides for membership, quorums, & probable cause panels of Construction Industry Licensing Board, provides for renewals & fees, provides enforcement mechanism re persons engaged in contracting who are not certified or registered, provides for certification by endorsement, provides for issuance & renewal of certificates & registrations, provides responsibilities of primary & secondary qualifying agents, etc Amends Ch 489, 376 303, 455 209 Appropriation: \$28,050 Effective Date 10/01/88 except as otherwise provided.

05/04/88 HOUSE Filed  
05/11/88 HOUSE Introduced, referred to Finance & Taxation; Appropriations -HJ 447  
05/12/88 HOUSE Withdrawn from Finance & Taxation -HJ 470, Now in Appropriations -HJ 470  
05/23/88 HOUSE On Committee agenda--Appropriations, 05/24/88, 8:00 am, Morris Hall  
05/24/88 HOUSE Preliminary Committee Action by Appropriations Favorable as a Committee Substitute  
05/27/88 HOUSE Comm Report. CS by Appropriations, placed on Calendar -HJ 906, CS read first time -HJ 904  
05/31/88 HOUSE Placed on Special Order Calendar, Iden./Sim Senate Bill substituted, Laid on Table under Rule Iden./Sim / Compare Bill passed, refer to CS/SB 155 (Ch 88-156), CS/HB 72 (Vetoed by Governor-07/06/88) & HB 1626 (Ch 88-392) -HJ 1035

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Masterton</u> <i>SM</i>	<u>Buck</u> <i>BS</i>	1. <u>ECCA</u>	<u>Fav/CS</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Construction Contracting

BILL NO. AND SPONSOR:

CS/SB 155 by  
Senate Committee on Economic,  
Community, and Consumer Affairs

I. SUMMARY:

A. Present Situation:

The Regulatory Sunset Act repeals chapter 489, part I, F.S., relating to contracting, on October 1, 1988, unless the Legislature revives and readopts it in the public interest.

Chapter 489, part I, F.S., requires that a person be either certified or registered to practice contracting in Florida. The part states the purpose of the law (s.489.101, F.S.), provides exemptions (s.489.103, F.S.), sets forth definitions (s.489.105, F.S.), establishes the Construction Industry Licensing Board (s.489.107, F.S.), and gives the board rulemaking authority (s.489.108, F.S.). The part also provides for fees to be charged licensees (s.489.109, F.S.), provides for examinations for certification as a contractor (s.489.111, F.S.), sets forth the qualifications for and restrictions on the practice of contracting (s.489.113, F.S.), provides for certification or registration as a contractor (s.489.115, F.S.), and prescribes requirements for registration (s.489.117, F.S.). Also included in the statute are provisions regarding licensure of business organizations through qualifying agents (s.489.119, F.S.), emergency registration upon the death of a contractor (s.489.121, F.S.), reports to local licensing boards regarding licensees (s.489.123, F.S.), and the eligibility of certificateholders to participate in certain projects (s.489.125, F.S.). Finally, the part proscribes certain acts and provides criminal penalties therefore (s.489.127, F.S.), prescribes grounds for disciplinary action by the board (s.489.129, F.S.) and sets forth the applicability of the part's provisions (s.489.131, F.S.).

B. Effect of Proposed Changes:

The provisions of chapter 489, part I, F.S., are revived and readopted with the following substantive amendments:

-- The word act is changed to part throughout the statute.

-- Section 489.103, F.S., is amended to include spas as well as swimming pools in the exception from the exemption for the sale or installation of finished products and to reduce the gallon limit from 500 to 200 gallons. Section 489.103, F.S., is also amended to clarify that the exemption for an owner of property acting as his own contractor does not exempt any person who is engaged by such owner or any person other than the owner who acts in the capacity of a contractor.

-- Section 489.105, F.S., is amended to clarify that the work of a sheet metal contractor includes fiberglass; that roofing does not include coating not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof; that

the work of air conditioning and mechanical contractors includes disconnecting and reconnecting power wiring on the load side of the disconnect switch and low voltage heating, ventilating, and air conditioning control wiring; that the work of swimming pool contractors include hot tubs and spas; and that the work of a swimming pool servicing contractor includes the direct infusion of chlorine gas. The section is also amended to include the definition of utility contractor (contained in the board rules) in the statute and to redefine a specialty contractor as any contractor whose work is limited to a specific phase of construction and whose responsibility is likewise limited to that phase of construction.

In addition, definitions for primary and secondary qualifying agents are included.

-- Section 489.107, F.S., is amended to recreate the Construction Industry Licensing Board with 17 members, eliminating the alternates. Initially, four members shall be appointed for 1 year terms; four members for 2 year terms; four members for 3 year terms; and five members for 4 year terms. Subsequently, members shall be appointed for 4 year terms. The limitation on the number of terms a member may serve is deleted. The section is also amended to clarify that specialty contractors come under the jurisdiction of Division II.

-- Section 489.109, F.S., is amended to eliminate obsolete dates and to require the Department of Education to report to the board annually concerning the disposition of fees collected from licensees for research and continuing education in the construction field.

-- Section 489.111, F.S., is amended to provide that to qualify for licensure a foreman of many years need not demonstrate experience as a workman, and to require that education used to meet the requirements for examination must be in the appropriate field of engineering, architecture, or building construction.

-- Section 489.113, F.S., is amended to eliminate the requirement of registration of any specialty contractors required to be licensed locally. A provision is added requiring the department to issue cease and desist orders against unlicensed activity and authorizing counties and municipalities to issue cease and desist orders against unlicensed activity. The section is also amended to provide that a general contractor is not required to subcontract the construction of the storm collection system on new site development work, site redevelopment work, mobile home parks, and commercial properties.

-- Section 489.115, F.S., is amended to allow licensure by endorsement if an applicant meets the requirements for certification as set forth in the section, has passed an examination equivalent to the examination required by the part, has met the applicable education or experience requirements and meets the other statutory requirements for certification; or holds a valid license to practice contracting issued by another state with substantially equivalent licensure requirements to those in Florida at the time the license was issued. The section is also amended to clarify that proof of insurance must be submitted at renewal as well as initial licensure.

-- Section 489.117, F.S., is amended to require that a temporary registration for an out-of-state contractor shall not be issued until the contractor has satisfied the licensing requirements of the jurisdiction in which the project will be located.

-- Section 489.119, F.S., is amended to provide that a joint venture must be qualified as a separate entity. Also,

conditions under which a joint venture with one or more unlicensed participants may submit a bid on a construction project are enumerated. A business organization, upon termination of its existing qualifying agent, must employ a new qualifying agent within 60 days.

-- A new section 489.1195, F.S., is created providing a procedure for designating primary and secondary qualifying agents when a business entity has more than one qualifier. A primary qualifying agent is responsible for supervision of all operations of the business organization for which he is the primary qualifying agent, including all field work and financial matters. A secondary qualifying agent is responsible only for supervision of field work at sites where his license was used to obtain the building permit and any work for which he accepts responsibility. Provision is also made for the termination of a primary qualifying agent's status.

-- Section 489.129, F.S., is amended to replace the disciplinary grounds of aiding and abetting with the grounds of performing any act which in fact assists any person in engaging in the unlicensed practice of contracting when the licensee knows or has reasonable grounds to know that the person is unlicensed. The disciplinary ground of willful building code violation is replaced with that of proceeding on any job without assuring that local building permit and inspection requirements are complied with. Also, the section is amended to provide that hearing officers shall generally follow the penalty guidelines as established by board rule or explain the deviation in the recommended order. In addition, a procedure for reinstatement of a license is provided.

-- Section 489.131, F.S., is amended to require that bidders on government jobs show proof of licensure, to eliminate a provision regarding a local government's authority to regulate the type of work required to be performed by a specialty contractor, and to require local governments to report disciplinary actions taken against contractors to the board monthly rather than annually. Also, obsolete provisions relating to mechanical and plumbing contractors are deleted and a provision is added requiring all structural components of a building to be constructed or altered by a Division I contractor.

-- Section 489.5331, F.S., relating to damages awarded to consumers against unlicensed contractors, is revived, readopted, transferred, and renumbered as section 768.0425, F.S.

Chapter 489, part I, F.S., is scheduled for repeal on October 1, 1998, and review by the Legislature prior to that date.

An effective date of October 1, 1988, is provided.

## II. ECONOMIC IMPACT AND FISCAL NOTE:

### A. Public:

Presently, the part and board rules have established fees for application and examination, certification, registration, renewal, and inactive status. If chapter 489, part I, F.S., is allowed to repeal on October 1, 1988, as provided by section 11.61, F.S., applicants and licensees would no longer be required to pay those fees. However, this bill revives and readopts the part, which will result in applicants and licensees continuing to pay the fees after October 1, 1988.

The amendments concerning licensure by endorsement should increase the number of applicants eligible for licensure. This should benefit the public because of an increase in competition.

The amendments to provisions relating to specialty contractors should result in a cost savings to those persons engaging in activities requiring licensure in only a few jurisdictions who must now register with the board.

Persons who engage in contracting involving spas who were previously exempted from the provisions of the part will incur additional expense to obtain licensure.

B. Government:

The cost of administering the chapter in FY 86-87 was \$4,355,079. The cost is paid through fees paid by applicants and licensees which are deposited in the DPR trust fund. If the act is repealed, these costs would no longer be incurred by state government after October 1, 1988. This bill reenacts chapter 489, part I, F.S., and would cause these state costs to continue after October 1, 1988.

The reduction in the number of board members from 23 to 17 should result in the reduction of administrative costs associated with board meetings. Currently, the average cost of a board meeting is \$16,900. Approximately \$3,000 per meeting, or \$33,000 annually, could be expected to be saved by the reduction in the size of the board.

Counties and municipalities will incur additional costs to the extent they implement the cease and desist power authorized in the bill.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 155

--Provisions relating to voluntary certification of journeymen are deleted.

--Inground and aboveground swimming pools and spas with a capacity in excess of 200 gallons are excepted from the exemption for the sale and installation of products not fabricated into or becoming a fixed part of a structure.

--Mechanical and air conditioning contractors may disconnect or reconnect power wiring on the load side of the disconnect switch and low-voltage heating, ventilating, and air conditioning wiring.

--The scope of work of swimming pool contractors includes hot tubs and spas.

--The limitation on the number of terms a board member may serve is deleted.

--The Department of Professional Regulation is required and counties and municipalities are authorized to issue cease and desist orders against unlicensed activity.

--Proceeding on any job without assuring that local permit and inspection requirements are complied with is made a ground for disciplinary action.

Committee on Economic, Community and  
Consumer Affairs

  
Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)



## Final Bill Summary for CS/ENG/SB 155

CS/ENG/SB 155 was passed by the Legislature, was approved by the Governor, and has been codified as ch. 88-156, L.O.F.

The bill revives and readopts chapter 489, part I, F.S., in accordance with Sunset review. In the bill the word "act" is changed to "part" throughout the statute. Also, the words "license" and "licensee" are changed to the phrase "certificate holder or registrant." The phrase business entity is changed to business organization wherever it appears.

Exemptions related to swimming pools and spas are limited. Additional requirements are placed in the owner-builder exemption. The term "residential designer" and references to the architecture law are deleted.

The bill clarifies or expands the scope of practice of sheet metal, roofing, air conditioning, mechanical, and swimming pool servicing contractors. It allows employees of natural gas utilities to connect water lines to install hot water heaters and adds definitions for underground utility contractor, primary qualifying agent and secondary qualifying agent. The term "specialty contractor" is redefined to include those specialty contractors currently set out in board rule.

The bill deletes alternate members from the Construction Industry Licensing Board in order to reduce size and costs. It provides for members terms and allows the two divisions of the board to borrow members on probable cause panels in order to reduce quorum problems.

Voluntary inactive and involuntarily inactive certificates or registrations are clearly distinguished. The process by which inactive certificates or registrations are handled is changed to encourage contractors to pay fees promptly or to voluntarily seek inactive status. In addition, the penalty for late renewals is increased and a reactivation fee is provided for. Additional criteria are provided for the portion of certification and registration fees that is transferred to the Department of Education.

The bill expands eligibility criteria for certification examination. It also requires the board to register specialty contractors only when the specialty is statewide and local licensing is required.

DPR, counties, municipalities, and local licensing boards created by special act are authorized to issue cease and desist orders to unlicensed persons. General contractors

are allowed to construct storm collection systems. Local governments may issue building permits with conditions or refuse to issue permits if a contractor has committed violations in other Florida jurisdictions.

A more open standard for certification by endorsement is set forth in the bill. In addition, the bill clarifies the method of showing insurance coverage. The bill includes joint ventures as a type of business organization. It requires qualifying agents to be replaced within 60 days.

Standards and procedures for primary and secondary qualifying agents are set to encourage more qualifiers. Only the primary is responsible for the business organization, but a secondary may become responsible if the primary leaves.

The board is authorized to approve a third party, including an unlicensed person, who will complete a construction contract after the death of the contractor.

The bill includes a misdemeanor penalty, like that for unlicensed activity, for continuing to operate a contracting business for more than 60 days without a qualifying agent. It also allows a county or municipality to issue non-criminal citations to unlicensed persons.

Continuing education and financial restitution to consumers are added as disciplinary penalties. The violation for assisting an unlicensed person to engage in contracting is broader. The bill also creates a violation for proceeding on a job without pulling permits. The department is required to recommend penalties, as established in the board's penalty guidelines, to hearing officers. The board is prohibited from reinstating a certificate or registration until the person has complied with the final order.

The bill requires rather than permits governmental entities to accept bids from certified or registered contractors except as provided in this law. Counties and municipalities may refuse to issue permits or may issue permits with conditions to contractors who have had recent and serious multiple violations or who have recently been acted against for unlicensed activity. Local boards are required to report disciplinary actions against contractors and against unlicensed persons to the board monthly rather than annually. Only a Division I contractor, except as otherwise provided by law, may construct or alter structural components of buildings.

The bill transfers language related to pollutant storage from other sections of the law. Certain current contractors

who are temporarily certified as pollutant storage contractors may be certified by practical examination. Language related to pollutant storage that address the responsibilities of the Department of Environmental Regulation is transferred to Chapter 376, Florida Statutes. Countywide ordinances regulating underground storage tanks may be more stringent than state law if adopted and filed before July 1, 1987, rather than September 1, 1984.

DPR is organized to establish a committee to study consumer complaints in the construction industry. Committee members will include persons representing local building departments, the construction industry, consumers, and local governments. The bill provides an appropriation of \$28,050 for the purpose of implementing the study.

Language on damage actions by consumers against contractors is transferred to chapter 768, Florida Statutes.

The bill is effective October 1, 1988, and is set for sunset review prior to and repeal on October 1, 1998.

**Journals**  
of the  
**Florida**  
**House of Representatives**  
**Volume II**



**Continuation of Regular Session, 1988**

**May 31 - June 7**

**June 8, 1988 Special "F"**

**[Special Sessions are lettered from Organization Session  
for two-year term of House of Representatives.]**

*instruments backed by the full faith and credit of the government of Israel.*

(4) With no more than 80 percent of any fund, in interest-bearing obligations with a fixed maturity of any corporation within the United States, if such obligations are rated in any one of the three highest ratings by two nationally recognized rating services by at least two nationally recognized rating services in any one of the three highest classifications approved by the Comptroller of the Currency for the investment of the funds of national banks. However, if only one nationally recognized rating service shall rate such obligations, then such rating service must have rated such obligations in any one of the two highest classifications heretofore mentioned

(9) Except for those investments described in paragraph (2)(j), investments made by the State Board of Administration shall be designed to maximize the financial return to the fund consistent with the risks incumbent in each investment and shall be designed to preserve an appropriate diversification of the portfolio

Rep Gutman moved the adoption of the amendment, which was adopted. The vote was

Yeas—56

Abrams	Guber	Metcalf	Titone
Bloom	Gustafson	Mitchell	Tobin
Bronson	Gutman	Morse	Troxler
Brown	Hargrett	Ostrau	Upchurch
Canady	Hill	Press	Wallace
Carlton	Ireland	Reaves	Webster
Casas	Jamerson	Renke	Wise
Clark	Johnson, B L	Rochlin	Woodruff
Davis	Jones, C F	Sample	Young
Deutsch	Langton	Sansom	
Diaz-Balart	Liberti	Saunders	
Friedman	Lippman	Silver	
Garcia	Logan	Simon	
Glickman	Lombard	Souto	
Gonzalez-	Mackenzie	Starks	
Quevedo	Martin	Thomas	

Nays—44

Arnold	Dunbar	Jones, D. L.	Nergard
Ascherl	Gardner	Kelly	Patchett
Bainter	Goode	King	Peeples
Banjanin	Grindle	Lewis	Rudd
Bankhead	Hanson	Locke	Shelley
Bell	Harris	Mackey	Simone
Carpenter	Hawkins	Martinez	Smith
Clements	Holland	McEwan	Stone
Crady	Irvine	Meffert	Tobiassen
Crotty	Jennings	Messersmith	Trammell
Drage	Johnson, R C	Mortham	Wetherell

Votes after roll call

Yeas—Frankel

Nays—Harden

Nays to Yeas—Bell, Wetherell

On point of order by Rep Young, Chairman, under Rule 8 8, that the bill now had a fiscal impact, HB 1508 was committed to the Committee on Finance and Taxation

HB 1646 was taken up On motion by Rep Lippman, CS/SB 155, a similar or companion measure, was substituted for HB 1646 Under the rule, the House bill was laid on the table and—

**CS for SB 155**—A bill to be entitled An act relating to contracting, amending s 489 103, F.S., revising exemptions from regulation under part I, ch 489, F.S., amending s 489 105, F.S.; providing definitions applicable to said part, providing for regulation of persons who perform work with respect to hot tubs or spas and with respect to roof coating and persons who use fiberglass for sheet-metal type work, including

underground utility contractors and specialty contractors among the categories of Division II contractors; amending s. 489 107, F.S., revising composition of the Construction Industry Licensing Board, amending s 489 109, F.S., providing for regulatory fees; providing for the disposition of certain fees; requiring annual summaries of allocations by institution and of projects funded; amending s 489.111, F.S., revising requirements for examination for certification, providing for cease and desist orders against persons who do not hold the required certification or registration, amending s. 489 113, F.S., revising requirements for engaging in contracting in the state, amending s 489 115, F.S., providing for certification or registration as a contractor, revising requirements for licensure by endorsement, providing for renewal; amending s 489 117, F.S., revising requirements relating to temporary limited registration, amending s 489 119, F.S.; providing for licensure of business organizations, including joint ventures, providing for submission of bids by joint ventures, creating s 489 1195, F.S., prescribing classes of qualifying agents, defining responsibilities of such agents, amending s 489 129, F.S., providing grounds and penalties for disciplinary action, providing for recommendations by hearing officers concerning penalties, providing for reinstatement, amending s 489 131, F.S., providing for applicability of the part, providing for local examination to engage in contracting, permitting structural components of buildings to be constructed or altered only by Division I contractors, reviving and readopting ss 489 101-489 107, 489 109-489 131, F.S., notwithstanding their scheduled repeal, providing for future review and repeal of ss 489 101-489 131, F.S., reviving, readopting, transferring, and amending s 489 5331, F.S., relating to damages in certain actions against contractors, clarifying the application of said section; repealing s 16, ch 87-310, Laws of Florida, relating to Sunset termination of said section, providing an effective date

—was read the second time by title

Representative Lippman offered the following amendment

**Amendment 1**—On page 3, line 1, through page 39, line 29, strike all language and insert Section 1 Section 489 101, Florida Statutes, is amended to read

**489 101 Purpose**—The Legislature recognizes that the construction and home improvement industries are significant industries. Such industries may pose a danger of significant harm to the public when incompetent or dishonest contractors provide unsafe, unstable, or short-lived products or services. Therefore, it is necessary in the interest of the public health, safety, and welfare to regulate the construction industry

Section 2 The introductory paragraph and subsections (2), (6), (7), (8), (9), and (11) of section 489 103, Florida Statutes, are amended to read

**489 103 Exemptions**—This part ~~act~~ does not apply to.

(2) Any employee of a certificateholder or registrant licensee who is a subordinate of such certificateholder or registrant licensee if the employee does not hold himself out for hire or engage in contracting except as an employee

(6) The sale or installation of any finished products, materials, or articles of merchandise which are not fabricated into and do not become a permanent fixed part of the structure, except for spas or inground or aboveground swimming pools with a capacity in excess of 200 600 gallons, and for aboveground swimming pools with a capacity in excess of 200 gallons that involve excavation, plumbing, chemicals, or wiring of any appliance without a factory-installed electrical cord and plug This subsection shall not be construed to limit the exemptions provided in subsection (7)

(7) Owners of property when acting as their own contractor and providing all material supervision themselves, when building or improving farm outbuildings or one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale, or building or improving commercial buildings at a cost of under \$25,000 on such property for the occupancy or use of such owners and not offered for sale or lease In an action brought under this part ~~act~~, proof of the sale or lease, or offering for sale or lease, of

more than one such structure by the owner-builder within 1 year after completion of same is *prima facie* presumptive evidence that the construction was undertaken for purposes of sale or lease. This subsection does not exempt any person who is employed by such owner and who acts in the capacity of a contractor. To qualify for exemption under this subsection, an owner must personally appear and sign the building permit application. The local permitting agency shall provide the person with a disclosure statement in substantially the following form

*Disclosure Statement*

State law requires construction to be done by licensed contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own contractor even though you do not have a license. You must supervise the construction yourself. You may build or improve a one- or two-family residence or a farm outbuilding. You may also build or improve a commercial building at a cost of \$25,000 or less. The building must be for your own use and occupancy. It may not be built for sale or lease. If you sell or lease more than one building you have built yourself within one year after the construction is complete, the law will presume that you built it for sale or lease, which is a violation of this exemption. You may not hire an unlicensed person as your contractor. Your construction must be done according to building codes and zoning regulations. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances.

(8) Any construction, alteration, improvement, or repair carried on within the limits of any site the title to which is in the United States or with respect to which federal law supersedes this part act

(9) Any work or operation of a casual, minor, or inconsequential nature in which the aggregate contract price for labor, materials, and all other items is less than \$1,000, but this exemption does not apply

(a) If the construction, repair, remodeling, or improvement is a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than \$1,000 for the purpose of evading this part act or otherwise

(b) To a person who advertises that he is a contractor or otherwise represents that he is qualified to engage in contracting

(11) A registered architect or engineer, or residential designer acting within the scope of his practice in his professional capacity or any person exempted by the law regulating architects and engineers, including persons doing design work as specified in s 481.229(1)(b); provided, however, that an architect or engineer shall not act as a contractor unless properly licensed under this chapter

Section 3 Section 489.105, Florida Statutes, is amended to read

489.105 Definitions.—As used in this part act

(1) "Board" means the Construction Industry Licensing Board

(2) "Department" means the Department of Professional Regulation

(3) "Contractor" means the person who is qualified for and responsible for the entire project contracted for and means, except as exempted in this part act, the person who, for compensation, undertakes to, submits a bid to, or does himself or by others construct, repair, alter, remodel, add to, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others. 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)-(n) ~~(d)-(m)~~

(a) "General contractor" means a contractor whose services are unlimited as to the type of work which he may do, except as provided in this part act

(b) "Building contractor" means a contractor whose services are limited to construction of commercial buildings and single-dwelling or

multiple-dwelling residential buildings, which commercial or residential buildings do not exceed three stories in height, and accessory use structures in connection therewith or a contractor whose services are limited to remodeling, repair, or improvement of any size building if the services do not affect the structural members of the building

(c) "Residential contractor" means a contractor whose services are limited to construction, remodeling, repair, or improvement of one-family, two-family, or three-family residences not exceeding two stories in height and accessory use structures in connection therewith.

(d) "Sheet metal contractor" means a contractor whose services are unlimited in the sheet metal trade and who has the experience, knowledge, and skill necessary for the manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, insulation, alteration, repair, servicing, or design, when not prohibited by law, of ferrous or nonferrous metal work of US No 10 gauge or its equivalent or lighter gauge and of other materials, including, but not limited to, fiberglass, used in lieu thereof and of air-handling systems, including the setting of air-handling equipment and reinforcement of same and including the balancing of air-handling systems

(e) "Roofing contractor" means a contractor whose services are unlimited in the roofing trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, when not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of all kinds of roofing, and waterproofing, and coating, except when coating is not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof

(f) "Class A air conditioning contractor" means a contractor ~~any person~~ whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system, boiler and unfired pressure vessel systems, and all appurtenances, apparatus, or equipment used in connection therewith; and to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, and pneumatic control piping, to disconnect or reconnect power wiring on the load side of the disconnect switch and low voltage heating, ventilating, and air conditioning control wiring; and to install ~~installation~~ of a condensate drain from an air conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum or natural gas fuel lines within buildings, potable waterlines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring on the line side of the disconnect switch

(g) "Class B air conditioning contractor" means a contractor ~~any person~~ whose services are limited to 25 tons of cooling and 500,000 Btu of heating in any one system in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system being installed under this classification; and to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping and; insulation of pipes, vessels, and ducts, to disconnect or reconnect power wiring on the load side of the disconnect switch and low voltage heating, ventilating, and air conditioning control wiring, and to install; and ~~installation~~ of a condensate drain from an air conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum or natural gas fuel lines within

*buildings, potable waterlines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring on the line side of the disconnect switch*

(h) "Class C air conditioning contractor" means a contractor ~~any person~~ whose business is limited to the servicing of air conditioning, heating, or refrigeration systems, including duct alterations in connection with those systems he is servicing, and whose certification or registration, issued pursuant to this part, was valid on October 1, 1988. No person not previously registered or certified as a Class C air conditioning contractor shall be so registered or certified after October 1, 1988.

(i) "Mechanical contractor" means a contractor ~~any person~~ whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system, boiler and unfired pressure vessel systems, lift station equipment and piping, and all appurtenances, apparatus, or equipment used in connection therewith, and to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, pneumatic control piping, gasoline tanks and pump installations and piping for same, standpipes, air piping, vacuum line piping, oxygen lines, nitrous oxide piping, ink and chemical lines, fuel transmission lines, and natural gas fuel lines within buildings, to disconnect or reconnect power wiring on the load side of the disconnect switch and low voltage heating, ventilating, and air conditioning control wiring, and to install ~~installation~~ of a condensate drain from an air conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum or natural gas fuel lines within buildings, potable waterlines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(j) "Commercial pool/spa contractor" means a contractor ~~any person~~ whose scope of work involves, but is not limited to, the construction, repair, water treatment, and servicing of any swimming pool, or hot tub or spa, whether public, private, or otherwise, regardless of use. The scope of such work includes layout, excavation, operation of construction pumps for dewatering purposes, steelwork, installation of light niches, pouring of floors, guniting, fibreglassing, installation of tile and coping, installation of all perimeter and filter piping, installation of all filter equipment and chemical feeders of any type, plastering of the interior, pouring of decks, construction of equipment rooms or housing for pool equipment, and installation of package pool heaters. However, the scope of such work does not include direct connections to a sanitary sewer system or to potable waterlines.

(k) "Residential pool/spa contractor" means a contractor ~~any person~~ whose scope of work involves, but is not limited to, the construction, repair, water treatment, and servicing of any residential swimming pool, or hot tub or spa, regardless of use. The scope of such work includes layout, excavation, operation of construction pumps for dewatering purposes, steelwork, installation of light niches, pouring of floors, guniting, fibreglassing, installation of tile and coping, installation of all perimeter and filter piping, installation of all filter equipment and chemical feeders of any type, plastering of the interior, pouring of decks, installation of housing for pool equipment, and installation of package pool heaters. However, the scope of such work does not include direct connections to a sanitary sewer system or to potable waterlines.

(l) "Swimming pool/spa servicing contractor" means a contractor ~~any person~~ whose scope of work involves the servicing, repair, water treatment, including, but not limited to, the direct infusion of chlorine gas, and maintenance of any swimming pool, or hot tub or spa, whether public or private. The scope of such work may include any necessary piping and repairs, replacement and repair of existing equipment, or

installation of new additional equipment as necessary. The scope of such work includes the reinstallation of tile and coping, repair and replacement of all piping, filter equipment, and chemical feeders of any type, replastering, repouring of decks, and reinstallation or addition of pool heaters.

(m) "Plumbing contractor" means a contractor whose contracting business consists of the execution of contracts requiring the experience, financial means, knowledge, and skill to install, maintain, repair, alter, extend, or, when not prohibited by law, design plumbing. A plumbing contractor may install, maintain, repair, alter, extend, or, when not prohibited by law, design the following without obtaining any additional local regulatory license, certificate, or registration: sanitary drainage or storm drainage facilities, venting systems, public or private water supply systems, septic tanks; drainage and supply wells, swimming pool piping, irrigation systems, or solar heating water systems and all appurtenances, apparatus, or equipment used in connection therewith, including boilers and pressure process piping and including the installation of water, natural gas (excluding liquid petroleum gases), and storm and sanitary sewer lines, and water and sewer plants and substations. The scope of work of the plumbing contractor also includes the design, when not prohibited by law, and installation, maintenance, repair, alteration, or extension of air-piping, vacuum line piping, oxygen line piping, nitrous oxide piping, and all related medical gas systems, fire line standpipes and fire sprinklers to the extent authorized by law, ink and chemical lines, fuel oil and gasoline piping and tank and pump installation, except bulk storage plants, and pneumatic control piping systems, all in such a manner as to comply with all plans, specifications, codes, laws, and regulations applicable. The scope of work of the plumbing contractor shall apply to private property and public property, shall include any excavation work incidental thereto, and shall include the work of the specialty plumbing contractor. Such contractor shall subcontract, with a qualified contractor in the field concerned, all other work incidental to the work but which is specified herein as being the work of a trade other than that of a plumbing contractor. Nothing in this definition shall be construed to limit the scope of work of any specialty contractor certified pursuant to s 489 113(6). Nothing in this definition shall be construed to require certification or registration under this part of any authorized employee of a public natural gas utility or of a private natural gas utility regulated by the Public Service Commission, when disconnecting and reconnecting water lines in the servicing or replacement of an existing water heater.

(n) "Underground utility contractor" means a contractor whose services are limited to the construction, installation, and repair, on public or private property, of main sanitary sewer collection systems, main water distribution systems, and storm sewer collection systems, and the continuation of utility lines from 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. An underground utility contractor shall not install any piping that is an integral part of a fire protection system, as defined in s 633 021(7) beginning at the point where the piping is used exclusively for such system.

(4) "Primary qualifying agent" means a person who possesses the requisite skill, knowledge, and experience, and has the responsibility, to supervise, direct, manage, and control the contracting activities of the business organization ~~entity~~ with which he is connected, who has the responsibility to supervise, direct, manage, and control construction activities on a job for which he has obtained the building permit, and whose technical and personal qualifications have been determined by investigation and examination as provided in this part ~~act~~, as attested by the department.

(5) "Secondary qualifying agent" means a person who possesses the requisite skill, knowledge, and experience, and has the responsibility to supervise, direct, manage, and control construction activities on a job for

which he has obtained a permit, and whose technical and personal qualifications have been determined by investigation and examination as provided in this part, as attested by the department

(6)(6) "Contracting" means, except as exempted in this part act, engaging in business as a contractor

(7)(6) "Certificate" means a certificate of competency issued by the department as provided in this part act

(8)(7) "Certified contractor" means any contractor who possesses a certificate of competency issued by the department and who shall be allowed to ~~may~~ contract in any jurisdiction in the state without being required to fulfill the competency requirements of that jurisdiction

(9)(8) "Registration" means registration with the department as provided in this part act

(10)(9) "Registered contractor" means any contractor who has registered with the department pursuant to fulfilling the competency requirements in the jurisdiction for which the registration is issued. Registered contractors may contract only in such jurisdictions ~~these areas~~

(11)(10) "Certification" means the act of obtaining or holding a certificate of competency from the department as provided in this part act

(12)(11) "Specialty contractor" means a contractor whose scope of work and responsibility is limited to a particular phase of construction or whose scope of work is limited to a subset of the activities described in the categories established in paragraphs (a)-(n) of subsection (3). Categories of specialty contractor shall be established by the board by rule and shall include, but not be limited to, asbestos abatement, solar, and specialty structure any contractor who does not fall within the categories established in paragraphs (a)-(m) of subsection (3).

(13) "Licensee" means a holder of a ~~certificate~~ issued pursuant to this act or a person registered pursuant to this act.

(13) "Local construction regulation board" means a board, composed of not fewer than three residents of a county or municipality, which the governing body of that county or municipality may create and appoint to maintain the proper standard of construction of that county or municipality.

(14) "Pollutant storage systems specialty contractor" means a contractor who installs a pollutant storage tank.

(15) "Pollutant storage tank" means a tank, together with associated piping or dispensing facilities, which is or could be used for the storage or supply of pollutants as defined in s. 376-301 and which is required to be registered under chapter 17-61 of the Florida Administrative Code or for which certification must be submitted under Subtitle I of the Resource Conservation and Recovery Act.

(16) "Tank" means any container other than one which is above-ground and either elevated or situated upon an impermeable surface, or which is located in an accessible underground area and either elevated or situated upon an impermeable surface therein, in such manner that any leak in such container may be readily detected.

(17) "Registered precision tank tester" means any precision tank tester who has registered with the department pursuant to s. 489-110(12). This registration shall be exempt from the provisions of prior municipality, county, or development district registration, as required under s. 489-117, and shall be registered on a statewide basis.

Section 4 Section 489 107, Florida Statutes, is amended to read  
489 107 Construction Industry Licensing Board —

(1) To carry out the provisions of this part act, there is created within the Department of Professional Regulation the Construction Industry Licensing Board. Members ~~and alternate members~~ shall be appointed by the Governor, subject to confirmation by the Senate. Effective October 1, 1988 ~~initially~~, the Governor shall appoint four members, each for a term of 1 year; five members, each for a term of 2 years, four

members, each for a term of 3 years, and five members, each for a term of 4 years ~~seven members and three alternate members, each for a term of 4 years, and seven members and two alternate members, each for a term of 3 years~~. Thereafter successors shall be appointed for 4-year terms. A vacancy on the board shall be filled for the unexpired portion of the term in the same manner as the original appointment. No member shall serve more than two consecutive 4-year terms or more than 11 years on the board.

(2) The board shall consist of:

(a) ~~Seventeen regular eighteen~~ members, of whom

(a)1- ~~Four Three~~ are primarily engaged in business as general contractors,

(b)2- Three are primarily engaged in business as building contractors or residential contractors, however, at least one building contractor and one residential contractor shall be appointed;

(c)3- One is primarily engaged in business as a roofing contractor,

(d)4- One is primarily engaged in business as a sheet metal contractor;

(e)5- One is primarily engaged in business as an air conditioning contractor,

(f)6- One is primarily engaged in business as a mechanical contractor,

(g)7- One is primarily engaged in business as a pool contractor,

(h)8- One is primarily engaged in business as a plumbing contractor,

(i)9- One is primarily engaged in business as an underground utility contractor,

(j)10- Two are lay persons who are not, and have never been, members or practitioners of a profession regulated by the board or members of any closely related profession, and

(k)11- Two are building officials of a municipality or county; and

(l) Six alternate members, of whom:

1- One is primarily engaged in business as a roofing contractor;

2- One is primarily engaged in business as a sheet metal contractor;

3- One is primarily engaged in business as an air conditioning contractor;

4- One is primarily engaged in business as a mechanical contractor;

5- One is primarily engaged in business as a pool contractor; and

6- One is primarily engaged in business as a plumbing contractor.

(3) To be eligible for appointment, each contractor member and alternate member must have been certified by the board to operate as a contractor in the category with respect to which he is appointed, be actively engaged in the construction business, and have been so engaged for a period of not less than 5 consecutive years before the date of his appointment. Each appointee must be a citizen and resident of the state.

(4) An alternate member may attend any meeting of the board, and, if the member and the corresponding alternate member are both present and voting, each shall have only one-half vote, however, if either the member or the corresponding alternate member is absent, the member or alternate member present shall have one vote.

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

(a) Division I is comprised of the general contractor, building contractor, and residential contractor members of the board, one of the members appointed pursuant to paragraph (2)(j) ~~subparagraph (2)(e)10~~, and one of the members appointed pursuant to paragraph (2)(k) ~~subparagraph (2)(e)11~~ and has jurisdiction over the examination and regulation of general contractors, building contractors, and residential contractors.



(b) Division II is comprised of the regular and alternate roofing contractor, sheet metal contractor, air conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility contractor members of the board, one of the members appointed pursuant to paragraph (2)(j) subparagraph (2)(k) 10, and one of the members appointed pursuant to paragraph (2)(k) subparagraph (2)(a) 11 and has jurisdiction over the examination and regulation of roofing contractors, sheet metal contractors, air conditioning contractors, mechanical contractors, pool contractors, plumbing contractors, and underground utility contractors

(5)(6) Five members of Division I constitute a quorum, and five members votes of Division II constitute a quorum. The combined divisions shall meet together, at such times as the board deems necessary, but neither division, nor any committee thereof, shall take action on any matter under the jurisdiction of the other division. However, if either division is unable to obtain a quorum for the purpose of conducting disciplinary proceedings, it may request members of the other division, who are otherwise qualified to serve on the division unable to obtain a quorum, to join in its deliberations. Such additional members shall vote and count toward a quorum only during those disciplinary proceedings.

(6) The board shall establish at least one, but not more than two, probable cause panels for each division to meet the responsibilities set out in s 455.225(3)

Section 5 Section 489 109, Florida Statutes, is amended to read  
489 109 Fees —

(1) The board, by rule, shall establish reasonable fees to be paid for applications, examination, certification and renewal, registration and renewal, and recordmaking and recordkeeping. ~~Effective October 1, 1979,~~ The fees shall be established as follows

(a) With respect to an applicant for a certificate, the initial application and examination fee shall not exceed \$250, and the initial certification fee and the biennial renewal fee shall not exceed \$100, and

(b) With respect to an applicant for registration, the initial application fee shall not exceed \$50, and the initial certification fee and the biennial renewal fee shall not exceed \$50

*Renewal fees for certificates and registrations shall be paid by June 30 of each biennial period. The fees required by the board on June 30, 1979, shall remain in effect through September 30, 1979.* The board, by rule, may also establish penalty fees for late renewal not to exceed \$40 \$20 for certification and \$20 for \$10 registration for renewal applications made within 90 days after the end of the biennial period. The board shall establish fees which are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement this part act and the provisions of law with respect to the regulation of the construction industry

(2) Failure to renew an active or voluntary inactive certificate or registration at the time of biennial renewal will result in the certificate or registration becoming involuntarily inactive. Failure to reactivate an involuntarily inactive certificate or registration after two consecutive renewal periods have lapsed will result in the certificate or registration becoming null and void without further action of the board. The department shall notify certificateholders and registrants who have failed to reactivate their certificates or registrations for a renewal period that such certificates or registrations shall become null and void if not renewed by the end of the second period.

(3) A certificate or registration which is involuntarily inactive may be reactivated by application to the department, including payment of an application fee for reactivation not to exceed \$100 as established by board rule, complying with any background investigation that may be required by the board, and upon payment of the current renewal fee for each biennium in which the certificate or registration was involuntarily inactive and the penalty fee

(4) The department shall notify those certificateholders and registrants currently in an inactive status of the provisions of this section at the time of the next biennial renewal period

(5) A certificateholder or registrant whose license has become null and void may reapply to the board for certification or registration. The board may waive education and experience requirements as promulgated by board rule upon reapplication, however, the board may require any additional current requirements for certification or registration, including reexamination. A certificate or registration which is inactive because of failure to renew shall be restored on payment of the proper renewal fee, if the application for reactivation is made within 90 days after June 30 of the renewal year. If the application for reactivation is not made within the 90 day period, the fee for reactivation shall be equal to the original application fee plus the renewal fee for each additional period the license has been delinquent; and in addition, the board may require reexamination of the applicant

(6)(3) A person who is registered or holds a valid certificate from the board may go on voluntary inactive status during which time he shall not engage in contracting but may retain his certificate or registration on an inactive basis on payment of a biennial renewal fee during the inactive period, not to exceed \$20 per biennial period. To go off voluntary inactive status, such person shall be required only to pay the regular biennial renewal fee for certification or registration

(7)(4) In addition to the fees provided in subsection (1) for application and renewal for certification and registration, all certificateholders and registrants ~~licensees~~ shall pay a fee of \$4 to the department at the time of application or biennial renewal. The funds shall be transferred at the end of each biennial licensing period to the Department of Education to fund projects relating to the building construction industry or continuing education programs offered to persons engaged in the building construction industry in Florida. The board shall, at the time the funds are transferred, advise the Department of Education on the most needed areas of research or continuing education based on significant changes in the industry's practices or on the most common types of consumer complaints or on problem costing the state or local governmental entities substantial waste. The board's advice is not binding on the Department of Education. The Department of Education shall allocate for distribution in the following manner:

(a) fifty percent of the funds to shall be allocated to fund research projects relating to the building construction industry in a graduate program in building construction in a Florida university and

(b) fifty percent of the funds to shall be apportioned among all accredited private and state universities and community colleges within the state offering approved courses in building construction, with each university or college receiving a pro rata share of such funds based upon the number of full-time building construction students enrolled at the institution. The Department of Education shall ensure the distribution of research reports and the availability of continuing education programs to all segments of the building construction industry to which they relate. The Department of Education shall cause a to be made to the board in October of each year, summarizing the allocation of the funds by institution and summarizing the new projects funded and the status of previously funded projects. Each institution receiving funds under this subsection shall utilize such funds for research projects relating to the building construction industry or for continuing education programs to be offered to those engaged in the building construction industry in Florida.

Section 6 Paragraph (c) of subsection (2) and paragraph (b) of subsection (3) of section 489 111, Florida Statutes, are amended to read

489 111 Examinations —

(2) A person shall be entitled to take the examination for the purpose of determining whether he is qualified to engage in contracting throughout this state if the person

(c) Meets eligibility requirements according to one of the following criteria

1 Has received a baccalaureate degree from an accredited 4-year college in the appropriate field of engineering, architecture, or building

construction and has 1 year of proven experience in the category in which the person seeks to qualify. For the purpose of this part ~~act~~, a minimum of 2,000 man-hours shall be used in determining full-time equivalency.

2. Has a total of at least 4 3 years of active experience as a workman who has learned his trade by serving an apprenticeship, or as a skilled workman who is able to command the rate of a mechanic in his particular trade, or as a ~~and has at least 1 year of active experience at the level of foreman who is in charge of a group of workmen and usually is responsible to a superintendent or a contractor or his equivalent, provided, however, that at least 1 year of active experience shall be as a foreman~~

3. Has a combination of not less than 1 year of experience as a foreman and not less than 3 years of credits for any accredited college-level courses; has a combination of not less than 1 year of experience as a skilled workman, 1 year of experience as a foreman, and not less than 2 years of credits for any accredited college level courses, or has a combination of not less than 2 years of experience as a skilled workman, 1 year of experience as a foreman, and not less than 1 year of credits for any accredited college-level courses. For the number of years of credits for any accredited college level courses, the applicant shall show completion of an equal number of courses in the appropriate field of engineering, architecture, or building construction. All junior college or community college-level courses shall be considered accredited college-level courses.

4.a. An active certified residential contractor is eligible to take the building contractors' examination if he possesses a minimum of 3 years of proven experience in the classification in which he is certified.

b. An active certified residential contractor is eligible to take the general contractors' examination if he possesses a minimum of 4 years of proven experience in the classification in which he is certified.

c. An active certified building contractor is eligible to take the general contractors' examination if he possesses a minimum of 4 years of proven experience in the classification in which he is certified.

5 a. An active certified air conditioning Class C contractor is eligible to take the air conditioning Class B contractors' examination if he possesses a minimum of 3 years of proven experience in the classification in which he is certified.

b. An active certified air conditioning Class C contractor is eligible to take the air conditioning Class A contractors' examination if he possesses a minimum of 4 years of proven experience in the classification in which he is certified.

c. An active certified air conditioning Class B contractor is eligible to take the air conditioning Class A contractors' examination if he possesses a minimum of 1 year of proven experience in the classification in which he is certified.

6 a. An active certified swimming pool servicing contractor is eligible to take the residential swimming pool contractors' examination if he possesses a minimum of 3 years of proven experience in the classification in which he is certified.

b. An active certified swimming pool servicing contractor is eligible to take the swimming pool commercial contractors' examination if he possesses a minimum of 4 years of proven experience in the classification in which he is certified.

c. An active certified residential swimming pool contractor is eligible to take the commercial swimming pool contractors' examination if he possesses a minimum of 1 year of proven experience in the classification in which he is certified.

(3)

(b) When an applicant is found to be unqualified for a certificate license because of a lack of good moral character, the board shall furnish the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a rehearing and appeal.

Section 7 Section 489 113, Florida Statutes, is amended to read

489 113 Qualifications for practice, restrictions —

(1) Any person who desires to engage in contracting on a statewide basis shall, as a prerequisite thereto, establish his competency and qualifications to be certified pursuant to this part ~~act~~. To establish his competency, a person shall pass the appropriate examination administered by the department. Any person who desires to engage in contracting on other than a statewide basis shall, as a prerequisite thereto, be registered pursuant to this part ~~act~~, unless exempted by this part ~~act~~. ~~Registration shall be required of specialty contractors when licensing is required by a county or municipality in which the specialty contractor practices~~

(2) No person who is not certified or registered a licensee shall engage in the business of contracting in this state. 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.

(3) A contractor shall subcontract the electrical, mechanical, plumbing, roofing, sheet metal, commercial swimming pool, and air conditioning work for which a local examination for a certificate of competency or a license is required, unless such contractor holds a state certificate of competency or license of the respective trade category, as required by the appropriate local authority. However, a general, building, or residential contractor shall not be required to subcontract the installation of wood shingles, wood shakes, or asphalt or fiberglass shingle roofing materials on a new building of his own construction, and a general contractor shall not be required to subcontract structural swimming pool work. Further, a general contractor, on new site development work, site redevelopment work, mobile home parks, and commercial properties, shall not be required to subcontract the construction of the main sanitary sewer collection system, the storm collection system, and the water distribution system, not including the continuation of utility lines from the mains to the buildings. Further, as to mobile home parks, the general contractor shall not be required to subcontract the continuation of utility lines from the mains, and the continuations are to be considered a part of the main sewer collection and main water distribution systems. This subsection does not apply if the local authority does not require a certificate of competency or license for such trade. However, no general, building, or residential contractor certified after 1973 shall act as, hold himself out to be, or advertise himself to be a roofing contractor unless he is certified or registered as a roofing contractor.

(4) When a certificateholder desires to engage in contracting in any area of the state, as a prerequisite therefor, he shall be required only to exhibit to the local building official, tax collector, or other person in charge of the issuance of licenses and building permits in the area evidence of holding a current certificate and to pay the fee for the occupational license and building permit required of other persons. However, a local construction regulation board may deny the issuance of a building permit to a certified contractor, or issue a permit with specific conditions, if the local construction regulation board has found such contractor, through the public hearing process, to be guilty of fraud or a willful building code violation within the county or municipality that the local construction regulation board represents or if the local construction regulation board has proof that such contractor, through the public hearing process, has been found guilty in another county or municipality within the past 12 months, of fraud or a willful building code violation and finds, after providing notice to the

contractor, that such fraud or violation would have been fraud or a violation if committed in the county or municipality that the local construction board represents. Notification of and information concerning such permit denial shall be submitted to the Department of Professional Regulation within 15 days after the local construction regulation board decides to deny the permit.

(5) The certificate is not transferable.

(6) The board shall, by rule, designate those types of specialty contractors which may be certified under this part act.

(7) The board shall, by July 1, 1987, adopt rules providing standards for certification of pollutant storage systems specialty contractors and by July 1, 1988, amend such rules to include persons who remove such systems. The Department of Environmental Regulation shall review and comment on such rules prior to adoption. The rules shall include, but not be limited to:

(a) Standards for operating as a pollutant storage systems specialty contractor.

(b) Requirements for certification as a pollutant storage systems specialty contractor.

(c) Requirements for certification without examination of pollutant storage systems specialty contractors for any person who has passed a local licensure examination, a licensure examination in another state, or a licensure examination of a national organization, which is at least as stringent as the examination adopted by the board.

(d) Requirements for certification without examination of pollutant storage systems specialty contractors for any certified mechanical contractor, any certified plumbing contractor, and any registered mechanical or plumbing contractor who has passed a local examination judged by the board to be at least as stringent as the equivalent state mechanical or plumbing contractor's examination, provided that such contractor has been certified prior to July 1, 1986, or has been registered and passed such local examination prior to July 1, 1986.

The board may use standards and examinations of national organizations if such standards and examinations are adequate to ensure competent installation and removal of pollutant storage tanks. All such standards and examinations shall be designed to ensure that leaks and other discharges are eliminated to the greatest extent possible.

(8)(a) Any person who has operated as a pollutant storage systems specialty contractor during the 5 years preceding September 1, 1986, shall receive within 30 days after written request a temporary certificate permitting such person to continue operating without certification until July 1, 1989, if such person:

1. Notifies the department in writing that he intends to continue such operation and submits an application fee set by the board not to exceed \$50; and

2. Provides a history of successful operation as a pollutant storage systems specialty contractor within such time period.

(b) A contractor seeking to be certified pursuant to paragraph (7)(d) shall receive within 30 days after written request a temporary certificate permitting such contractor to continue operating without certification until the board determines whether he qualifies for a certificate under paragraph (7)(d), provided that such contractor:

1. Notifies the department in writing that he intends to apply for certification under paragraph (7)(d); and

2. Provides the board sufficient information to determine that such contractor qualifies on the basis of certification or registration and the passage of an examination.

The board may revoke or refuse to issue such temporary certificate for violation of s. 489-127 or s. 489-129.

(9)(a) Effective October 1, 1986, notwithstanding any provision of this chapter to the contrary, no person shall engage in contracting as a pollutant storage systems specialty contractor unless such person is certified as a pollutant storage systems specialty contractor pursuant

to this part, nor shall any official authorized to issue building or other related permits issue a permit or permits for the installation of a pollutant storage tank unless such official ascertains that the applicant for such permit or permits is certified as a pollutant storage systems specialty contractor.

(b) The Department of Environmental Regulation may inspect the installation of any pollutant storage tank. Any person installing a pollutant storage tank after July 1, 1987, shall certify that such installation is in accordance with the standards adopted pursuant to s. 376-303. The Department of Environmental Regulation shall promulgate a form for such certification which shall at a minimum include:

1. A signed statement by the certified pollutant storage systems specialty contractor that such installation is in accordance with standards adopted pursuant to s. 376-303; and

2. Signed statements by the on site persons performing or supervising the installation of a pollutant storage tank, which statements shall be required of tasks that are necessary for the proper installation of such tank.

(c) The Department of Environmental Regulation shall, to the greatest extent possible, contract with local governments to provide for the administration of its responsibilities under this subsection. Such contracts may allow for administration outside the jurisdictional boundaries of a local government. However, no such contract shall be entered into unless the local government is deemed capable of carrying out such responsibilities to the satisfaction of the Department of Environmental Regulation.

2. To this end, the Department of Environmental Regulation shall inform local governments as to the provisions of this section and as to their options hereunder. At its option, any local government may apply to the Department of Environmental Regulation for such purpose, on forms to be provided by the Department of Environmental Regulation; and shall supply such information as the Department of Environmental Regulation may require.

(d) The Department of Environmental Regulation may enjoin the installation or use of any pollutant storage tank that has been or is being installed in violation of this part.

(e) The Department of Environmental Regulation shall establish a pilot program providing for inspections of pollutant storage tanks in a county of less than 200,000 population. The Department of Environmental Regulation shall adopt rules providing for such inspection program, which rules shall provide for an inspection prior to placing a pollutant storage tank in the excavation, an inspection after assembly but before connection to the tank, and an inspection prior to placing the pollutant storage tank in service. All such inspections shall be conducted pursuant to the standards adopted under s. 376-303. Inspection fees shall be set by rule and shall not exceed \$200 per pollutant storage tank, which fees shall fund the inspection program. The Department of Environmental Regulation may contract, pursuant to paragraph (c), with the county government to perform such inspections; in which case the county government shall receive the inspection fees to fund the program. The county government shall make application to the Department of Environmental Regulation for the administration of the program. If more than one county government applies, the Department of Environmental Regulation shall determine which county is most capable of administering the program and may contract with that county. If no county of less than 200,000 in population applies to administer the program by September 1, 1987, all counties in the state shall be eligible to administer the program, regardless of population. The county government shall not require any additional inspections, except for electrical inspections, of a pollutant storage tank installed during the term of the pilot inspection program. Such program shall be established within 30 days after execution of a contract with a county or, if no county applies by December 1, 1987, within 30 days after the date on which the Department of Environmental Regulation designates the county in which it will administer the program; but in any event no later than July 1, 1988. The program shall be continued for a period of 18 months. Within 3 months after the conclusion of this program, the Department of Environmental Regulation shall report to the Legislature on the results of the program.

(7)(10) If an eligible applicant fails any contractor's written examination, except the general and building contractors' examination, and provides the board with acceptable proof of lack of comprehension of written examinations, the applicant may petition the board to be administered a uniform oral examination, subject to the following conditions

(a) The applicant documents 10 years of experience in the appropriate construction craft

(b) The applicant files written recommendations concerning his competency in the appropriate construction craft

(c) The applicant is administered only one oral examination within a period of 1 year

(8)(11) Any public record of the board, when certified by the executive director of the board or his representative, may be received as prima facie evidence in any administrative or judicial proceeding

(12) The board shall, by January 1, 1989, adopt rules providing standards for registration of precision tank testers who precision test a pollutant storage tank. The Department of Environmental Regulation shall review and comment on such rules prior to adoption.

Section 8 Subsections (2), (3), (4), and (5) of section 489.115, Florida Statutes, are amended to read

489.115 Certification and registration, endorsement, renewals —

(2) The board shall certify as qualified for certification by endorsement any applicant who:

(a) Meets the requirements for certification as set forth in this section, has passed a national, regional, state, or United States territorial licensing examination that is substantially equivalent to the examination required by this part, and has satisfied the requirements set forth in s 489 111, or

(b) Holds a valid license to practice contracting issued by another state or territory of the United States, if the criteria for issuance of such license was substantially equivalent to the certification criteria that existed in this state at the time the license was issued. ~~adopt rules prescribing procedures for the certification or registration of contractors who have been licensed in states which have standards substantially similar to, or more stringent than, the standards of this state and who meet the other requirements established pursuant to this act.~~

(3)(a) Each certificateholder or registrant licensee who desires to continue as a certificateholder or registrant licensee shall renew his certificate and registration every 2 years. The department shall mail each certificateholder and registrant licensee an application for renewal

(b) The certificateholder or registrant licensee shall complete, sign, and forward the renewal application to the department, together with the appropriate fee. Upon receipt of the application and fee, the department shall renew the certificate or registration.

(4) As a prerequisite to the initial issuance or the renewal of a certificate, the applicant shall submit an affidavit on a form provided by the board attesting to the fact that the applicant satisfactory evidence that he has obtained public liability and property damage insurance for the safety and welfare of the public in amounts determined by rule of the board. The board shall by rule establish a procedure to verify the accuracy of such affidavits based upon a random sample method. In addition to the affidavit of insurance, as a prerequisite to the initial issuance of a certificate, and the applicant shall furnish evidence of financial responsibility, credit, and business reputation of either himself or the business organization he desires to qualify. The board shall adopt rules defining financial responsibility based upon the applicant's credit history, ability to be bonded, and any history of bankruptcy or assignment of receivers. Such rules shall specify the financial responsibility grounds on which the board may refuse to qualify an applicant for certification. If, within 60 days from the date the applicant is notified that he has qualified, he does not provide the evidence required, he shall apply to the department for an extension of time which shall be granted upon a showing of just cause

(5) An initial applicant shall, along with his application, and a certificateholder or registrant licensee shall, upon requesting a change of status, submit to the board a credit report from a nationally recognized credit agency that reflects the financial responsibility of the applicant or certificateholder or registrant licensee. The credit report required for the initial applicant shall be considered the minimum evidence necessary to satisfy the board that he is financially responsible to be certified, that he has the necessary credit and business reputation to engage in contracting in the state, and that he has the minimum financial stability necessary to avoid the problem of financial mismanagement or misconduct ~~diversion of funds~~. The board shall, by rule, adopt guidelines for determination of financial stability

Section 9 Subsections (4) and (5) of section 489 117, Florida Statutes, are amended to read

489 117 Registration —

(4) The application for a temporary registration license shall constitute appointment of the Department of State as an agent of the applicant for service of process in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to the practice of contracting for which the temporary license was issued

(5) A special registration shall be granted to a specialty contractor, as defined in subsection 489 105(12), whose work is limited to a specific phase of construction and whose responsibility is likewise limited to that particular phase of construction, provided local licensing is required for that specialty phase of construction

Section 10 Subsections (2), (3), (5), (6), and (7) of section 489 119, Florida Statutes, are amended to read

489 119 Business organizations, qualifying agents —

(2) If the applicant proposes to engage in contracting as a partnership, corporation, business trust, or other legal entity, the applicant shall apply through a qualifying agent, the application shall state the name of the partnership and of its partners, the name of the corporation and of its officers and directors, the name of the business trust and its trustees, or the name of such other legal entity and its members, and the applicant shall furnish evidence of statutory compliance if a fictitious name is used. Such application shall also show that the qualifying agent is legally qualified to act for the business organization in all matters connected with its contracting business and that he has authority to supervise construction undertaken by such business organization. A joint venture, including a joint venture composed of qualified business organizations, is itself a separate and distinct organization that must be qualified in accordance with board rules. The registration or certification, when issued upon application of a business organization, shall be in the name of the qualifying agent, and the name of the business organization shall be noted thereon. If there is a change in any information that is required to be stated on the application, the business organization shall, within 45 days after such change occurs, mail the correct information to the department

(3)(a) The qualifying agent shall be certified or registered under this part ~~act~~ in order for the business organization to be certified or registered in the category of the business conducted for which the qualifying agent is certified or registered. If any qualifying agent ceases to be affiliated with such business organization, he shall so inform the department. In addition, if such qualifying agent is the only certified or registered individual affiliated with the business organization, the business organization shall notify the department of the termination of the qualifying agent and shall have a minimum of 60 days from the termination of the qualifying agent's affiliation with the business organization in which to employ another qualifying agent. The business organization may not engage in contracting until a qualifying agent is employed

(b) The qualifying agent shall inform the department in writing when he proposes to engage in contracting in his own name or in

affiliation with another business organization, and he or such new business organization shall supply the same information to the department as required of applicants under this part ~~act~~.

(c) Upon a favorable determination by the board, after investigation of the financial responsibility, credit, and business reputation of the qualifying agent and the new business organization, the department shall issue, without an examination, a new certificate or registration in the qualifying agent's name, and the name of the new business organization shall be noted thereon

(5)(a) Each registered or certified contractor shall affix the number of his registration or certification to each application for a building permit and on each building permit issued and recorded. Each city or county building department shall require, as a precondition for the issuance of the building permit, that the contractor taking out the permit must provide verification giving his Construction Industry Licensing Board registration or certification ~~license~~ number

(b) The registration or certification number of each contractor shall appear in any newspaper, airwave transmission, phone directory, or other advertising medium used by that contractor

(6) Each qualifying agent shall pay the department an amount equal to the original fee for certification or registration of a new business organization ~~entity~~. If the qualifying agent for a business organization ~~entity~~ desires to qualify additional business organizations ~~entities~~, the board shall require him to appear before it and present evidence of ability and financial responsibility of each such organization ~~entity~~. The issuance of such certification or registration is discretionary with the board

(7) If a business organization ~~entity~~ or any of its partners, officers, directors, trustees, or members is fined for violating s 489.129(2), the board may, on that basis alone, deny issuance of a certificate or registration to a qualifying agent on behalf of that business organization ~~entity~~.

Section 11 Section 489 1195, Florida Statutes, is created to read  
489 1195 Responsibilities —

(1) A qualifying agent is a primary qualifying agent unless he is a secondary qualifying agent under this section. All primary qualifying agents for a business organization are jointly and equally responsible for supervision of all operations of the business organization, for all field work at all sites, and for financial matters, both for the organization in general and for each specific job.

(2) One of the qualifying agents for a business organization that has more than one qualifying agent may be designated as the sole primary qualifying agent for the business organization by a joint agreement that is executed, on a form provided by the board, by all qualifying agents for the business organization. The joint agreement must be submitted to the board for approval. If the board determines that the joint agreement is in good order, it shall approve the designation and immediately notify the qualifying agents of such approval. The designation made by the joint agreement is effective upon receipt of the notice by the qualifying agents. The qualifying agent designated for a business organization by a joint agreement is the sole primary qualifying agent for the business organization, and all other qualifying agents for the business organization are secondary qualifying agents.

(a) A designated sole primary qualifying agent has all the responsibilities and duties of a primary qualifying agent, notwithstanding that there are secondary qualifying agents for specified jobs. The designated sole primary qualifying agent is jointly and equally responsible with secondary qualifying agents for field work supervision

(b) A secondary qualifying agent is responsible only for

1 The supervision of field work at sites where his license was used to obtain the building permit, and

2 Any other work for which he accepts responsibility

A secondary qualifying agent is not responsible for supervision of financial matters

(3)(a) A qualifying agent who has been designated by a joint agreement as the sole primary qualifying agent for a business organization may terminate his status as such by giving actual notice to the business organization, to the board, and to all secondary qualifying agents of his intention to terminate his status. His notice to the board must include proof satisfactory to the board that he has given the notice required in this paragraph. The status of the qualifying agent shall cease upon the designation of a new primary qualifying agent or 60 days after satisfactory notice of termination has been provided to the board, whichever first occurs. If no new primary qualifying agent has been designated within 60 days, all secondary qualifying agents for the business organization shall become primary qualifying agents unless the joint agreement specifies that one or more of them shall become sole qualifying agents under such circumstances, in which case only they shall become sole qualifying agents

(b) Any change in the status of a qualifying agent is prospective only. A qualifying agent is not responsible for his predecessor's actions but is responsible, even after a change in status, for matters for which he was responsible while in a particular status

Section 12 Section 489 121, Florida Statutes, is amended to read

489 121 Emergency registration upon death of contractor—If an incomplete contract exists at the time of death of a contractor, the contract may be completed by any person even though not certified or registered. Such person shall notify the board, within 30 days after the death of the contractor, of his name and address, his knowledge of the contract, and his ability to complete it. If the board approves, he may proceed with the contract. For purposes of this section, an incomplete contract is one which has been awarded to, or entered into by, the contractor before his death, or on which he was the low bidder and the contract is subsequently awarded to him, regardless of whether any actual work has commenced under the contract before his death

Section 13 Section 489 127, Florida Statutes, is amended to read  
489 127 Prohibitions; penalties —

(1) No person shall

(a) Falsely hold himself out as a certificateholder or registrant ~~licensee~~,

(b) Falsely impersonate a certificateholder or registrant ~~licensee~~,

(c) Present as his own the certificate or registration of another,

(d) Give false or forged evidence to the board or a member thereof for the purpose of obtaining a certificate or registration,

(e) Use or attempt to use a certificate or registration which has been suspended or revoked, ~~or~~

(f) Engage in the business or act in the capacity of a contractor or advertise himself as available to engage in the business or act in the capacity of a contractor without being duly registered or certified; or -

(g) Operate a business organization engaged in contracting after 60 days following the termination of its only qualifying agent without designating another primary qualifying agent

(2) Any person who violates any of the provisions of subsection (1) ~~this part~~ is guilty of a misdemeanor of the first degree, punishable as provided in s 775 082, s 775 083, or s 775 084

(3) Each county or municipality may, at its option, designate one or more of its code inspectors, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of paragraph (1)(f), against persons who engage in activity for which certification or registration under this part is required

(a) A code inspector designated pursuant to this subsection may issue a citation for any violation of paragraph (1)(f) whenever, based upon personal investigation, the officer has reasonable and probable grounds to believe that such a violation has occurred

(b) A citation issued by a code inspector must be in a form prescribed by the local governing body of the county or municipality and must state the time and date of issuance, the name and address of the violator, the



date of the violation, a description of the violation, the name of the code inspector, and the timeframe during which the person charged must appear in court if the citation is appealed

(c) The act for which the citation is issued must be ceased upon receipt of the citation, and the person charged with the violation, or other person designated in writing by the person charged, may, within 3 days, exclusive of weekends and legal holidays, submit a written request to the enforcement or licensing board for an appearance before the enforcement or licensing board to challenge the validity of the citation, to show that the violation has been corrected, or to establish a time before which the violation must be corrected

1 Hearings by the enforcement or licensing board shall be conducted pursuant to the requirements of ss 162.07 and 162.08.

2 If the person charged, or his designated representative, shows that the citation is invalid or that the violation has been corrected prior to appearing before the enforcement or licensing board, the enforcement or licensing board shall dismiss the citation. If the violation is corrected within the time set by the enforcement or licensing board for correction, the enforcement or licensing board shall dismiss the citation, but if the violation has not been corrected within that time, the provisions of paragraph (d) apply.

3 If the enforcement or licensing board determines that the violation is irreparable or irreversible in nature, the enforcement or licensing board shall impose a civil penalty pursuant to paragraph (e)

4. Each day a willful, knowing violation continues shall constitute a separate offense under the provisions of this subsection.

(d)1. A person cited for a violation pursuant to this subsection is deemed to be charged with a noncriminal infraction and cited to appear in court, unless the citation is dismissed pursuant to the provisions of paragraph (c)

2 A person cited for a violation pursuant to this subsection may post a bond equal in amount to the applicable civil penalty established pursuant to paragraph (e) or sign and accept a citation indicating a promise to appear. If he refuses to post a bond or accept and sign the citation and does not submit a written request to the enforcement or licensing board for an appearance before the enforcement or licensing board pursuant to the provisions of paragraph (c), he is in violation of this act and shall be punished in accordance with paragraph (e)

3. If a person cited for a violation pursuant to this subsection pays the applicable civil penalty established pursuant to paragraph (e) before the date he is to appear in court, he shall have the option to admit the commission of the infraction or to indicate that he does not wish to contest the citation. If such a person forfeits the bond he has posted by not appearing at the designated time and location, he is deemed to have admitted the commission of the infraction

(e) The civil penalty required for the disposition of violations of this subsection shall be a fine not to exceed \$500. An enforcement or licensing board, upon notification by the code inspector that an order of the enforcement or licensing board has not been complied with by the set time or, upon finding that the same violation has been repeated by the same violator, may order the violator to pay a fine not to exceed \$250 for each day the violation continues past the date set for compliance or for each time the violation has been repeated, and a hearing shall not be necessary for issuance of the order. In determining the amount of the fine, if any, the enforcement or licensing board shall consider the following factors:

- 1 The gravity of the violation;
- 2 Any actions taken by the violator to correct the violation, and
- 3 Any previous violations committed by the violator

(f) This subsection does not authorize or permit a code enforcement officer to perform any function or duty of a law enforcement officer other than a function or duty that is authorized in this subsection

(g) The local governing body of the county or municipality may enact an ordinance establishing procedures for implementing this subsection.

(h) An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement or licensing board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement or licensing board. An appeal shall be filed within 30 days of the execution of the order to be appealed

(i) All notices required by this subsection shall be provided to the alleged violator by certified mail, return receipt requested, by hand delivery by the sheriff or other law enforcement officer or code inspector, or by leaving the notice at the violator's usual place of residence with some person of his family above 15 years of age and informing such person of the contents of the notice

(j) For those counties which enact ordinances to implement this subsection and which have local construction licensing boards or local government code enforcement boards, the local construction licensing board or local government code enforcement board shall be responsible for the administration of such citation program and training of investigators. The local governing body of the county shall enter into interlocal agreements with any municipalities in the county so that such municipalities may by ordinance, resolution, policy, or administrative order, authorize individuals to enforce the provisions of this section. Such individuals shall be subject to the requirements of training as specified by the local construction licensing board

~~(3) Any person who operates as a pollutant storage systems specialty contractor in violation of this part or any person who violates s. 489.113(4)(a) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 14 Section 489.129, Florida Statutes, is amended to read

489.129 Disciplinary proceedings —

(1) The board may revoke, suspend, or deny the issuance or renewal of the certificate or registration of a contractor, require financial restitution to a consumer, and impose an administrative fine not to exceed \$5,000, place a contractor on probation, require continuing education or reprimand or censure a contractor if the contractor, or if the business organization entity or any general partner, officer, director, trustee, or member of a business entity for which the contractor is a primary qualifying agent or is a secondary qualifying agent responsible under s. 489.1195, is found guilty of any of the following acts:

(a) Obtaining Upon proof that a certificate or registration has been obtained by fraud or misrepresentation.

(b) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting

(c) Violating Violation of chapter 455

(d) Willfully or deliberately disregarding and violating Willful or deliberate disregard and violation of the applicable building codes or laws of the state or of any municipalities or counties thereof.

(e) Performing any act which assists a person or entity in engaging in the prohibited uncertified and unregistered practice of contracting, if the certificateholder or registrant knows or has reasonable grounds to know that the person or entity was uncertified and unregistered. Aiding or abetting any uncertified or unregistered person to evade any provision of this act.

(f) Knowingly combining or conspiring with an uncertified or unregistered person by allowing his one's certificate or registration to be used by the any uncertified or unregistered person with intent to evade the provisions of this part act. When a certificateholder or registrant allows his certificate or registration to be used by one or more business organizations companies without having any active participation in the operations, management, or control of such business organizations companies, such act constitutes prima facie evidence of an intent to evade the provisions of this part act

(g) Acting in the capacity of a contractor under any certificate or registration issued hereunder except in the name of the certificateholder or registrant as set forth on the issued certificate or registration, or in accordance with the personnel of the certificateholder or registrant as set forth in the application for the certificate or registration, or as later changed as provided in this part act

(h) ~~Committing Financial~~ mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

1. Valid liens have been recorded against the property of a contractor's customer for supplies or services ordered by the contractor for the customer's job, the contractor has received funds from the customer to pay for the supplies or services, and the contractor has not had the liens removed from the property, by payment or by bond, within 30 days after the date of such liens

2. The contractor has abandoned a customer's job and the percentage of completion is less than the percentage of the total contract price paid to the contractor as of the time of abandonment, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess funds within 30 days after the date the job is abandoned

3. The contractor's job has been completed, and it is shown that the customer has had to pay more for the contracted job than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances beyond the control of the contractor, was the result of circumstances caused by the customer, or was otherwise permitted by the terms of the contract between the contractor and the customer

(i) ~~Being disciplined~~ ~~Disciplinary action~~ by any municipality or county for an act or violation of this part, which discipline action shall be reviewed by the state board before the state board takes any disciplinary action of its own

(j) ~~Failing~~ ~~Failure~~ in any material respect to comply with the provisions of this part act

(k) ~~Abandoning~~ ~~Abandonment~~ of a construction project in which the contractor is engaged or under contract as a contractor. A project is to be considered abandoned after 90 days if the contractor terminates the project without notification to the prospective owner and without just cause

(l) Signing a statement with respect to a project or contract falsely indicating that the work is bonded, falsely indicating that payment has been made for all subcontracted work, labor, and materials which results in a financial loss to the owner, purchaser, or contractor; or falsely indicating that workers' compensation and public liability insurance are provided.

(m) ~~Being found~~ ~~Upon proof that the licensee is~~ guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the practice of contracting

(n) ~~Proceeding on any job without obtaining applicable local building department permits and inspections.~~

(2) If a contractor disciplined under subsection (1) is a qualifying agent for a business organization entity and the violation was performed in connection with a construction project undertaken by that business organization entity, the board may impose an additional administrative fine not to exceed \$5,000 against the business organization entity or against any partner, officer, director, trustee, or member if such person participated in the violation or knew or should have known of the violation and failed to take reasonable corrective action.

(3) The board may specify by rule the acts or omissions which constitute violations of this section

(4) In recommending penalties in any proposed recommended final order, the department shall follow the penalty guidelines established by the board by rule. The department shall advise the hearing officer of the appropriate penalty, including mitigating and aggravating circumstances, and the specific rule citation

(5) ~~The board may not reinstate the certification or registration of, or cause a certificate or registration to be issued to, a person who the board has determined unqualified until it is satisfied that such person has complied with all the terms and conditions set forth in the final order and is capable of competently engaging in the business of contracting~~

Section 15 Section 489 131, Florida Statutes, is amended to read.

489 131 Applicability.—

(1) This part act applies to any contractor performing work for the state or any county or municipality. Officers of the state or any county or municipality shall determine compliance with this part act before awarding any contract for construction, improvement, remodeling, or repair.

(2) The state or any county or municipality shall ~~may~~ require that bids submitted for construction, improvement, remodeling, or repair of public buildings be accompanied by evidence that the bidder holds an appropriate certificate or registration, unless the work to be performed is exempt under s 489.103, or the contractor is not domiciled in this state and can satisfactorily show that he will comply with s 489 117(3)

(3) Nothing in this part act limits the power of a municipality or county

(a) To regulate the quality and character of work performed by contractors through a system of permits, fees, and inspections which is designed to secure compliance with and aid in the implementation of state and local building laws

(b) To enforce other laws for the protection of the public health and safety

(c) To collect occupational license and inspection fees for engaging in contracting or examination fees from persons who are registered with the board pursuant to local examination requirements. However, nothing in this part act shall be construed to require general contractors, building contractors, or residential contractors to obtain additional occupational licenses for specialty work when such specialty work is performed by employees of such contractors on projects for which they have substantially full responsibility and such contractors do not hold themselves out to the public as being specialty contractors

(d) To adopt any system of permits requiring submission to and approval by the municipality or county of plans and specifications for work to be performed by contractors before commencement of the work

(e) To require one a bond for each contractor ~~contractors~~ in an amount not to exceed \$5,000, which bond shall be conditioned only upon compliance with the applicable state minimum building code and applicable local building code requirements adopted pursuant to s 553 73. Any such bond must be equally available to all contractors without regard to the period of time a contractor has been certified or registered and without regard to any financial responsibility requirements. Any such bonds shall be payable to the Governor and filed in each county or municipality in which a building permit is requested. Bond reciprocity shall be granted statewide. All such bonds shall be included in meeting any financial responsibility requirements imposed by any statute or rule. Any contractor who provides a third party insured warranty policy in connection with a new building or structure for the benefit of the purchaser or owner shall be exempt from the bond requirements under this subsection with respect to such building or structure

(f) To refuse to issue permits or issue permits with specific conditions to a contractor who has committed multiple violations, when he has been disciplined for each of them by the board and when each disciplinary action has involved revocation or suspension of a license, imposition of an administrative fine of at least \$1,000, or probation, or to issue permits with specific conditions to a contractor who, within the previous 12 months, has had final action taken against him by the department or by a local board or agency which licenses contractors and has reported the action pursuant to paragraph (6)(c), for engaging in the business or acting in the capacity of a contractor without a license

(4) Nothing in this part ~~act~~ shall be construed to waive any requirement of any ~~existing~~ ordinance or resolution existing on October 1, 1979, of a board of county commissioners regulating the type of work required to be performed by a specialty contractor

(5) Any official authorized to issue building or other related permits shall, before issuing a permit, ascertain that the applicant contractor is certified or is registered in the area where the construction is to take place

(6)(a) Municipalities or counties may continue to provide examinations for their territorial area, provided that no examination is given to the holder of a certificate:

(b)(~~e~~) To engage in contracting in the territorial area, an applicant shall also be registered with the board:

(c)(~~b~~) Each local board or agency which licenses contractors transmits ~~monthly annually~~ during May to the board a report of any disciplinary action taken against contractors and of any administrative or disciplinary action taken against unlicensed persons for engaging in the business or acting in the capacity of a contractor including any cease and desist orders issued pursuant to s 489.113(2)(b) and any fine issued pursuant to s 489 127(3) ~~the licensee, and~~

(e) No examination is given the holder of a certificate

(7) The right to create local boards in the future by any municipality or county is preserved

(8) A Division I contractor, except as otherwise provided in this part, shall be responsible for any construction or alteration of a structural component of a building or structure. The term "structural component" is defined, for purposes of this subsection, to mean any vertical or horizontal load-bearing member of a structure which supports dead or live loads in addition to its own weight and includes, but is not limited to, a foundation, an exterior or interior load-bearing wall, a column, a column beam, a floor, and a roof structure. ~~No provision of this act shall be construed to permit a contractor to perform mechanical or plumbing work for which an examination for a certificate of competency or a license is required, unless such contractor holds such certificates of competency or such licenses as may be required by the appropriate local authority. If the appropriate local authority does not require a certificate of competency or a license for such trade, the provisions of this subsection do not apply.~~

Section 16 Section 489 133, Florida Statutes, is created to read

489 133 Pollutant storage systems specialty contractors, definitions; certification, restrictions.—

(1) As used in this part

(a) "Pollutant storage systems specialty contractor" means a contractor who installs or removes a pollutant storage tank

(b) "Pollutant storage tank" means a tank, together with associated piping or dispensing facilities, which is or could be used for the storage or supply of pollutants as defined in s 376 301 and which is required to be registered under chapter 17-61 of the Florida Administrative Code or for which notification must be submitted under Subtitle I of the Resource Conservation and Recovery Act

(c) "Tank" means any container other than one which is aboveground and either elevated or situated upon an impermeable surface, or which is located in an accessible underground area and either elevated or situated upon an impermeable surface therein, in such manner that any leak in such container may be readily detected.

(d) "Registered precision tank tester" means any precision tank tester who has registered with the department pursuant to subsection (2). This registration shall be exempt from the provisions of prior municipality, county, or development district registration, as required under s 489.117, and shall be registered on a statewide basis

(2) The board shall adopt rules providing standards for registration of precision tank testers who precision test a pollutant storage tank. The Department of Environmental Regulation shall review and comment on such rules prior to adoption.

(3) The board shall adopt rules providing standards for certification of pollutant storage systems specialty contractors and, by July 1, 1988, amend such rules to include persons who remove such systems. The board shall provide the proposed rules to the Department of Environmental Regulation for review and comment prior to adoption. The rules shall include, but not be limited to

(a) Standards for operating as a pollutant storage systems specialty contractor

(b) Requirements for certification as a pollutant storage systems specialty contractor

(c) Requirements for certification without examination of pollutant storage systems specialty contractors for any person who has passed a local licensure examination, a licensure examination in another state, or a licensure examination of a national organization, which is at least as stringent as the examination adopted by the board

(d) Requirements for certification without examination of pollutant storage systems specialty contractors for any certified mechanical contractor, any certified plumbing contractor, and any registered mechanical or plumbing contractor who has passed a local examination judged by the board to be at least as stringent as the equivalent state mechanical or plumbing contractor's examination, provided that such contractor has been certified prior to July 1, 1986, or has been registered and passed such local examination prior to July 1, 1986

(e) Requirements for certification by practical examination, demonstrating the ability to competently install or remove pollutant storage tanks, of pollutant storage systems specialty contractors for any person who has received a temporary certificate under paragraph (4)(a) and has operated as a pollutant storage systems specialty contractor since September 1, 1981, provided that such person pays for the actual cost of the practical examination

The board may use standards and examinations of national organizations if such standards and examinations are adequate to ensure competent installation and removal of pollutant storage tanks. All such standards and examinations shall be designed to ensure that leaks and other discharges are eliminated to the greatest extent possible

(4)(a) Any person who has operated as a pollutant storage systems specialty contractor during the 5 years preceding September 1, 1986, shall receive within 30 days after written request a temporary certificate permitting such person to continue operating without certification until July 1, 1989, if such person

1. Notifies the department in writing that he intends to continue such operation and submits an application fee set by the board not to exceed \$50

2. Provides a history of successful operation as a pollutant storage systems specialty contractor within such time period

(b) A contractor seeking to be certified pursuant to paragraph (3)(d) shall receive within 30 days after written request a temporary certificate permitting such contractor to continue operating without certification until the board determines whether he qualifies for a certificate under paragraph (3)(d), provided that such contractor

1. Notifies the department in writing that he intends to apply for certification under paragraph (3)(d)

2. Provides the board sufficient information to determine that such contractor qualifies on the basis of certification or registration and the passage of an examination

The board may revoke or refuse to issue such temporary certificate for violation of s 489 127 or s 489 129

(5)(a) Notwithstanding any provision of this part to the contrary, no person shall engage in contracting as a pollutant storage systems specialty contractor unless such person is certified as a pollutant storage systems specialty contractor pursuant to this part, nor shall any official authorized to issue building or other related permits issue a permit or permits for the installation or removal of a pollutant storage tank unless such official ascertains that the applicant for such permit or permits is certified as a pollutant storage systems specialty contractor.



(b) Any person installing a pollutant storage tank shall perform such installation in accordance with the standards adopted pursuant to s 376 303

(6) Any person who operates as a pollutant storage systems specialty contractor in violation of this section or any person who violates subsection (5) is guilty of a felony of the third degree, punishable as provided in s 775 082, s 775 083, or s 775 084

Section 17 Subsection (3) is added to section 376 303, Florida Statutes, to read:

376 303 Powers and duties of the Department of Environmental Regulation —

(3)(a) The department may inspect the installation of any pollutant storage tank Any person installing a pollutant storage tank, as defined in s 489 133, shall certify that such installation is in accordance with the standards adopted pursuant to this section. The department shall promulgate a form for such certification which shall at a minimum include

1 A signed statement by the certified pollutant storage systems specialty contractor, as defined in s 489 133, that such installation is in accordance with standards adopted pursuant to this section; and

2 Signed statements by the onsite persons performing or supervising the installation of a pollutant storage tank, which statements shall be required of tasks that are necessary for the proper installation of such tank

(b)1 The department shall, to the greatest extent possible, contract with local governments to provide for the administration of its responsibilities under this subsection Such contracts may allow for administration outside the jurisdictional boundaries of a local government. However, no such contract shall be entered into unless the local government is deemed capable of carrying out such responsibilities to the satisfaction of the department

2 To this end, the department shall inform local governments as to the provisions of this section and as to their options hereunder At its option, any local government may apply to the department for such purpose, on forms to be provided by the department, and shall supply such information as the department may require

(c) The department may enjoin the installation or use of any pollutant storage tank that has been or is being installed in violation of this section or of s 489 133

(d) The department shall establish a pilot program providing for inspections of pollutant storage tanks in a county of less than 300,000 population The department shall adopt rules providing for such inspection program, which rules shall provide for an inspection prior to placing a pollutant storage tank in the excavation, an inspection after assembly but before connection to the tank, and an inspection prior to placing the pollutant storage tank in service All such inspections shall be conducted pursuant to the standards adopted under this section Inspection fees shall be set by rule and shall not exceed \$200 per pollutant storage tank, which fees shall fund the inspection program The department may contract, pursuant to paragraph (b), with the county government to perform such inspections, in which case the county government shall receive the inspection fees to fund the program The county government shall make application to the department for the administration of the program If more than one county government applies, the department shall determine which county is most capable of administering the program and may contract with that county If no county of less than 300,000 population applies to administer the program by September 1, 1987, all counties in the state shall be eligible to administer the program, regardless of population The county government shall not require any additional inspections, except for electrical inspections, of a pollutant storage tank installed during the term of the pilot inspection program Such program shall be established within 30 days after execution of a contract with a county or, if no county applies by December 1, 1987, within 30 days after the date on which the department designates the county in which it will administer the program, but in any event no later than July 1, 1988 The program

shall be continued for a period of 18 months Within 3 months after the conclusion of this program, the department shall report to the Legislature on the results of the program

Section 18 (1) The Secretary of the Department of Professional Regulation shall appoint a committee to consider the basis and validity of complaints by consumers against persons who are engaged in the practice of contracting regulated under part I of chapter 489, Florida Statutes The committee shall focus on complaints involving

(a) Homestead property

(b) Actual financial harm to the person

(c) Statutory violations of part I of chapter 489, Florida Statutes, or of county or municipal practice acts, or unlicensed activity.

(2) The following persons shall be invited to serve on the committee

(a) The Director of the Division of Consumer Services in the Department of Agriculture and Consumer Services or his designee.

(b) A member of the Construction Industry Licensing Board who is certified under part I of chapter 489, Florida Statutes

(c) Two local building officials suggested by the Building Officials Association of Florida

(d) The secretary or his designee

(e) A certified Division I contractor who is primarily engaged in the construction of residential property

(f) A consumer who is not certified or registered under part I of chapter 489, Florida Statutes, and has no ongoing financial interests with any person who is so certified or registered

(g) A person suggested by the Florida League of Cities

(3) Members of the committee shall serve without compensation, but shall be entitled to receive reimbursement for per diem and traveling expenses as provided in s 112 061, Florida Statutes

(4) Notwithstanding the provisions of s 489 109(7), Florida Statutes, the committee shall be funded during the 1988-1989 fiscal year in the amount appropriated by the Legislature up to \$75,000 from the additional \$4 fee paid at the time of each contractor's biennial renewal of his certification or registration.

(5) On or before March 1, 1989, the secretary shall submit the committee's final findings and recommendations to the Legislature

(6) This section shall take effect July 1, 1988, or upon this act becoming a law, whichever occurs later

Section 19 Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s 11 61, Florida Statutes, and except as otherwise specifically provided herein, part I of chapter 489, Florida Statutes, shall not stand repealed on October 1, 1988, and shall continue in full force and effect as amended herein

Section 20 Part I of chapter 489, Florida Statutes, is repealed on October 1, 1998, and shall be reviewed by the Legislature pursuant to s 11 61, Florida Statutes

Section 21. Section 489 5331, Florida Statutes, is renumbered as section 768 0425, Florida Statutes, and amended to read

768 0425 Damages in actions against contractors for injuries sustained from negligence, malfeasance, or misfeasance — ~~489 5321 Civil remedies~~

(1) For purposes of this section only, the term "contractor" means any person who contracts to perform any construction or building service which is regulated by any state or local law, including, but not limited to, this chapter 489 and chapter 633, and the term "consumer" means a person who contracts for the performance of any construction or building service which is regulated by any state or local law, including, but not limited to, chapters 489 and 633

(2) In any action against a contractor for injuries sustained resulting from the contractor's negligence, malfeasance, or misfeasance, the consumer shall be entitled to three times the actual compensatory

damages sustained in addition to costs and attorney's fees if the contractor is neither certified as a contractor by the state nor licensed as a contractor pursuant to the laws of the municipality or county within which he is conducting business

Section 22 *Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s 11 61, Florida Statutes, and except as otherwise specifically provided herein, s 768 0425, Florida Statutes, shall not stand repealed on October 1, 1988, and shall continue in full force and effect as amended herein*

Section 23 *There is hereby appropriated to the Department of Professional Regulation from the Professional Regulation Trust Fund for the fiscal year 1988-1989 the sum of \$28,050 for the purpose of conducting the study provided for in section 20 of this act.*

Section 24. Except as otherwise provided herein, this act shall take effect October 1, 1988.

Rep. Lippman moved the adoption of the amendment.

Representative Martin offered the following amendment to the amendment

**Amendment 1 to Amendment 1**—On page 60, line 28, insert Section 18 Subsection (3) of section 376 317, Florida Statutes, as amended to read.

376 317 Superseded laws; state preemption —

(3) A county government is authorized to adopt countywide ordinances that regulate underground storage tanks, as described herein, which ordinances are more stringent or extensive than any state law or rule regulating such tanks, provided

(a) The original ordinance was ~~legally~~ adopted by the county and filed with the Secretary of State before July 1, 1987 and in force before September 1, 1984, or

(b) The ordinance establishing the local program was approved by the department

The department is authorized to adopt rules that permit any county government to establish, in accordance with s 403 182, a program regulating underground storage tanks, which program is more stringent or extensive than that established by any state law or rule regulating underground storage tanks. The department shall approve or deny a request by a county for approval of an ordinance establishing such a program according to the procedures and time limits of s 120 60. When adopting the rules, the department shall consider local conditions that warrant such more stringent or extensive regulation of underground storage tanks, including, but not limited to, the proximity of the county to a sole or single-source aquifer, the potential threat to the public water supply because of the proximity of underground storage tanks to public wells or ground water, or the detection of petroleum products in public or private water supplies. (renumber subsequent sections)

Rep. Martin moved the adoption of the amendment to the amendment, which was adopted

The question recurred on the adoption of Amendment 1, as amended, which was adopted.

Representative Lippman offered the following title amendment

**Amendment 2**—On page 1, line 2, through page 2, line 27, strike all language and insert. An act relating to the construction industry, amending s 489 101, F.S., providing purpose; amending s 489 103, F.S., providing for exemptions; amending s 489 105, F.S., providing definitions; amending s 489 107, F.S., providing for the membership, quorums, and probable cause panels of the Construction Industry Licensing Board; amending s 489 109, F.S., providing for renewals and fees; amending s. 489 111, F.S., providing for examinations; amending s 489 113, F.S., providing an enforcement mechanism with respect to persons engaged in contracting who are not certified or registered; amending s. 489 115, F.S.; providing for certification by endorsement; amending s 489 117, F.S., providing for issuance and renewal of certificates and registrations, amending s. 489 119, F.S.;

providing procedures for the certification or registration of business organizations, creating s 489 1195, F.S., providing responsibilities of primary and secondary qualifying agents, amending s 489 121, F.S., relating to emergency registration, amending s 489 127, F.S., prohibiting certain acts and prescribing civil penalties, allowing counties and municipalities to issue noncriminal citations to unlicensed persons, prescribing procedures, amending s 489 129, F.S., prohibiting certain acts and providing penalties therefor, prescribing powers and procedures relating to disciplinary penalties, amending s 489 131, F.S., relating to government bids, prescribing powers and duties of municipalities and counties, limiting the construction of structural components, creating s 489 133, F.S.; relating to pollutant storage systems specialty contractors, providing definitions, providing for rules, providing for certification by practical examination of certain persons, providing for temporary certificates, providing prohibitions, providing a penalty, amending s 376 303, F.S.; providing for powers and duties of the Department of Environmental Regulation with respect to pollutant storage tanks; requiring the department to establish a committee and to report to the Legislature on consumer complaints, providing for the funding of said committee, saving part 1 of chapter 489, F.S., from Sunset repeal, providing for future review and repeal, amending and renumbering s 489 5331, F.S., transferring provisions related to damages in actions against contractors for certain injuries, saving said section from Sunset repeal; providing an appropriation, providing an effective date

Rep. Lippman moved the adoption of the amendment.

Representative Martin offered the following title amendment to the amendment

**Amendment 1 to Amendment 2**—On page 2, line 16, insert after "tanks;" amending s 376 317, F.S., providing adoption requirements for original ordinance,

Rep. Lippman moved the adoption of the amendment to the amendment, which was adopted, without objection.

The question recurred on the adoption of Amendment 2, as amended which was adopted

On motion by Rep. Lippman, the rules were waived by two-thirds vote and CS/SB 155, as amended, was read the third time by title. On passage, the vote was

Yeas—114

The Chair	Frankel	Kelly	Rochlin
Abrams	Friedman	Kung	Rudd
Arnold	Frishe	Langton	Rush
Ascherl	Gardner	Lawson	Sample
Bainter	Glickman	Lewis	Sanderson
Banjamin	Gonzalez-	Liberti	Sansom
Bankhead	Quevedo	Lippman	Saunders
Bas	Goode	Locke	Shelley
Bell	Gordon	Logan	Silver
Bloom	Grindle	Lombard	Simon
Bronson	Guber	Long	Simone
Brown	Gustafson	Mackenzie	Smith
Burke	Gutman	Mackey	Souto
Burnsed	Hanson	Martin	Starks
Canady	Harden	Martinez	Stone
Carpenter	Hargrett	McEwan	Thomas
Casas	Harris	Meffert	Titone
Clark	Hawkins	Messersmith	Tobiasen
Clements	Healey	Metcalf	Tobin
Cosgrove	Hill	Mitchell	Trammell
Crady	Holland	Morse	Troxler
Crotty	Ireland	Mortham	Upchurch
Dantzier	Irvine	Nergard	Wallace
Davis	Jamerson	Ostrau	Webster
Deutsch	Jennings	Patchett	Wetherell
Diaz-Balart	Johnson, B. L.	Peebles	Wise
Drage	Johnson, R. C.	Reaves	Woodruff
Dunbar	Jones, C. F.	Rehm	Young
Figg	Jones, D. L.	Renke	

Nays—None

Votes after roll call

Yeas—Mills

Yeas to Nays—Clements

So the bill passed, as amended, and was immediately certified to the Senate after engrossment

**CS/HB 495**—A bill to be entitled An act relating to environmental regulation, amending s 376 303, F S, revising a date for the completion of certain forms necessary for participation in the Early Detection Incentive Program under the Department of Environmental Regulation, amending s 376.3071, F S, including payment of claims under the Florida Petroleum Liability Insurance Program as a statutory use of the Inland Protection Trust Fund, revising certain dates, creating s 376 3072, F S, creating the Florida Petroleum Liability Insurance Program to be administered by the Department of Environmental Regulation, providing for the scope and type of insurance coverage under the program, providing definitions, providing eligibility for participation, providing for premiums; specifying participant's liability under a certain type of coverage, authorizing department assessments of participants under certain circumstances, providing for self insurance, specifying criteria for self insurance; providing for the purchase of underwriting services and certain management services and tank registration compliance verification services by the department, providing for the reporting and handling of third-party liability claims, providing for rules, requiring the approval of the Department of Insurance to pay a dividend or refund, amending and renumbering s 526 3055, F S, providing that the department shall enforce certain provisions relating to the deposit of motor fuels into certain tanks; amending s 376 317, F S, revising criteria with respect to the authorization of county governments to adopt ordinances regulating underground storage tanks, amending s 376 319, F S, extending the time period for the statutory indemnification of certain response action contractors, directing the Department of Professional Regulation to adopt rules for the certification of response action contractors, providing appropriations to the Department of Environmental Regulation for contracting with counties for verification and enforcement of compliance with certain rules, and for contracting with businesses for certain services, directing the Department of Insurance to compile a report on the availability and cost of pollution liability insurance issued by private insurers, providing an effective date

—was read the second time by title

Representative Smith offered the following amendment

**Amendment 1**—Beginning on page 2, line 26, strike everything after the enacting clause and insert Section 1 Paragraph (a) of subsection (1) of section 376 303, Florida Statutes, is amended to read

376 303 Powers and duties of the Department of Environmental Regulation —

(1) The department has the power and the duty to

(a)1 Establish rules, including, but not limited to, construction standards, permitting or registration of tanks, maintenance and installation standards, and removal or disposal standards, to implement the intent of ss 376 30-376 319 and to regulate underground and aboveground facilities and their onsite integral piping systems not covered by ss 376 011-376 21 or by chapter 377 Stationary tanks with storage capacities of 550 gallons or less at nonresidential locations that contain pollutants shall, by December 31, 1987, be required to be registered The department shall develop a compliance verification program for chapter 17-61, Florida Administrative Code, which may include investigations or inspections to locate improperly abandoned tanks and which shall be implemented upon termination of the Early Detection Incentive Program established under s 376 3071(9) or December 31, 1987, whichever is earlier

2 Undertake a notification program for those underground tanks which are excluded from the definition of "facility" as set forth in s 376 301(4) solely by virtue of having a storage capacity of 550 gallons or less, and are not otherwise required to be registered, in order that such tanks may be located Pursuant thereto, the department shall develop postcard notification forms, which shall elicit the

following information the tank owner's name and current address, whether such person owns a storage tank or tanks which are totally or partially underground and which are being used, are intended to be used, or have been used for the storage or supply of any petroleum product, the number of such tanks owned; the number in active use; and the general location of each such tank Multiple copies of this form shall be mailed to every distributor and marketer of petroleum products in this state, who shall make such form available to his customers whenever such person has reason to believe the customer owns such a tank or tanks In addition, the department shall make such forms available to interested persons upon request. Any person who completes and returns such form before ~~December 31~~ ~~October 1,~~ 1988, may be eligible to participate in the Early Detection Incentive Program under s 376 3071(9).

Section 2 Paragraphs (g) and (h) of subsection (4) of section 376 3071, Florida Statutes, are amended, paragraph (i) is added to said subsection, and paragraph (a) of subsection (5), subsection (9), and paragraphs (b) and (c) of subsection (12) of said section are amended to read

376.3071 Inland Protection Trust Fund, creation, purposes, funding —

(4) USES—Whenever, in its determination, incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the environment or the public health, safety, or welfare, the department shall obligate moneys available in the fund to provide for

(g) Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health and Rehabilitative Services in providing field and laboratory services, toxicological risk assessment, and other assistance to the department in the investigation of drinking water contamination complaints, and

(h) Establishment of the compliance verification program as authorized in s. 376.303(1)(a)1 to minimize the potential for further contamination sites, and-

(i) Funding of the provisions of s 376 3072

(5) SITE SELECTION AND CLEANUP CRITERIA —

(a) The department shall establish criteria by rule for the purpose of prioritizing contamination sites based upon factors that include, but need not be limited to

1. The degree to which human health, safety, or welfare may be affected by exposure to the contamination;

2. The size of the population or area affected by the contamination

3. The present and future uses of the affected aquifer or surface waters, with particular consideration as to the probability that the contamination is substantially affecting, or will migrate to and substantially affect, a known public or private source of potable water, and

4. The effect of the contamination on the environment; and-

5. The amount of contamination cleanup tasks that an owner or operator will complete

Moneys in the fund shall then be obligated for activities described in paragraphs (4)(a)-(e) at individual sites in accordance with such established criteria However, nothing in this paragraph shall be construed to restrict the department from modifying the priority status of a rehabilitation site where conditions warrant

(9) EARLY DETECTION INCENTIVE PROGRAM —To encourage early detection, reporting, and cleanup of contamination from leaking petroleum storage systems, the department shall, within the guidelines established in this subsection, conduct an incentive program which shall provide for a 30-month ~~27 month~~ grace period ending on ~~December 31~~ ~~October 1,~~ 1988 Pursuant thereto

(a) The department shall establish reasonable requirements for the written reporting of petroleum contamination incidents and shall

following measures HBs 169, 185, 366, 627, 901, 1113, 1465 and CS/HB 266 which he approved on June 2, 1988

REPRESENTATIVE HODGES IN THE CHAIR

Messages from the Senate

*The Honorable Jon Mills, Speaker*

I am directed to inform the House of Representatives that the Senate returns CS/HB 495 as requested

*Joe Brown, Secretary*

CS/HB 495—A bill to be entitled An act relating to environmental regulation, amending s 376 303, F.S., extending the deadline for filing information with the Department of Environmental Regulation in order to participate in the Early Detection Incentive Program, amending s 376 3071, F.S., providing that moneys in the Inland Protection Trust Fund may be used to pay for the provisions of the Florida Petroleum Liability Insurance Program, providing a criterion by which the department establishes priority for the cleanup of contamination sites; extending the period of operation of the Early Detection Incentive Program; creating s 376 3072, F.S., creating the Florida Petroleum Liability Insurance Program to be administered by the Department of Environmental Regulation, specifying the scope and type of insurance coverage under the program, providing for the payment of restoration costs through the Inland Protection Trust Fund, providing eligibility for participation, providing for charging of premiums, specifying participant's liability under a certain type of coverage, authorizing department assessments of participants under certain circumstances, providing for self-insurance, specifying criteria for self-insurance, providing for disposition of the premiums collected, providing for the purchase of insurance management or underwriting services and certain management services and tank registration compliance verification services by the department, providing for the reporting of third-party liability claims, authorizing the department to adopt rules and to establish criteria for certain storage tanks, amending s 376 3073, F.S., requiring the department to contract with local governments to administer ss 376 3072 and 376.3077, F.S., under certain circumstances, transferring, renumbering, and amending s 526 3055, F.S.; requiring the department to enforce certain provisions relating to the deposit of motor fuels into certain tanks, authorizing the department to contract with the Department of Agriculture and Consumer Services to enforce such provisions, amending s 376 317, F.S., relating to approval or disapproval of requests to contract for compliance verification programs, amending s 376 319, F.S., extending the time period for the statutory indemnification of certain response action contractors, directing the Department of Professional Regulation to adopt rules for the certification of response action contractors; providing an exemption from certification, providing appropriations to the Department of Environmental Regulation for contracting with counties for verification and enforcement of compliance with certain rules, for contracting with businesses for certain services, and for implementation of the Florida Petroleum Liability Insurance Program, directing the Department of Insurance to compile a report on the availability and cost of pollution liability insurance issued by private insurers, providing an effective date

(House amendments shown on pages 1049-1054, *House Journal*, May 31)

On motion by Rep Smith, the House reconsidered the vote by which CS/HB 495 passed on May 31

On further motion by Rep Smith, the House reconsidered the vote by which Amendment 1, as amended, was adopted

On motion by Rep Martin the House reconsidered the vote by which Amendment 1 to Amendment 1 was adopted and, without objection, the amendment was withdrawn The question recurred on the adoption of Amendment 1, which was adopted

On further motion by Rep Smith, the House reconsidered the vote by which Amendment 2 was adopted

On motion by Rep Martin, the House reconsidered the vote by which Amendment 1 to Amendment 2 was adopted and, without objection, the amendment was withdrawn The question recurred on the adoption of Amendment 2, which was adopted

The question recurred on the passage of CS/HB 495 The vote was

Yeas—114

The Chair	Frankel	King	Renke
Abrams	Friedman	Langton	Rochlin
Arnold	Frishe	Lawson	Rudd
Ascherl	Gardner	Lewis	Rush
Baunter	Glickman	Liberti	Sample
Banjanin	Gonzalez-	Lippman	Sanderson
Bankhead	Quevedo	Locke	Sansom
Bass	Goode	Logan	Saunders
Bell	Grundle	Lombard	Shelley
Bloom	Guber	Long	Silver
Bronson	Gustafson	Mackenzie	Simon
Brown	Hanson	Mackey	Simone
Burke	Harden	Martin	Smith
Canady	Hargrett	Martinez	Souto
Carlton	Harris	McEwan	Starks
Carpenter	Hawkins	Meffert	Stone
Casas	Healey	Messersmith	Thomas
Clark	Hill	Metcalf	Titone
Clements	Holland	Mitchell	Tobiasen
Cosgrove	Holzendorf	Morse	Tobin
Crady	Ireland	Mortham	Trammell
Crotty	Irvine	Nergard	Troxler
Dantzler	Jamerson	Ostrau	Wallace
Davis	Jennings	Patchett	Webster
Deutsch	Johnson, B. L.	Peebles	Wetherell
Diaz-Balart	Johnson, R. C.	Press	Wise
Drage	Jones, C. F.	Reaves	Woodruff
Dunbar	Jones, D. L.	Reddick	Young
Figg	Kelly	Rehm	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment

*The Honorable Jon Mills, Speaker*

I am directed to inform the House of Representatives that the Senate has amended House Amendments 1 and 2, concurred in same as amended The Senate has refused to concur in House Amendment 1 to House Amendment 1, and House Amendment 1 to House Amendment 2 and requests the House to recede The Senate passed CS/SB 155 as further amended

*Joe Brown, Secretary*

**CS for SB 155**—A bill to be entitled An act relating to contracting; amending s 489 103, F.S., revising exemptions from regulation under part I, ch 489, F.S., amending s. 489 105, F.S., providing definitions applicable to said part, providing for regulation of persons who perform work with respect to hot tubs or spas and with respect to roof coating and persons who use fiberglass for sheet-metal type work, including underground utility contractors and specialty contractors among the categories of Division II contractors, amending s 489 107, F.S., revising composition of the Construction Industry Licensing Board, amending s 489 109, F.S., providing for regulatory fees, providing for the disposition of certain fees, requiring annual summaries of allocations by institution and of projects funded, amending s 489 111, F.S.; revising requirements for examination for certification, providing for cease and desist orders against persons who do not hold the required certification or registration, amending s 489 113, F.S., revising requirements for engaging in contracting in the state, amending s 489 115, F.S., providing for certification or registration as a contractor, revising requirements for licensure by endorsement, providing for renewal, amending s 489 117, F.S., revising requirements relating to temporary limited registration, amending s 489 119, F.S., providing for licensure of business organizations, including joint

ventures, providing for submission of bids by joint ventures, creating s 489 1195, F.S., prescribing classes of qualifying agents, defining responsibilities of such agents, amending s 489 129, F.S., providing grounds and penalties for disciplinary action, providing for recommendations by hearing officers concerning penalties, providing for reinstatement, amending s 489 131, F.S., providing for applicability of the part, providing for local examination to engage in contracting; permitting structural components of buildings to be constructed or altered only by Division I contractors, reviving and readopting ss. 489 101-489 107, 489 109-489 131, F.S., notwithstanding their scheduled repeal, providing for future review and repeal of ss 489 101-489 131, F.S.; reviving, readopting, transferring, and amending s 489.5331, F.S., relating to damages in certain actions against contractors; clarifying the application of said section, repealing s 16, ch 87-310, Laws of Florida, relating to Sunset termination of said section, providing an effective date

(House Amendment 1 and House Amendment 1 to House Amendment 1 attached to original bill and shown on pages 1035-1048, *House Journal*, May 31)

**House Amendment 2**—On page 1, line 2, through page 2, line 27, strike all language and insert An act relating to the construction industry, amending s 489.101, F.S., providing purpose; amending s. 489.103, F.S., providing for exemptions; amending s 489 105, F.S.; providing definitions; amending s 489 107, F.S., providing for the membership, quorums, and probable cause panels of the Construction Industry Licensing Board, amending s 489 109, F.S., providing for renewals and fees, amending s 489 111, F.S.; providing for examinations; amending s. 489.113, F.S., providing an enforcement mechanism with respect to persons engaged in contracting who are not certified or registered; amending s 489 115, F.S.; providing for certification by endorsement; amending s 489 117, F.S., providing for issuance and renewal of certificates and registrations, amending s 489 119, F.S., providing procedures for the certification or registration of business organizations, creating s 489 1195, F.S., providing responsibilities of primary and secondary qualifying agents, amending s 489 121, F.S., relating to emergency registration; amending s 489 127, F.S., prohibiting certain acts and prescribing civil penalties, allowing counties and municipalities to issue noncriminal citations to unlicensed persons, prescribing procedures; amending s 489 129, F.S., prohibiting certain acts and providing penalties therefor; prescribing powers and procedures relating to disciplinary penalties, amending s 489 131, F.S., relating to government bids, prescribing powers and duties of municipalities and counties, limiting the construction of structural components; creating s 489 133, F.S.; relating to pollutant storage systems specialty contractors, providing definitions, providing for rules; providing for certification by practical examination of certain persons, providing for temporary certificates, providing prohibitions, providing a penalty; amending s. 376.303, F.S.; providing for powers and duties of the Department of Environmental Regulation with respect to pollutant storage tanks, requiring the department to establish a committee and to report to the Legislature on consumer complaints; providing for the funding of said committee, saving part 1 of chapter 489, F.S., from Sunset repeal, providing for future review and repeal; amending and renumbering s. 489 5331, F.S., transferring provisions related to damages in actions against contractors for certain injuries, saving said section from Sunset repeal; providing an appropriation, providing an effective date

**House Amendment 1 to House Amendment 2**—On page 2, line 16, insert after "tanks;" amending s 376 317, F.S., providing adoption requirements for original ordinance,

**Senate Amendment 1 to House Amendment 1**—On page 63, lines 25 and 26, strike all of said lines and insert: Section 24 Paragraph (a) of subsection (1) of section 376 303, Florida Statutes, is amended to read.

376 303 Powers and duties of the Department of Environmental Regulation.—

(1) The department has the power and the duty to:

(a) Establish rules, including, but not limited to, construction standards, permitting or registration of tanks, maintenance and

installation standards, and removal or disposal standards, to implement the intent of ss 376 30-376 319 and to regulate underground and aboveground facilities and their onsite integral piping systems not covered by ss 376 011-376 21 or by chapter 377 Stationary tanks with storage capacities of 550 gallons or less at nonresidential locations that contain pollutants shall, by December 31, 1987, be required to be registered The department shall develop a compliance verification program for chapter 17-61, Florida Administrative Code, which may include investigations or inspections to locate improperly abandoned tanks and which shall be implemented upon termination of the Early Detection Incentive Program established under s. 376 3071(9) or December 31, 1987, whichever is earlier.

2 Undertake a notification program for those underground tanks which are excluded from the definition of "facility" as set forth in s 376 301(4) solely by virtue of having a storage capacity of 550 gallons or less, and are not otherwise required to be registered, in order that such tanks may be located Pursuant thereto, the department shall develop postcard notification forms, which shall elicit the following information: the tank owner's name and current address; whether such person owns a storage tank or tanks which are totally or partially underground and which are being used, are intended to be used, or have been used for the storage or supply of any petroleum product, the number of such tanks owned, the number in active use; and the general location of each such tank. Multiple copies of this form shall be mailed to every distributor and marketer of petroleum products in this state, who shall make such form available to his customers whenever such person has reason to believe the customer owns such a tank or tanks In addition, the department shall make such forms available to interested persons upon request Any person who completes and returns such form before ~~December 31~~ ~~October 1~~, 1988, may be eligible to participate in the Early Detection Incentive Program under s 376 3071(9)

Section 25. Paragraphs (g) and (h) of subsection (4) of section 376 3071, Florida Statutes, are amended, paragraph (i) is added to said subsection, and paragraph (a) of subsection (5), subsection (9), and paragraphs (b) and (c) of subsection (12) of said section are amended to read

376 3071 Inland Protection Trust Fund, creation; purposes, funding —

(4) USES.—Whenever, in its determination, incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the environment or the public health, safety, or welfare, the department shall obligate moneys available in the fund to provide for

(g) Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health and Rehabilitative Services in providing field and laboratory services, toxicological risk assessment, and other assistance to the department in the investigation of drinking water contamination complaints; and

(h) Establishment of the compliance verification program as authorized in s 376 303(1)(a)1 to minimize the potential for further contamination sites, and.

(i) Funding of the provisions of s 376 3072.

(5) SITE SELECTION AND CLEANUP CRITERIA.—

(a) The department shall establish criteria by rule for the purpose of prioritizing contamination sites based upon factors that include, but need not be limited to

1 The degree to which human health, safety, or welfare may be affected by exposure to the contamination;

2 The size of the population or area affected by the contamination,

3 The present and future uses of the affected aquifer or surface waters, with particular consideration as to the probability that the contamination is substantially affecting, or will migrate to and substantially affect, a known public or private source of potable water; and



4 The effect of the contamination on the environment, and -

5 The amount of contamination cleanup tasks that an owner or operator will complete

Moneys in the fund shall then be obligated for activities described in paragraphs (4)(a)-(e) at individual sites in accordance with such established criteria. However, nothing in this paragraph shall be construed to restrict the department from modifying the priority status of a rehabilitation site where conditions warrant.

(9) EARLY DETECTION INCENTIVE PROGRAM.—To encourage early detection, reporting, and cleanup of contamination from leaking petroleum storage systems, the department shall, within the guidelines established in this subsection, conduct an incentive program which shall provide for a 30-month ~~27-month~~ grace period ending on December 31 ~~October 1~~, 1988 Pursuant thereto.

(a) The department shall establish reasonable requirements for the written reporting of petroleum contamination incidents and shall distribute forms to registrants under s 376 303(1)(b) and to other interested parties upon request to be used for such purpose. Until such forms are available for distribution, the department shall take reports of such incidents, however made, but shall notify any person making such a report that a complete written report of the incident will be required by the department at a later time, the form for which will be provided by the department.

(b) When reporting forms become available for distribution, all sites involving incidents of contamination from petroleum storage systems initially reported to the department at any time from midnight on June 30, 1986, to midnight on December 31 ~~October 1~~, 1988, shall be qualified sites, provided that such a complete written report is filed with respect thereto within a reasonable time. Subject to the delays which may occur as a result of the prioritization of sites under paragraph (5)(a) for any qualified site, costs for activities described in paragraphs (4)(a)-(e) shall be absorbed at the expense of the fund, without recourse to reimbursement or recovery, with the following exceptions:

1 The provisions of this subsection shall not apply to any site where the department has been denied site access to implement the provisions of this section.

2 The provisions of this subsection shall not be construed to authorize or require reimbursement from the fund for costs expended prior to the beginning of the grace period, except as provided in subsection (12).

3 Upon discovery by the department that the owner or operator of a petroleum storage system has been grossly negligent in the maintenance of such petroleum storage system, has, with willful intent to conceal the existence of a serious discharge, falsified inventory or reconciliation records maintained with respect to the site at which such system is located, or has intentionally damaged such petroleum storage system, the site at which such system is located shall be ineligible for participation in the incentive program and the owner shall be liable for all costs due to discharges from petroleum storage systems at that site, any other provisions of chapter 86-159, Laws of Florida, to the contrary notwithstanding. For the purposes of this paragraph, willful failure to maintain inventory and reconciliation records, willful failure to make monthly monitoring system checks where such systems are in place, and failure to meet monitoring and retrofitting requirements within the schedules established under chapter 17-61, Florida Administrative Code, or violation of similar rules adopted by the Department of Natural Resources under this chapter, shall be construed to be gross negligence in the maintenance of a petroleum storage system.

If, in order to avoid prolonged delay, the department in its discretion deems it necessary to expend sums from the fund to cover ineligible sites or costs as set forth in this paragraph, the department may do so and seek recovery and reimbursement therefor in the same manner and in accordance with the same procedures as are established for recovery and reimbursement of sums otherwise owed to or expended from the fund.

(c) No report of a discharge made to the department by any person in accordance with this subsection, or any rules promulgated pursuant hereto, shall be used directly as evidence of liability for such discharge in any civil or criminal trial arising out of the discharge.

(d) The provisions of this subsection shall not apply to petroleum storage systems owned or operated by the Federal Government.

#### (12) REIMBURSEMENT FOR CLEANUP EXPENSES —

(b) Entitlement, conditions.—To accomplish this purpose, for sites initially reported on or prior to midnight on December 31 ~~October 1~~, 1988, any person conducting site rehabilitation under this subsection, either through his own personnel or through responsible response action contractors or subcontractors, shall be entitled to reimbursement from the fund at reasonable rates for allowable costs incurred on or after January 1, 1985, in connection with such site rehabilitation, subject to the following conditions:

1. Nothing in this subsection shall be construed to authorize reimbursement of any person or for any site excluded from participation in the Early Detection Incentive Program under subparagraph 1. or subparagraph 3. of paragraph (9)(b) or paragraph (9)(d).

2. The provisions of this subsection shall not apply to any site initially reported prior to July 1, 1986, where the department has initiated an administrative or civil enforcement action with respect to such site, unless the responsible party has, prior to July 1, 1986, undertaken, and made a reasonable effort to carry out, one or more of the following remedial actions at the site:

- a. Product recovery,
- b. Groundwater restoration, or
- c. Soil removal.

3. Reimbursement under this subsection shall not be considered a state contract and shall not be subject to the provisions of chapter 287.

4. Site rehabilitation shall be completed in accordance with cleanup criteria established by the department pursuant to paragraph (5)(b).

5. Procedural requirements of this subsection shall have been met.

(c) Procedure to initiate and conduct site rehabilitation.—Any person initiating site rehabilitation pursuant to this section between January 1, 1985, and December 31 ~~October 1~~, 1988, who intends to file for reimbursement shall submit written notice of such intent to the department prior to midnight on December 31 ~~October 1~~, 1988, together with documentation of site conditions prior to initiation of cleanup.

Within 60 days after receipt of such notice and sufficient documentation of site conditions prior to initiation of cleanup, the department shall determine whether the person is ineligible to apply for reimbursement under subparagraph (b)1. or subparagraph (b)2. and shall notify the applicant as to his eligibility in writing.

Section 26 Section 376 3072, Florida Statutes, is created to read:

#### 376 3072 Florida Petroleum Liability Insurance Program —

(1) PROGRAM OF INSURANCE.—There is hereby created the Florida Petroleum Liability Insurance Program to be administered by the Department of Environmental Regulation. The department shall establish the Florida Liability Insurance Program on or before January 1, 1989. The program must provide third-party liability insurance to qualified program participants for incidents of inland contamination related to the storage of petroleum products and must provide restoration for eligible sites of participants in the liability insurance program or sites of owners or operators who are eligible for self-insurance under the provisions of this section. The program may not participate in the Florida Insurance Guaranty Association Chapter 624 does not apply to the program. The program shall not be prohibited from recovering indemnities and expenses which are covered by the Florida Insurance Guaranty Association pursuant to coverage purchased by the program from a participating insurer.

(2) SCOPE AND TYPE OF COVERAGE.—The Florida Petroleum Liability Insurance Program must provide up to \$1 million of liability insurance for each incident of inland contamination related to the

storage of petroleum and petroleum products. The program shall have a \$500 deductible for third-party insurance to be paid by the insured for the first two premium years. The department shall adopt a deductible schedule for the remainder of the program that shall not exceed \$25,000 per year to be paid by the insured. The department shall issue policies to eligible owners and operators. In order to implement the restoration program, the department may contract with an insurance company, a reinsurance company, or an insurance consultant to issue policies, to verify compliance with this section, to determine reasonable rates for allowable costs, and to manage response action contractors. The purchase of the insurance services is not subject to chapter 287. An eligible site at which a discharge has occurred must be restored if the owner or operator of the site is a participant in the liability insurance program. The cost of restoration will be paid through the Inland Protection Trust Fund. The restoration must be conducted using the criteria and procedures established pursuant to s. 376.3071. The cost of restoration is limited to \$1 million. The restoration is subject to the same deductible scale as the liability insurance program. The \$1-million amount is a limitation and is meant to apply in the aggregate for all restoration costs or third-party claims arising from any one incident or occurrence. For purposes of this section, the term

(a) "Restoration" means rehabilitation of contaminated sites both on and off the property of the owner or operator of the petroleum storage system, and shall consist of investigation and assessment, cleanup of affected soil, groundwater and surface water in accordance with the site selection and cleanup criteria established by the department pursuant to s. 376.3071(5), and maintenance and monitoring of the contaminated sites. The term "restoration" also means the expeditious rehabilitation or replacement of potable water supplies as provided in s. 376.30(3)(c)1. The term "restoration" does not mean cost which may be associated with site rehabilitation, such as the cost of compliance with rules relating to stationary tanks adopted pursuant to s. 376.303.

(b) "Third-party liability" means the insured's liability, other than for restoration costs, for bodily injury or property damage caused by an incident of inland contamination related to the storage of petroleum or petroleum product.

(c) "Incident" means an accident, including continuous or repeated exposure to conditions, which is neither expected nor intended from the standpoint of the insured, and which results in third-party liability or in site conditions requiring restoration.

(3)(a) ELIGIBILITY FOR PARTICIPATION — Any owner or operator of a petroleum storage system, as defined in s. 376.301, who is subject to and in compliance with this chapter and the rules relating to stationary tanks adopted pursuant to s. 376.303 with respect to a particular location, as determined by the department, is eligible to participate in the Florida Petroleum Liability Insurance Program for that location. For purposes of this section, any owner or operator of a stationary storage tank that has a storage capacity of 550 gallons or less who otherwise meets the requirements adopted by the department under the rules relating to stationary tanks adopted pursuant to s. 376.303 is eligible to participate in the program. In order to participate in the program, an owner or operator must file an affidavit with the department, which affidavit states that the owner or operator has read and is familiar with this chapter and the rules relating to stationary tanks adopted pursuant to s. 376.303 and that his facility is in compliance with this chapter and the rules adopted pursuant to s. 376.303. The owner or operator must file the affidavit upon enrollment in the program and must file an affidavit each year upon the scheduled date of payment of the annual registration fee assessed pursuant to s. 376.303, or, upon the date of installation of the facility or enrollment in the program and each year thereafter, if the facility is a petroleum storage system that is not subject to the registration fee. The department may require an owner or operator to submit documentation that is certified as true and correct to verify compliance with this section.

(b) The failure of any owner or operator of a petroleum storage system to maintain compliance with this chapter and rules relating to stationary tanks adopted pursuant to s. 376.303 at any location will result in the cancellation of liability insurance provided through the

program for that location. For purposes of this paragraph, the department may, in its discretion, waive minor violations of this chapter or of rules adopted pursuant to s. 376.303, including, without limitation, violations of provisions relating to the form of inventory or reconciliation records or violations of registration requirements.

(c) The following owners or operators are not eligible to participate in the restoration program:

1. The Federal Government,

2. The owner or operator of a site upon which discharge is discovered prior to January 1, 1989; and

3. The owner or operator of a facility where the department has been denied site access.

(4) PREMIUMS FOR PARTICIPATION —

(a) The department may collect premiums for funding the Petroleum Liability Insurance Account of the Inland Protection Trust Fund from the owner or operator of any petroleum storage system participating in the program.

(b) The premium for each tank, for an owner or operator of a petroleum storage system at a location at which the requirements of rules relating to stationary tanks adopted pursuant to s. 376.303 have been fully implemented and which is in compliance with all monitoring, control, and reporting requirements, will be in an amount determined by the department and approved by the Department of Insurance.

(c) The premium for each tank, for an owner or operator at any location where the replacement or retrofit requirements of chapter 17-61 of the Florida Administrative Code are being met within the schedules established therein and all monitoring and reporting requirements are being complied with to the satisfaction of the department, will be in an amount determined by the department and approved by the Department of Insurance.

(d) The premium for each tank, for an owner or operator of a storage tank having a storage capacity of 550 gallons or less who is required to register the tank pursuant to s. 376.303, will be in an amount determined by the department and approved by the Department of Insurance if the owner or operator is in compliance with the criteria established by the department for such tanks.

(e) The department may establish reduced premiums as approved by the Department of Insurance for owners or operators of storage tanks who operate many facilities each of which are in compliance with this chapter and the rules relating to stationary tanks adopted pursuant to s. 376.303.

(f) The department may establish reduced premiums as approved by the Department of Insurance for owners or operators of storage tanks, based upon the relative degree of effectiveness of the storage tanks for protecting the environment.

(g) The department shall use the revenues derived from collection of the excise tax imposed pursuant to s. 206.9935(3) and the revenues derived from collection of the tank registration fees imposed pursuant to s. 376.303(1)(b) in order to provide the restoration provided under the Florida Petroleum Liability Insurance Program. An owner or operator of a petroleum storage system who elects to conduct site restoration is eligible for reimbursement at a reasonable rate for allowable expenses in accordance with the rule relating to reimbursement adopted pursuant to s. 376.303 and s. 376.3071. The payment of reimbursement claims must be in accordance with the rule relating to the priority of the payment of reimbursement adopted pursuant to s. 376.3071(5).

(h) The department shall use the premiums charged pursuant to this section and collected from the owners or operators of petroleum storage systems in order to provide, in an actuarially sound manner, pursuant to s. 627.062, the third-party liability insurance coverage under the Florida Petroleum Liability Insurance Program, to assure that owners and operators who are in compliance with state environmental requirements have the opportunity to obtain petroleum liability insurance.

**(5) PARTICIPANT'S LIABILITY FOR THIRD-PARTY LIABILITY INSURANCE COVERAGE —**

(a) The liability of each participant for the obligations of the Florida Petroleum Liability Insurance Program emanating from third-party liability shall be individual, several, and proportionate, but not joint, except as provided in this section

(b) Each policy issued by the Florida Petroleum Liability Insurance Program shall contain a statement of the contingent liability. Both the application for insurance and the policy shall contain, in contrasting color and in not less than 10-point type, the following statements: "This is a fully assessable policy. In the event the Florida Petroleum Liability Insurance Program is unable to pay its obligations, policyholders will be required to contribute on a pro rata earned premium basis the money necessary to meet any unfilled obligations."

(c) The Florida Petroleum Liability Insurance Program may assess from time to time policyholders, covered for third-party liability, liable therefor under the terms of their policies and pursuant to this section, or the department may assess the policyholders in the event of liquidation of the Florida Petroleum Liability Insurance Program

(d) Each policyholder's share of a deficiency for which an assessment is made shall be computed by applying to the premium earned on the participant's policy or policies during the period to be covered by the assessment the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to the assessment. In the event one or more policyholders fail to pay an assessment, the other policyholders are liable on a proportionate basis for an additional assessment. The Florida Petroleum Liability Insurance Program, acting on behalf of all policyholders who paid the additional assessment, shall institute legal action when necessary and appropriate to recover the assessment from policyholders who failed to pay it.

(e) In computing the earned premiums for the purposes of this section, the gross premium received by the Florida Petroleum Liability Insurance Program for the policy shall be used as a base, deducting therefrom solely charges not recurring upon the renewal or extension of the policy. This paragraph does not apply if the department contracts for liabilities pursuant to subsection (8).

(f) No policyholder shall have an offset against any assessment for which he is liable on account of any claim for unearned premium or losses payable.

(6) **SELF INSURANCE**—Any owner or operator of a petroleum storage system may elect not to participate in the Florida Petroleum Liability Insurance Program for third-party liability coverage if he demonstrates to the satisfaction of the department or its designee sufficient financial responsibility for such liabilities or if he meets United States Environmental Protection Agency tests for financial responsibility. An owner or operator who elects not to participate in the third-party liability coverage of the program is eligible for restoration insurance coverage under the program, if, prior to the occurrence of a discharge, a demonstration is made that the owner or operator is otherwise qualified.

**(7) DISPOSITION OF PREMIUMS —**

(a) All premiums collected by the department or its designee from participating owners and operators pursuant to this section must be deposited into the Liability Insurance Account of the Inland Protection Trust Fund to be used for the Florida Petroleum Liability Insurance Program. However, if the department contracts for services pursuant to subsection (8), the department shall use the premiums to pay contract fees and deposit the remainder of the premiums into the Liability Insurance Account of the Inland Protection Trust Fund.

(b) The Liability Insurance Account of the Inland Protection Trust Fund must be maintained separately from the portion of the fund used for the purposes established in s 376.3071(4)(a)-(h). The Liability Insurance Account may not be included as a part of the obligated or unobligated balance of the Inland Protection Trust Fund and must in all respects remain separate from that portion of the fund. A person may not execute against any portion of the Inland Protection Trust Fund or against the department, if the program has insufficient funds to pay any claim.

(8) **PURCHASE OF SERVICES AND REINSURING LIABILITIES**—The department is authorized to purchase from an insurance company, a reinsurance company, or an insurance consultant such insurance management or underwriting services, including, but not limited to, risk and claims control and legal defense investigation and adjustment services, as may be required to establish and maintain the third-party liability coverage of the Florida Petroleum Liability Insurance Program. The department may reinsure liabilities arising from third-party coverage with an insurance company, reinsurance company or through a reinsurance broker. This transaction is subject to approval by the Department of Insurance. The purchase of such insurance and management services is not subject to chapter 287.

(9) **REPORTING OF THIRD-PARTY LIABILITY CLAIMS**—All third-party liability claims related to a discharge of petroleum products by a qualified participant in the program must be filed with the secretary of the department or his designee.

**(10) RULES —**

(a) The department shall adopt rules for the proper management and maintenance of the Florida Petroleum Liability Insurance Program. In setting premium rates, the department shall receive the approval of the Department of Insurance.

(b) The Department of Insurance shall offer assistance as requested by the Department of Environmental Regulation in the development of necessary rules to implement the program.

(c) The department shall establish criteria for stationary storage tanks that have storage capacities of 550 gallons or less, that are required to be registered pursuant to s 376.303, and that are not agricultural tanks. Compliance with such criteria is not required, except for participation in the Florida Petroleum Liability Insurance Program. On and after September 1, 1989, an underground tank having a storage capacity of 550 gallons or less may not be installed unless it is required by the State Fire Marshal or it is protected against corrosion.

(11) **DIVIDENDS**—The Florida Petroleum Liability Insurance Program shall obtain the approval of the Department of Insurance prior to paying any dividend or refund to its policyholders. No such dividend or refund may be approved until 12 months after the last day of the fiscal year for which the dividend or refund is payable, or such later time as the insurance department may require in accordance with sound actuarial principles.

Section 27 Subsection (1) of section 376.3073, Florida Statutes, is amended to read:

**376.3073 Local programs for control of contamination —**

(1) The department shall, to the greatest extent possible, contract with local governments to provide for the administration of its departmental responsibilities under ss. s. 376.3071(4)(a)-(e), and (h), 376.3072, and 376.3077 through locally administered programs. However, no such contract shall be entered into unless the local government is deemed capable of carrying out such responsibilities to the department's satisfaction.

Section 28 Section 526.3055, Florida Statutes, is transferred, renumbered as section 376.3077, Florida Statutes, and amended to read:

~~376.3077~~ ~~526.3055~~ **Unlawful to deposit motor fuel in tank required to be registered; without proof of registration display**—It is unlawful for any person engaged in commerce in this state to sell any motor fuel and pump or otherwise deposit such motor fuel into a tank required to be registered under s 376.303 unless proof of valid registration is displayed on such tank itself or the dispensing or measuring device connected thereto or, where appropriate, in the office or kiosk of the facility where the tank is located. *The Department of Environmental Regulation shall enforce the provisions of this section pursuant to this chapter. The department may enter into an interagency agreement with the Department of Agriculture and Consumer Services to enforce the provisions of this section.*



Section 29 Subsection (3) of section 376.317, Florida Statutes, is amended to read

376.317 Superseded laws, state preemption —

(3) A county government is authorized to adopt countywide ordinances that regulate underground storage tanks, as described herein, which ordinances are the same as or more stringent or extensive than any state law or rule regulating such tanks, provided

(a) The original ordinance was legally adopted and in force before September 1, 1984, or

(b) The ordinance establishing a more stringent or extensive the local program is was approved by the department pursuant to subsection (4) after the county demonstrates to the department that it has effectively administered the state law or rules for a period of 2 years prior to filing a petition for approval. However, any county which has sought approval of a local tank program from the department prior to January 1, 1988, shall not be required to demonstrate that it has effectively administered the state program for any minimum period

(c) The department shall either approve or disapprove a request for a compliance verification program authorized pursuant to s 376.3073 within 90 days after receipt of the application. If the local government has adopted the department's stationary tank rule or a more stringent or extensive local tank program pursuant to this section, the department shall also approve or disapprove a request for delegation of enforcement responsibilities within 90 days after receipt of the application. If approved, the department shall provide full funding to carry out the delegated compliance and enforcement responsibilities. The department may not disapprove an application due to the population size of a county and may delegate compliance verification and enforcement to those local governments who agree to enforce the state's program jointly

(4) The department is authorized to adopt rules that permit any county government to establish, in accordance with s 403.182, a program regulating underground storage tanks, which program is more stringent or extensive than that established by any state law or rule regulating underground storage tanks. The department shall approve or deny a request by a county for approval of an ordinance establishing such a program according to the procedures and time limits of s 120.60. When adopting the rules, the department shall consider local conditions that warrant such more stringent or extensive regulation of underground storage tanks, including, but not limited to, the proximity of the county to a sole or single-source aquifer, the potential threat to the public water supply because of the proximity of underground storage tanks to public wells or ground water, or the detection of petroleum products in public or private water supplies.

Section 30 Section 376.319, Florida Statutes, is amended to read.

376.319 Response action contractors; indemnification —

(1) The department may agree to hold harmless and indemnify a response action contractor who has a written contract with the department, or who has a written contract with a local government which has contracted with the department to administer a program pursuant to chapter 86-159, Laws of Florida, for any civil damages to third parties

(a) That result from the acts or omissions of the response action contractor in carrying out a response action, and

(b) That are caused by a discharge or release of a hazardous substance, pollutant, or other contaminant from a site upon which the response action is being carried out

(2) The department, in determining whether or not to enter into hold-harmless and indemnification agreements, shall consider

(a) The availability of cost-effective insurance,

(b) The immediate need for the response action,

(c) The availability of qualified response action contractors; and

(d) Restricting the applicability of such agreements to exclude gross negligence or intentional conduct

(3) Any payment or cost, including the cost of defending such actions, which is incurred as a result of an agreement by the department to

hold harmless or indemnify shall be payable from the Water Quality Assurance Trust Fund or the Inland Protection Trust Fund, whichever is appropriate, based upon the nature of the discharge or release

(4) No state employee or employee of a political subdivision who provides services relating to a response action while acting within the scope of his authority as a governmental employee shall be personally liable for any actions undertaken by the department, the political subdivision, or a response action contractor pursuant to this act. However, nothing in this section shall affect the liability of any other person

(5) This section is repealed effective October 1, 1997 ~~1988~~, and shall be reviewed by the Legislature during the 1997 ~~1988~~ regular legislative session

Section 31. The Department of Professional Regulation shall, by January 1, 1989, adopt rules providing standards for the certification of response action contractors as defined in section 376.301, Florida Statutes, provided, however, that no certification shall be required for a professional engineer licensed under chapter 471, Florida Statutes. The Department of Environmental Regulation shall cooperate with the Department of Professional Regulation in the adoption of such rules and shall review and comment upon such rules prior to their adoption

Section 32 (1) There is hereby appropriated from the Inland Protection Trust Fund to the Department of Environmental Regulation the sum of \$4 million to provide the department with funds to contract with counties that have adopted department rules relating to stationary tanks pursuant to section 376.303, Florida Statutes, as the countywide stationary tank ordinance pursuant to section 376.317, Florida Statutes, or that have adopted a more stringent or extensive ordinance to verify and enforce compliance with department rules relating to stationary tanks adopted pursuant to section 376.303, Florida Statutes

(2) There is hereby appropriated from the Inland Protection Trust Fund to the Department of Environmental Regulation the sum of \$2 million to carry out the provisions of section 376.3072(2), Florida Statutes, and to pay for contracts for the tank verification program required in section 376.303, Florida Statutes

(3) There is hereby appropriated from the Liability Insurance Account of the Inland Protection Trust Fund the premium fee, as it is collected, authorized under section 376.3072(4), Florida Statutes, to carry out the provisions of section 376.3072(8), Florida Statutes

Section 33 The sum of \$161,566 is appropriated from the Inland Protection Trust Fund to the Department of Environmental Regulation to implement the Florida Petroleum Liability Insurance Program created pursuant to section 376.3072, Florida Statutes. The department is authorized to create six positions to carry out the provisions of the program

Section 34 The sum of \$60,000 is appropriated from the Inland Protection Trust Fund to the Department of Environmental Regulation to implement the local government compliance verification and enforcement program authorized by sections 376.3073 and 376.317, Florida Statutes. The department is authorized to create two positions to carry out the provisions of the program

Section 35 The Department of Insurance is hereby directed to compile a report on the availability and cost of pollution liability insurance issued by private insurers. The department shall submit this report to the President of the Senate and the Speaker of the House of Representatives on or before January 1, 1993

Section 36 Except as otherwise provided herein, this act shall take effect upon becoming a law. The Florida Petroleum Liability Insurance Program expires July 1, 1993

Senate Amendment 1 to House Amendment 2—In title, on page 2, line 24, after the semicolon insert amending s. 376.303, F.S., extending the deadline for filing information with the Department of Environmental Regulation in order to participate in the Early Detection Incentive Program, amending s 376.3071, F.S., providing that moneys in the Inland Protection Trust Fund may be used to pay for the provisions of the Florida Petroleum Liability Insurance Program, providing a criterion by which the department establishes

priority for the cleanup of contamination sites; extending the period of operation of the Early Detection Incentive Program, creating s 376.3072, F S, creating the Florida Petroleum Liability Insurance Program to be administered by the Department of Environmental Regulation, specifying the scope and type of insurance coverage under the program, providing for the payment of restoration costs through the Inland Protection Trust Fund; providing eligibility for participation; providing for charging of premiums; specifying participant's liability under a certain type of coverage, authorizing department assessments of participants under certain circumstances; providing for self-insurance, specifying criteria for self-insurance, providing for disposition of the premiums collected, providing for the purchase of insurance management or underwriting services and certain management services and tank registration compliance verification services by the department; providing for the reporting of third-party liability claims, authorizing the department to adopt rules and to establish criteria for certain storage tanks, amending s. 376.3073, F S; requiring the department to contract with local governments to administer ss 376.3072 and 376.3077, F S, under certain circumstances, transferring, renumbering, and amending s. 526.3055, F S, requiring the department to enforce certain provisions relating to the deposit of motor fuels into certain tanks, authorizing the department to contract with the Department of Agriculture and Consumer Services to enforce such provisions, amending s 376.317, F S; revising criteria regarding the authorization of county governments to adopt ordinances regulating underground storage tanks; amending s. 376.319, F S.; extending the time period for the statutory indemnification of certain response action contractors, directing the Department of Professional Regulation to adopt rules for the certification of response action contractors, providing an exemption from certification, providing appropriations to the Department of Environmental Regulation for contracting with counties for verification and enforcement of compliance with certain rules, for contracting with businesses for certain services, and for implementation of the Florida Petroleum Liability Insurance Program, directing the Department of Insurance to compile a report on the availability and cost of pollution liability insurance issued by private insurers,

On motion by Rep. Martin, the House refused to recede from House Amendment 1 to House Amendment 1 and again requested the Senate to concur therein

On further motions by Rep Martin, the House refused to concur in Senate Amendment 1 to House Amendment 1 and Senate Amendment 1 to House Amendment 2 and requested the Senate to recede therefrom

THE SPEAKER IN THE CHAIR

Subsequently, on motion by Rep Gardner the House returned to further consideration of CS/SB 155

On further motion by Rep Gardner, the House refused to recede from House Amendment 1 to House Amendment 2, and again requested the Senate to concur therein

The question recurred on the passage of CS/SB 155 The vote was Yeas—118

The Chair	Caas	Garcia	Healey
Abrams	Clark	Gardner	Hill
Arnold	Clements	Glickman	Hodges
Ascherl	Cosgrove	Gonzalez-	Holland
Bainter	Crady	Quevedo	Holzendorf
Banjamin	Crotty	Goode	Ireland
Bankhead	Dantzler	Gordon	Irvine
Bass	Davis	Grindle	Jamerson
Bell	Deusch	Guber	Jennings
Bloom	Diaz-Balart	Gustafson	Johnson, B L
Bronson	Drage	Gutman	Johnson, R C
Brown	Dunbar	Hanson	Jones, C F
Burke	Figg	Harden	Jones, D L
Canady	Frankel	Hargrett	Kelly
Carlton	Friedman	Harris	King
Carpenter	Frishe	Hawkins	Langton

Lawson	Messersmith	Rochlin	Stone
Lewis	Metcalf	Rudd	Thomas
Liberti	Mitchell	Rush	Titone
Lippman	Morse	Sample	Tobiassen
Locke	Mortham	Sanderson	Tobin
Logan	Nergard	Sansom	Trammell
Lombard	Ostrau	Saunders	Troxler
Long	Patchett	Shelley	Wallace
Mackenzie	Peeples	Silver	Webster
Mackey	Press	Simon	Wetherell
Martin	Reaves	Simone	Wise
Martinez	Reddick	Smith	Woodruff
McEwan	Rehm	Souto	Young
Meffert	Renke	Starks	

Nays—None

So the bill passed, as amended The action, together with the bill and amendments thereto, was immediately certified to the Senate

The Honorable Jon Mills, Speaker

I am directed to inform the House of Representatives that the Senate has passed, as amended, CS/CS/SB 534 and requests the concurrence of the House

Joe Brown, Secretary

By the Committees on Appropriations and Health & Rehabilitative Services and Senator Myers—

CS for CS for SB 534—A bill to be entitled An act relating to public health, amending s 154.01, F S, restating the purposes for the operation of county public health units, defining three levels of county public health unit services as environmental, communicable disease control, and primary care services, providing contracting provisions and requirements between the Department of Health and Rehabilitative Services and the counties, amending s 154.011, F S, requiring counties to coordinate certain health care services with existing federal programs, amending s 154.02, F S; modifying the provisions governing the Public Health Unit Trust Fund; specifying expenditure report requirements and providing timeframes for reporting; amending s 154.04, F S, modifying provisions regarding public health unit personnel; requiring the employment of an environmental specialist; providing that public health unit personnel be employed by the Department of Health and Rehabilitative Services, amending s 154.331, F S; providing for the creation of independent health care special districts upon voter approval, redesignating county indigent health care districts as county health care special districts, providing for assessment of certain ad valorem taxes within such district, providing for a governing board for a health care special district, providing board membership, duties, and terms of office, requiring the board to prepare and adopt a budget, providing a means to dissolve the district subject to certain limitations, requiring the board to comply with certain reporting and filing requirements; amending s 409.266, F S; increasing the expenditure from the Public Medical Assistance Trust Fund to expand primary care programs, increasing the income level under which elderly and disabled persons may qualify for Medicaid services, in accordance with federal law, increasing the age level under which children may qualify for Medicaid benefits, in accordance with federal law, requiring a report by the Department of Health and Rehabilitative Services to the President of the Senate and the Speaker of the House of Representatives; providing disproportionate share reimbursement to certain hospitals, creating s 409.2673, F S, establishing a shared county and state health care program for specified low-income persons, providing for eligibility for the program; providing for funding the program, delineating state and county responsibility should the funds of either be depleted, requiring participating counties to maintain current health care efforts, providing for eligibility determination, specifying conditions for reimbursement to hospitals, providing for development and adoption of rules governing the program, creating the Shared County and State Program Trust Fund; creating shared county and state program trust funds in each county, providing an annual appropriation into the trust fund, amending section 73 of chapter 88-1, Laws of Florida, excluding

**Journal**  
**of the**  
**S E N A T E**  
**State of Florida**

---

**TWENTIETH REGULAR SESSION**  
**UNDER THE CONSTITUTION AS REVISED IN 1968**  
**APRIL 5 THROUGH JUNE 7, 1988**

---



Yeas—34

Beard	Gordon	Langley	Ros-Lehtinen
Brown	Grant	Lehtinen	Scott
Childers, D.	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crenshaw	Hill	McPherson	Weinstein
Deratany	Hollingsworth	Meek	Weinstock
Dudley	Jenne	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kiser	Plummer	

Nays—None

Vote after roll call.

Yea—Crawford, Jennings, Stuart

The Honorable John W Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 155 and requests the concurrence of the Senate

John B Phelps, Clerk

**CS for SB 155**—A bill to be entitled An act relating to contracting, amending s. 489.103, F.S., revising exemptions from regulation under part I, ch. 489, F.S., amending s. 489.105, F.S., providing definitions applicable to said part, providing for regulation of persons who perform work with respect to hot tubs or spas and with respect to roof coating and persons who use fiberglass for sheet-metal type work; including underground utility contractors and specialty contractors among the categories of Division II contractors, amending s. 489.107, F.S., revising composition of the Construction Industry Licensing Board; amending s. 489.109, F.S.; providing for regulatory fees, providing for the disposition of certain fees, requiring annual summaries of allocations by institution and of projects funded; amending s. 489.111, F.S., revising requirements for examination for certification; providing for cease and desist orders against persons who do not hold the required certification or registration; amending s. 489.113, F.S.; revising requirements for engaging in contracting in the state, amending s. 489.115, F.S., providing for certification or registration as a contractor; revising requirements for licensure by endorsement, providing for renewal, amending s. 489.117, F.S., revising requirements relating to temporary limited registration, amending s. 489.119, F.S., providing for licensure of business organizations, including joint ventures, providing for submission of bids by joint ventures; creating s. 489.1195, F.S., prescribing classes of qualifying agents; defining responsibilities of such agents, amending s. 489.129, F.S., providing grounds and penalties for disciplinary action, providing for recommendations by hearing officers concerning penalties; providing for reinstatement; amending s. 489.131, F.S., providing for applicability of the part, providing for local examination to engage in contracting; permitting structural components of buildings to be constructed or altered only by Division I contractors; reviving and readopting ss. 489.101-489.107, 489.109-489.131, F.S., notwithstanding their scheduled repeal, providing for future review and repeal of ss. 489.101-489.131, F.S., reviving, readopting, transferring, and amending s. 489.5331, F.S., relating to damages in certain actions against contractors; clarifying the application of said section; repealing s. 16, ch. 87-310, Laws of Florida, relating to Sunset termination of said section; providing an effective date

**Amendment 1**—On page 3, line 1, through page 40, line 8, strike all language and insert

Section 1 Section 489.101, Florida Statutes, is amended to read:

489.101 Purpose—The Legislature recognizes that the construction and home improvement industries are significant industries. Such industries may pose a danger of significant harm to the public when incompetent or dishonest contractors provide unsafe, unstable, or short-lived products or services. Therefore, it is necessary in the interest of the public health, safety, and welfare to regulate the construction industry.

Section 2. The introductory paragraph and subsections (2), (6), (7), (8), (9), and (11) of section 489.103, Florida Statutes, are amended to read:

489.103 Exemptions—This part act does not apply to:

(2) Any employee of a certificateholder or registrant licensee who is a subordinate of such certificateholder or registrant licensee if the employee does not hold himself out for hire or engage in contracting except as an employee

(6) The sale or installation of any finished products, materials, or articles of merchandise which are not fabricated into and do not become a permanent fixed part of the structure, except for spas or inground or aboveground swimming pools with a capacity in excess of 200 500 gallons, and for aboveground swimming pools with a capacity in excess of 200 gallons that involve excavation, plumbing, chemicals, or wiring of any appliance without a factory-installed electrical cord and plug This subsection shall not be construed to limit the exemptions provided in subsection (7)

(7) Owners of property when acting as their own contractor and providing all material supervision themselves, when building or improving farm outbuildings or one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale, or building or improving commercial buildings at a cost of under \$25,000 on such property for the occupancy or use of such owners and not offered for sale or lease In an action brought under this part act, proof of the sale or lease, or offering for sale or lease, of more than one such structure by the owner-builder within 1 year after completion of same is prima facie presumptive evidence that the construction was undertaken for purposes of sale or lease. This subsection does not exempt any person who is employed by such owner and who acts in the capacity of a contractor. To qualify for exemption under this subsection, an owner must personally appear and sign the building permit application The local permitting agency shall provide the person with a disclosure statement in substantially the following form

*Disclosure Statement*

State law requires construction to be done by licensed contractors. You have applied for a permit under an exemption to that law The exemption allows you, as the owner of your property, to act as your own contractor even though you do not have a license You must supervise the construction yourself You may build or improve a one- or two-family residence or a farm outbuilding You may also build or improve a commercial building at a cost of \$25,000 or less The building must be for your own use and occupancy It may not be built for sale or lease If you sell or lease more than one building you have built yourself within one year after the construction is complete, the law will presume that you built it for sale or lease, which is a violation of this exemption You may not hire an unlicensed person as your contractor Your construction must be done according to building codes and zoning regulations It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances

(8) Any construction, alteration, improvement, or repair carried on within the limits of any site the title to which is in the United States or with respect to which federal law supersedes this part act

(9) Any work or operation of a casual, minor, or inconsequential nature in which the aggregate contract price for labor, materials, and all other items is less than \$1,000, but this exemption does not apply:

(a) If the construction, repair, remodeling, or improvement is a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than \$1,000 \$500 for the purpose of evading this part act or otherwise.

(b) To a person who advertises that he is a contractor or otherwise represents that he is qualified to engage in contracting

(11) A registered architect or, engineer, or residential designer acting within the scope of his practice in his professional capacity or any person exempted by the law regulating architects and engineers, including persons doing design work as specified in s. 481.229(1)(b), provided, however, that an architect or engineer shall not act as a contractor unless properly licensed under this chapter

Section 3 Section 489.105, Florida Statutes, is amended to read:

489.105 Definitions—As used in this part act

- (1) "Board" means the Construction Industry Licensing Board
- (2) "Department" means the Department of Professional Regulation
- (3) "Contractor" means the person who is qualified for and responsible for the entire project contracted for and means, except as exempted in this part act, the person who, for compensation, undertakes to, sub-

mits a bid to, or does himself or by others construct, repair, alter, remodel, add to, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others. 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)-(n) ~~(d)-(m)~~.

(a) "General contractor" means a contractor whose services are unlimited as to the type of work which he may do, except as provided in this part act.

(b) "Building contractor" means a contractor whose services are limited to construction of commercial buildings and single-dwelling or multiple-dwelling residential buildings, which commercial or residential buildings do not exceed three stories in height, and accessory use structures in connection therewith or a contractor whose services are limited to remodeling, repair, or improvement of any size building if the services do not affect the structural members of the building.

(c) "Residential contractor" means a contractor whose services are limited to construction, remodeling, repair, or improvement of one-family, two-family, or three-family residences not exceeding two stories in height and accessory use structures in connection therewith.

(d) "Sheet metal contractor" means a contractor whose services are unlimited in the sheet metal trade and who has the experience, knowledge, and skill necessary for the manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, insulation, alteration, repair, servicing, or design, when not prohibited by law, of ferrous or nonferrous metal work of U S No 10 gauge or its equivalent or lighter gauge and of other materials, including, but not limited to, fiberglass, used in lieu thereof and of air-handling systems, including the setting of air-handling equipment and reinforcement of same and including the balancing of air-handling systems.

(e) "Roofing contractor" means a contractor whose services are unlimited in the roofing trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, when not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of all kinds of roofing, and waterproofing, and coating, except when coating is not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof.

(f) "Class A air conditioning contractor" means a contractor ~~any person~~ whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system, boiler and unfired pressure vessel systems, and all appurtenances, apparatus, or equipment used in connection therewith, and to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, and pneumatic control piping; to disconnect or reconnect power wiring on the load side of the disconnect switch and low voltage heating, ventilating, and air conditioning control wiring; and to install ~~installation of~~ a condensate drain from an air conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum or natural gas fuel lines within buildings, potable waterlines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring on the line side of the disconnect switch.

(g) "Class B air conditioning contractor" means a contractor ~~any person~~ whose services are limited to 25 tons of cooling and 500,000 Btu of heating in any one system in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system being installed under this classification, and to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping and; insulation of pipes, vessels, and ducts, to disconnect or reconnect power wiring on the load side of the disconnect switch and low voltage heating, ventilating, and air conditioning control

wiring, and to install, ~~and installation of~~ a condensate drain from an air conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum or natural gas fuel lines within buildings, potable waterlines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring on the line side of the disconnect switch.

(h) "Class C air conditioning contractor" means a contractor ~~any person~~ whose business is limited to the servicing of air conditioning, heating, or refrigeration systems, including duct alterations in connection with those systems he is servicing, and whose certification or registration, issued pursuant to this part, was valid on October 1, 1988. No person not previously registered or certified as a Class C air conditioning contractor shall be so registered or certified after October 1, 1988.

(i) "Mechanical contractor" means a contractor ~~any person~~ whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system, boiler and unfired pressure vessel systems, lift station equipment and piping, and all appurtenances, apparatus, or equipment used in connection therewith, and to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, pneumatic control piping, gasoline tanks and pump installations and piping for same, standpipes, air piping, vacuum line piping, oxygen lines, nitrous oxide piping, ink and chemical lines, fuel transmission lines, and natural gas fuel lines within buildings, to disconnect or reconnect power wiring on the load side of the disconnect switch and low voltage heating, ventilating, and air conditioning control wiring, and to install ~~installation of~~ a condensate drain from an air conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum or natural gas fuel lines within buildings, potable waterlines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(j) "Commercial pool/spa contractor" means a contractor ~~any person~~ whose scope of work involves, but is not limited to, the construction, repair, water treatment, and servicing of any swimming pool, or hot tub or spa, whether public, private, or otherwise, regardless of use. The scope of such work includes layout, excavation, operation of construction pumps for dewatering purposes, steelwork, installation of light niches, pouring of floors, gunting, fiberglassing, installation of tile and coping, installation of all perimeter and filter piping, installation of all filter equipment and chemical feeders of any type, plastering of the interior, pouring of decks, construction of equipment rooms or housing for pool equipment, and installation of package pool heaters. However, the scope of such work does not include direct connections to a sanitary sewer system or to potable waterlines.

(k) "Residential pool/spa contractor" means a contractor ~~any person~~ whose scope of work involves, but is not limited to, the construction, repair, water treatment, and servicing of any residential swimming pool, or hot tub or spa, regardless of use. The scope of such work includes layout, excavation, operation of construction pumps for dewatering purposes, steelwork, installation of light niches, pouring of floors, gunting, fiberglassing, installation of tile and coping, installation of all perimeter and filter piping, installation of all filter equipment and chemical feeders of any type, plastering of the interior, pouring of decks, installation of housing for pool equipment, and installation of package pool heaters. However, the scope of such work does not include direct connections to a sanitary sewer system or to potable waterlines.

(l) "Swimming pool/spa servicing contractor" means a contractor ~~any person~~ whose scope of work involves the servicing, repair, water treatment, including, but not limited to, the direct infusion of chlorine gas, and maintenance of any swimming pool, or hot tub or spa, whether public or private. The scope of such work may include any necessary piping and repairs, replacement and repair of existing equipment, or installation of new additional equipment as necessary. The scope of such work includes the reinstallation of tile and coping, repair and replacement of all piping, filter equipment, and chemical feeders of any type, replastering, repouring of decks, and reinstallation or addition of pool heaters.

(m) "Plumbing contractor" means a contractor whose contracting business consists of the execution of contracts requiring the experience, financial means, knowledge, and skill to install, maintain, repair, alter, extend, or, when not prohibited by law, design plumbing. A plumbing contractor may install, maintain, repair, alter, extend, or, when not prohibited by law, design the following without obtaining any additional local regulatory license, certificate, or registration sanitary drainage or storm drainage facilities, venting systems, public or private water supply systems; septic tanks; drainage and supply wells; swimming pool piping; irrigation systems; or solar heating water systems and all appurtenances, apparatus, or equipment used in connection therewith, including boilers and pressure process piping and including the installation of water, natural gas (excluding liquid petroleum gases), and storm and sanitary sewer lines; and water and sewer plants and substations. The scope of work of the plumbing contractor also includes the design, when not prohibited by law, and installation, maintenance, repair, alteration, or extension of air-piping, vacuum line piping, oxygen line piping, nitrous oxide piping, and all related medical gas systems; fire line standpipes and fire sprinklers to the extent authorized by law; ink and chemical lines; fuel oil and gasoline piping and tank and pump installation, except bulk storage plants; and pneumatic control piping systems, all in such a manner as to comply with all plans, specifications, codes, laws, and regulations applicable. The scope of work of the plumbing contractor shall apply to private property and public property, shall include any excavation work incidental thereto, and shall include the work of the specialty plumbing contractor. Such contractor shall subcontract, with a qualified contractor in the field concerned, all other work incidental to the work but which is specified herein as being the work of a trade other than that of a plumbing contractor. Nothing in this definition shall be construed to limit the scope of work of any specialty contractor certified pursuant to s. 489 113(6). *Nothing in this definition shall be construed to require certification or registration under this part of any authorized employee of a public natural gas utility or of a private natural gas utility regulated by the Public Service Commission, when disconnecting and reconnecting water lines in the servicing or replacement of an existing water heater*

(n) "Underground utility contractor" means a contractor whose services are limited to the construction, installation, and repair, on public or private property, of main sanitary sewer collection systems, main water distribution systems, and storm sewer collection systems, and the continuation of utility lines from 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. An underground utility contractor shall not install any piping that is an integral part of a fire protection system, as defined in s. 633 021(7) beginning at the point where the piping is used exclusively for such system

(4) "Primary qualifying agent" means a person who possesses the requisite skill, knowledge, and experience, and has the responsibility, to supervise, direct, manage, and control the contracting activities of the business organization entity with which he is connected, who has the responsibility to supervise, direct, manage, and control construction activities on a job for which he has obtained the building permit; and whose technical and personal qualifications have been determined by investigation and examination as provided in this part act, as attested by the department.

(5) "Secondary qualifying agent" means a person who possesses the requisite skill, knowledge, and experience, and has the responsibility to supervise, direct, manage, and control construction activities on a job for which he has obtained a permit, and whose technical and personal qualifications have been determined by investigation and examination as provided in this part, as attested by the department

(6)(6) "Contracting" means, except as exempted in this part act, engaging in business as a contractor

(7)(6) "Certificate" means a certificate of competency issued by the department as provided in this part act

(8)(7) "Certified contractor" means any contractor who possesses a certificate of competency issued by the department and who shall be allowed to ~~may~~ contract in any jurisdiction in the state without being required to fulfill the competency requirements of that jurisdiction

(9)(8) "Registration" means registration with the department as provided in this part act

(10)(9) "Registered contractor" means any contractor who has registered with the department pursuant to fulfilling the competency requirements in the jurisdiction for which the registration is issued. Registered contractors may contract only in such jurisdictions these areas.

(11)(10) "Certification" means the act of obtaining or holding a certificate of competency from the department as provided in this part act.

(12)(11) "Specialty contractor" means a contractor whose scope of work and responsibility is limited to a particular phase of construction or whose scope of work is limited to a subset of the activities described in the categories established in paragraphs (a)-(n) of subsection (3). Categories of specialty contractor shall be established by the board by rule and shall include, but not be limited to, asbestos abatement, solar, and specialty structure ~~any contractor who does not fall within the categories established in paragraphs (a)-(m) of subsection (3).~~

(12) "License" means a holder of a certificate issued pursuant to this act or a person registered pursuant to this act.

(13) "Local construction regulation board" means a board, composed of not fewer than three residents of a county or municipality, which the governing body of that county or municipality may create and appoint to maintain the proper standard of construction of that county or municipality.

(14) "Pollutant storage systems specialty contractor" means a contractor who installs a pollutant storage tank.

(15) "Pollutant storage tank" means a tank, together with associated piping or dispensing facilities, which is or could be used for the storage or supply of pollutants as defined in s. 376.301 and which is required to be registered under chapter 17-61 of the Florida Administrative Code or for which notification must be submitted under Subtitle I of the Resource Conservation and Recovery Act.

(16) "Tank" means any container other than one which is above-ground and either elevated or situated upon an impervious surface, or which is located in an accessible underground area and either elevated or situated upon an impervious surface therein, in such manner that any leak in such container may be readily detected.

(17) "Registered precision tank tester" means any precision tank tester who has registered with the department pursuant to s. 489.113(12). The registration shall be exempt from the provisions of prior municipality, county, or development district registration, as required under s. 489.117, and shall be registered on a statewide basis.

Section 4 Section 489 107, Florida Statutes, is amended to read:

489.107 Construction Industry Licensing Board.—

(1) To carry out the provisions of this part act, there is created within the Department of Professional Regulation the Construction Industry Licensing Board. Members and alternate members shall be appointed by the Governor, subject to confirmation by the Senate. *Effective October 1, 1988* Initially, the Governor shall appoint four members, each for a term of 1 year, five members, each for a term of 2 years, four members, each for a term of 3 years, and five members, each for a term of 4 years seven members and three alternate members, each for a term of 4 years, and seven members and two alternate members, each for a term of 3 years. Thereafter, successors shall be appointed for 4-year terms. A vacancy on the board shall be filled for the unexpired portion of the term in the same manner as the original appointment. No member shall serve more than two consecutive 4-year terms or more than 11 years on the board.

(2) The board shall consist of:

(a) ~~Seventeen regular~~ eighteen members, of whom

(a) ~~Four~~ Three are primarily engaged in business as general contractors,

(b) ~~Three~~ Three are primarily engaged in business as building contractors or residential contractors, however, at least one building contractor and one residential contractor shall be appointed,

(c) ~~One~~ One is primarily engaged in business as a roofing contractor,



(d)4. One is primarily engaged in business as a sheet metal contractor,

(e)6. One is primarily engaged in business as an air conditioning contractor,

(f)6. One is primarily engaged in business as a mechanical contractor,

(g)7. One is primarily engaged in business as a pool contractor,

(h)8. One is primarily engaged in business as a plumbing contractor;

(i)9. One is primarily engaged in business as an underground utility contractor;

(j)10. Two are lay persons who are not, and have never been, members or practitioners of a profession regulated by the board or members of any closely related profession; and

(k)11. Two are building officials of a municipality or county; and

(l) Six alternate members, of whom:

1. One is primarily engaged in business as a roofing contractor;

2. One is primarily engaged in business as a sheet metal contractor;

3. One is primarily engaged in business as an air conditioning contractor;

4. One is primarily engaged in business as a mechanical contractor;

5. One is primarily engaged in business as a pool contractor; and

6. One is primarily engaged in business as a plumbing contractor.

(3) To be eligible for appointment, each contractor member and alternate member must have been certified by the board to operate as a contractor in the category with respect to which he is appointed, be actively engaged in the construction business, and have been so engaged for a period of not less than 5 consecutive years before the date of his appointment. Each appointee must be a citizen and resident of the state.

(4) An alternate member may attend any meeting of the board, and, if the member and the corresponding alternate member are both present and voting, each shall have only one half vote; however, if either the member or the corresponding alternate member is absent, the member or alternate member present shall have one vote.

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

(a) Division I is comprised of the general contractor, building contractor, and residential contractor members of the board, one of the members appointed pursuant to paragraph (2)(j) subparagraph (i)(a)10, and one of the members appointed pursuant to paragraph (2)(k) subparagraph (2)(a)11, and has jurisdiction over the examination and regulation of general contractors, building contractors, and residential contractors

(b) Division II is comprised of the regular and alternate roofing contractor, sheet metal contractor, air conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility contractor members of the board, one of the members appointed pursuant to paragraph (2)(j) subparagraph (2)(a)10, and one of the members appointed pursuant to paragraph (2)(k) subparagraph (2)(a)11, and has jurisdiction over the examination and regulation of roofing contractors, sheet metal contractors, air conditioning contractors, mechanical contractors, pool contractors, plumbing contractors, and underground utility contractors.

(5)(6) Five members of Division I constitute a quorum, and five members of Division II constitute a quorum. The combined divisions shall meet together, at such times as the board deems necessary; but neither division, nor any committee thereof, shall take action on any matter under the jurisdiction of the other division. However, if either division is unable to obtain a quorum for the purpose of conducting disciplinary proceedings, it may request members of the other division, who are otherwise qualified to serve on the division unable to obtain a quorum, to join in its deliberations. Such additional members shall vote and count toward a quorum only during those disciplinary proceedings.

(6) The board shall establish at least one, but not more than two, probable cause panels for each division to meet the responsibilities set out in s. 455.225(3)

Section 5. Section 489.109, Florida Statutes, is amended to read:

489.109 Fees —

(1) The board, by rule, shall establish reasonable fees to be paid for applications, examination, certification and renewal, registration and renewal, and recordmaking and recordkeeping. Effective October 1, 1979, The fees shall be established as follows:

(a) With respect to an applicant for a certificate, the initial application and examination fee shall not exceed \$250, and the initial certification fee and the biennial renewal fee shall not exceed \$100, and

(b) With respect to an applicant for registration, the initial application fee shall not exceed \$50, and the initial certification fee and the biennial renewal fee shall not exceed \$50

Renewal fees for certificates and registrations shall be paid by June 30 of each biennial period. The fees required by the board on June 30, 1979, shall remain in effect through September 30, 1979. The board, by rule, may also establish penalty fees for late renewal not to exceed \$40 for certification and \$20 for \$10 registration for renewal applications made within 90 days after the end of the biennial period. The board shall establish fees which are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement this part act and the provisions of law with respect to the regulation of the construction industry.

(2) Failure to renew an active or voluntary inactive certificate or registration at the time of biennial renewal will result in the certificate or registration becoming involuntarily inactive. Failure to reactivate an involuntarily inactive certificate or registration after two consecutive renewal periods have lapsed will result in the certificate or registration becoming null and void without further action of the board. The department shall notify certificateholders and registrants who have failed to reactivate their certificates or registrations for a renewal period that such certificates or registrations shall become null and void if not renewed by the end of the second period.

(3) A certificate or registration which is involuntarily inactive may be reactivated by application to the department, including payment of an application fee for reactivation not to exceed \$100 as established by board rule, complying with any background investigation that may be required by the board, and upon payment of the current renewal fee for each biennium in which the certificate or registration was involuntarily inactive and the penalty fee.

(4) The department shall notify those certificateholders and registrants currently in an inactive status of the provisions of this section at the time of the next biennial renewal period.

(5) A certificateholder or registrant whose license has become null and void may reapply to the board for certification or registration. The board may waive education and experience requirements as promulgated by board rule upon reapplication, however, the board may require any additional current requirements for certification or registration, including reexamination. A certificate or registration which is inoperative because of failure to renew shall be restored on payment of the proper renewal fee, if the application for restoration is made within 90 days after June 30 of the renewal year. If the application for restoration is not made within the 90 day period, the fee for restoration shall be equal to the original application fee plus the renewal fee for each additional period the license has been delinquent; and in addition, the board may require reexamination of the applicant.

(6)(2) A person who is registered or holds a valid certificate from the board may go on voluntary inactive status during which time he shall not engage in contracting but may retain his certificate or registration on an inactive basis on payment of a biennial renewal fee during the inactive period, not to exceed \$20 per biennial period. To go off voluntary inactive status, such person shall be required only to pay the regular biennial renewal fee for certification or registration.

(7)(4) In addition to the fees provided in subsection (1) for application and renewal for certification and registration, all certificateholders and registrants ~~however~~ shall pay a fee of \$4 to the department at the time of application or biennial renewal. The funds shall be transferred at the end of each biennial licensing period to the Department of Education to fund projects relating to the building construction industry or continuing education programs offered to persons engaged in the building construction industry in Florida. The board shall, at the time the funds are

transferred, advise the Department of Education on the most needed areas of research or continuing education based on significant changes in the industry's practices or on the most common types of consumer complaints or on problem costing the state or local governmental entities substantial waste. The board's advice is not binding on the Department of Education. The Department of Education shall allocate for distribution in the following manner:

(a) ~~fifty percent of the funds to shall be allocated to fund research projects relating to the building construction industry in a graduate program in building construction in a Florida university and.~~

(b) ~~fifty percent of the funds to shall be apportioned among all accredited private and state universities and community colleges within the state offering approved courses in building construction, with each university or college receiving a pro rata share of such funds based upon the number of full-time building construction students enrolled at the institution. The Department of Education shall ensure the distribution of research reports and the availability of continuing education programs to all segments of the building construction industry to which they relate. The Department of Education shall cause a to be made to the board in October of each year, summarizing the allocation of the funds by institution and summarizing the new projects funded and the status of previously funded projects. Each institution receiving funds under this subsection shall utilize such funds for research projects relating to the building construction industry or for continuing education programs to be offered to those engaged in the building construction industry in Florida.~~

Section 6 Paragraph (c) of subsection (2) and paragraph (b) of subsection (3) of section 489.111, Florida Statutes, are amended to read

#### 489.111 Examinations.—

(2) A person shall be entitled to take the examination for the purpose of determining whether he is qualified to engage in contracting throughout this state if the person.

(c) Meets eligibility requirements according to one of the following criteria.

1 Has received a baccalaureate degree from an accredited 4-year college in the appropriate field of engineering, architecture, or building construction and has 1 year of proven experience in the category in which the person seeks to qualify. For the purpose of this part act, a minimum of 2,000 man-hours shall be used in determining full-time equivalency.

2 Has a total of at least 4 3 years of active experience as a workman who has learned his trade by serving an apprenticeship, or as a skilled workman who is able to command the rate of a mechanic in his particular trade, or as a and has at least 1 year of active experience at the level of foreman who is in charge of a group of workmen and usually is responsible to a superintendent or a contractor or his equivalent, provided, however, that at least 1 year of active experience shall be as a foreman.

3 Has a combination of not less than 1 year of experience as a foreman and not less than 3 years of credits for any accredited college-level courses; has a combination of not less than 1 year of experience as a skilled workman, 1 year of experience as a foreman, and not less than 2 years of credits for any accredited college level courses, or has a combination of not less than 2 years of experience as a skilled workman, 1 year of experience as a foreman, and not less than 1 year of credits for any accredited college-level courses. For the number of years of credits for any accredited college-level courses, the applicant shall show completion of an equal number of courses in the appropriate field of engineering, architecture, or building construction. All junior college or community college-level courses shall be considered accredited college-level courses.

4 a. An active certified residential contractor is eligible to take the building contractors' examination if he possesses a minimum of 3 years of proven experience in the classification in which he is certified.

b. An active certified residential contractor is eligible to take the general contractors' examination if he possesses a minimum of 4 years of proven experience in the classification in which he is certified.

c. An active certified building contractor is eligible to take the general contractors' examination if he possesses a minimum of 4 years of proven experience in the classification in which he is certified.

5 a. An active certified air conditioning Class C contractor is eligible to take the air conditioning Class B contractors' examination if he possesses a minimum of 3 years of proven experience in the classification in which he is certified.

b. An active certified air conditioning Class C contractor is eligible to take the air conditioning Class A contractors' examination if he possesses a minimum of 4 years of proven experience in the classification in which he is certified.

c. An active certified air conditioning Class B contractor is eligible to take the air conditioning Class A contractors' examination if he possesses a minimum of 1 year of proven experience in the classification in which he is certified.

6 a. An active certified swimming pool servicing contractor is eligible to take the residential swimming pool contractors' examination if he possesses a minimum of 3 years of proven experience in the classification in which he is certified.

b. An active certified swimming pool servicing contractor is eligible to take the swimming pool commercial contractors' examination if he possesses a minimum of 4 years of proven experience in the classification in which he is certified.

c. An active certified residential swimming pool contractor is eligible to take the commercial swimming pool contractors' examination if he possesses a minimum of 1 year of proven experience in the classification in which he is certified.

(3)

(b) When an applicant is found to be unqualified for a certificate license because of a lack of good moral character, the board shall furnish the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a rehearing and appeal.

Section 7 Section 489 113, Florida Statutes, is amended to read

#### 489 113 Qualifications for practice; restrictions.—

(1) Any person who desires to engage in contracting on a statewide basis shall, as a prerequisite thereto, establish his competency and qualifications to be certified pursuant to this part act. To establish his competency, a person shall pass the appropriate examination administered by the department. Any person who desires to engage in contracting on other than a statewide basis shall, as a prerequisite thereto, be registered pursuant to this part act, unless exempted by this part act. ~~Registration shall be required of specialty contractors when licensing is required by a county or municipality in which the specialty contractor practices.~~

(2) No person who is not certified or registered a licensee shall engage in the business of contracting in this state. 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.

(3) A contractor shall subcontract the electrical, mechanical, plumbing, roofing, sheet metal, commercial swimming pool, and air conditioning work for which a local examination for a certificate of competency or a license is required, unless such contractor holds a state certificate of competency or license of the respective trade category, as required by the appropriate local authority. However, a general, building, or residential contractor shall not be required to subcontract the installation of wood shingles, wood shakes, or asphalt or fiberglass shingle roofing materials on a new building of his own construction, and a general contractor shall not be required to subcontract structural swimming pool work. Further, a general contractor, on new site development work, site redevelopment work, mobile home parks, and commercial properties, shall not be required to subcontract the construction of the main sanitary sewer col-



lection system, the storm collection system, and the water distribution system, not including the continuation of utility lines from the mains to the buildings. Further, as to mobile home parks, the general contractor shall not be required to subcontract the continuation of utility lines from the mains, and the continuations are to be considered a part of the main sewer collection and main water distribution systems. This subsection does not apply if the local authority does not require a certificate of competency or license for such trade. However, no general, building, or residential contractor certified after 1973 shall act as, hold himself out to be, or advertise himself to be a roofing contractor unless he is certified or registered as a roofing contractor.

(4) When a certificateholder desires to engage in contracting in any area of the state, as a prerequisite therefor, he shall be required only to exhibit to the local building official, tax collector, or other person in charge of the issuance of licenses and building permits in the area evidence of holding a current certificate and to pay the fee for the occupational license and building permit required of other persons. However, a local construction regulation board may deny the issuance of a building permit to a certified contractor, or issue a permit with specific conditions, if the local construction regulation board has found such contractor, through the public hearing process, to be guilty of fraud or a willful building code violation within the county or municipality that the local construction regulation board represents or if the local construction regulation board has proof that such contractor, through the public hearing process, has been found guilty in another county or municipality within the past 12 months, of fraud or a willful building code violation and finds, after providing notice to the contractor, that such fraud or violation would have been fraud or a violation if committed in the county or municipality that the local construction board represents. Notification of and information concerning such permit denial shall be submitted to the Department of Professional Regulation within 15 days after the local construction regulation board decides to deny the permit.

(5) The certificate is not transferable.

(6) The board shall, by rule, designate those types of specialty contractors which may be certified under this part act.

(7) The board shall, by July 1, 1987, adopt rules providing standards for certification of pollutant storage systems specialty contractors and by July 1, 1988, amend such rules to include persons who remove such systems. The Department of Environmental Regulation shall review and comment on such rules prior to adoption. The rules shall include, but not be limited to:

(a) Standards for operating as a pollutant storage systems specialty contractor.

(b) Requirements for certification as a pollutant storage systems specialty contractor.

(c) Requirements for certification without examination of pollutant storage systems specialty contractors for any person who has passed a local licensure examination, a licensure examination in another state, or a licensure examination of a national organization, which is at least as stringent as the examination adopted by the board.

(d) Requirements for certification without examination of pollutant storage systems specialty contractors for any certified mechanical contractor, any certified plumbing contractor, and any registered mechanical or plumbing contractor who has passed a local examination judged by the board to be at least as stringent as the equivalent state mechanical or plumbing contractor's examination, provided that such contractor has been certified prior to July 1, 1986, or has been registered and passed such local examination prior to July 1, 1986.

The board may use standards and examinations of national organizations if such standards and examinations are adequate to ensure competent installation and removal of pollutant storage tanks. All such standards and examinations shall be designed to ensure that leaks and other discharges are eliminated to the greatest extent possible.

(8)(a) Any person who has operated as a pollutant storage systems specialty contractor during the 5 years preceding September 1, 1986, shall receive within 30 days after written request a temporary certificate permitting such person to continue operating without certification until July 1, 1989, if such person:

1. Notifies the department in writing that he intends to continue such operation and submits an application fee set by the board not to exceed \$50; and

2. Provides a history of successful operation as a pollutant storage systems specialty contractor within such time period.

(b) A contractor seeking to be certified pursuant to paragraph (7)(d) shall receive within 30 days after written request a temporary certificate permitting such contractor to continue operating without certification until the board determines whether he qualifies for a certificate under paragraph (7)(d), provided that such contractor:

1. Notifies the department in writing that he intends to apply for certification under paragraph (7)(d); and

2. Provides the board sufficient information to determine that such contractor qualifies on the basis of certification or registration and the passage of an examination.

The board may revoke or refuse to issue such temporary certificate for violation of s. 480.127 or s. 480.130.

(9)(a) Effective October 1, 1986, notwithstanding any provision of this chapter to the contrary, no person shall engage in contracting as a pollutant storage systems specialty contractor unless such person is certified as a pollutant storage systems specialty contractor pursuant to this part, nor shall any official authorized to issue building or other related permits issue a permit or permits for the installation of a pollutant storage tank unless such official ascertains that the applicant for such permit or permits is certified as a pollutant storage systems specialty contractor.

(b) The Department of Environmental Regulation may inspect the installation of any pollutant storage tank. Any person installing a pollutant storage tank after July 1, 1987, shall certify that such installation is in accordance with the standards adopted pursuant to s. 376.303. The Department of Environmental Regulation shall promulgate a form for such certification which shall at a minimum include:

1. A signed statement by the certified pollutant storage systems specialty contractor that such installation is in accordance with standards adopted pursuant to s. 376.303; and

2. Signed statements by the onsite persons performing or supervising the installation of a pollutant storage tank, which statements shall be required of tanks that are necessary for the proper installation of such tank.

(c)1. The Department of Environmental Regulation shall, to the greatest extent possible, contract with local governments to provide for the administration of its responsibilities under this subsection. Such contracts may allow for administration outside the jurisdictional boundaries of a local government. However, no such contract shall be entered into unless the local government is deemed capable of carrying out such responsibilities to the satisfaction of the Department of Environmental Regulation.

2. To this end, the Department of Environmental Regulation shall inform local governments as to the provisions of this section and as to their options hereunder. At its option, any local government may apply to the Department of Environmental Regulation for such purpose, on forms to be provided by the Department of Environmental Regulation, and shall supply such information as the Department of Environmental Regulation may require.

(d) The Department of Environmental Regulation may enjoin the installation or use of any pollutant storage tank that has been or is being installed in violation of this part.

(e) The Department of Environmental Regulation shall establish a pilot program providing for inspections of pollutant storage tanks in a county of less than 300,000 population. The Department of Environmental Regulation shall adopt rules providing for such inspection program, which rules shall provide for an inspection prior to placing a pollutant storage tank in the excavation, an inspection after assembly but before connection to the tank, and an inspection prior to placing the pollutant storage tank in service. All such inspections shall be conducted pursuant to the standards adopted under s. 376.303. Inspection fees shall be set by rule and shall not exceed \$300 per pollutant storage tank, which fees shall fund the inspection program. The Department of Environmental Regulation may contract, pursuant to paragraph (c), with the county government to perform such inspections, in which case the county government shall receive the inspection fees to fund the program. The county government shall make application to the Department of Environmental Regulation for the administration of the program. If more than one county

government applies, the Department of Environmental Regulation shall determine which county is most capable of administering the program and may contract with that county. If no county of less than 300,000 in population applies to administer the program by September 1, 1987, all counties in the state shall be eligible to administer the program, regardless of population. The county government shall not require any additional inspections, except for electrical inspections, of a pollutant storage tank installed during the term of the pilot inspection program. Such program shall be established within 30 days after execution of a contract with a county or, if no county applies by December 1, 1987, within 30 days after the date on which the Department of Environmental Regulation designates the county in which it will administer the program, but in any event no later than July 1, 1988. The program shall be continued for a period of 18 months. Within 3 months after the conclusion of this program, the Department of Environmental Regulation shall report to the Legislature on the results of the program.

(7)(10) If an eligible applicant fails any contractor's written examination, except the general and building contractors' examination, and provides the board with acceptable proof of lack of comprehension of written examinations, the applicant may petition the board to be administered a uniform oral examination, subject to the following conditions:

- (a) The applicant documents 10 years of experience in the appropriate construction craft.
- (b) The applicant files written recommendations concerning his competency in the appropriate construction craft.
- (c) The applicant is administered only one oral examination within a period of 1 year.

(8)(11) Any public record of the board, when certified by the executive director of the board or his representative, may be received as prima facie evidence in any administrative or judicial proceeding.

~~(12) The board shall, by January 1, 1988, adopt rules providing standards for registration of precision tank testers who precision test a pollutant storage tank. The Department of Environmental Regulation shall review and comment on such rules prior to adoption.~~

Section 8 Subsections (2), (3), (4), and (5) of section 489.115, Florida Statutes, are amended to read

489.115 Certification and registration, endorsement; renewals —

(2) The board shall certify as qualified for certification by endorsement any applicant who.

(a) Meets the requirements for certification as set forth in this section; has passed a national, regional, state, or United States territorial licensing examination that is substantially equivalent to the examination required by this part, and has satisfied the requirements set forth in s 489.111, or

(b) Holds a valid license to practice contracting issued by another state or territory of the United States, if the criteria for issuance of such license was substantially equivalent to the certification criteria that existed in this state at the time the license was issued ~~adopt rules prescribing procedures for the certification or registration of contractors who have been licensed in states which have standards substantially similar to, or more stringent than, the standards of this state and who meet the other requirements established pursuant to this act.~~

(3)(a) Each certificateholder or registrant licensee who desires to continue as a certificateholder or registrant licensee shall renew his certificate and registration every 2 years. The department shall mail each certificateholder and registrant licensee an application for renewal.

(b) The certificateholder or registrant licensee shall complete, sign, and forward the renewal application to the department, together with the appropriate fee. Upon receipt of the application and fee, the department shall renew the certificate or registration.

(4) As a prerequisite to the initial issuance or the renewal of a certificate, the applicant shall submit an affidavit on a form provided by the board attesting to the fact that the applicant satisfactory evidence that he has obtained public liability and property damage insurance for the safety and welfare of the public in amounts determined by rule of the board. The board shall by rule establish a procedure to verify the accuracy of such affidavits based upon a random sample method. In addition to the affidavit of insurance, as a prerequisite to the initial issuance

of a certificate, and the applicant shall furnish evidence of financial responsibility, credit, and business reputation of either himself or the business organization he desires to qualify. The board shall adopt rules defining financial responsibility based upon the applicant's credit history, ability to be bonded, and any history of bankruptcy or assignment of receivers. Such rules shall specify the financial responsibility grounds on which the board may refuse to qualify an applicant for certification. If, within 60 days from the date the applicant is notified that he has qualified, he does not provide the evidence required, he shall apply to the department for an extension of time which shall be granted upon a showing of just cause.

(5) An initial applicant shall, along with his application, and a certificateholder or registrant licensee shall, upon requesting a change of status, submit to the board a credit report from a nationally recognized credit agency that reflects the financial responsibility of the applicant or certificateholder or registrant licensee. The credit report required for the initial applicant shall be considered the minimum evidence necessary to satisfy the board that he is financially responsible to be certified, that he has the necessary credit and business reputation to engage in contracting in the state, and that he has the minimum financial stability necessary to avoid the problem of financial mismanagement or misconduct diversion of funds. The board shall, by rule, adopt guidelines for determination of financial stability.

Section 9 Subsections (4) and (5) of section 489.117, Florida Statutes, are amended to read.

489.117 Registration —

(4) The application for a temporary registration licensee shall constitute appointment of the Department of State as an agent of the applicant for service of process in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to the practice of contracting for which the temporary license was issued.

(5) A special registration shall be granted to a specialty contractor, as defined in subsection 489.105(12), whose work is limited to a specific phase of construction and whose responsibility is likewise limited to that particular phase of construction, provided local licensing is required for that specialty phase of construction.

Section 10 Subsections (2), (3), (5), (6), and (7) of section 489.119, Florida Statutes, are amended to read:

489.119 Business organizations, qualifying agents.—

(2) If the applicant proposes to engage in contracting as a partnership, corporation, business trust, or other legal entity, the applicant shall apply through a qualifying agent; the application shall state the name of the partnership and of its partners, the name of the corporation and of its officers and directors, the name of the business trust and its trustees, or the name of such other legal entity and its members; and the applicant shall furnish evidence of statutory compliance if a fictitious name is used. Such application shall also show that the qualifying agent is legally qualified to act for the business organization in all matters connected with its contracting business and that he has authority to supervise construction undertaken by such business organization. A joint venture, including a joint venture composed of qualified business organizations, is itself a separate and distinct organization that must be qualified in accordance with board rules. The registration or certification, when issued upon application of a business organization, shall be in the name of the qualifying agent, and the name of the business organization shall be noted thereon. If there is a change in any information that is required to be stated on the application, the business organization shall, within 45 days after such change occurs, mail the correct information to the department.

(3)(a) The qualifying agent shall be certified or registered under this part and in order for the business organization to be certified or registered in the category of the business conducted for which the qualifying agent is certified or registered. If any qualifying agent ceases to be affiliated with such business organization, he shall so inform the department. In addition, if such qualifying agent is the only certified or registered individual affiliated with the business organization, the business organization shall notify the department of the termination of the qualifying agent and shall have a minimum of 60 days from the termination of the qualifying agent's affiliation with the business organization in which to employ another qualifying agent. The business organization may not engage in contracting until a qualifying agent is employed.

(b) The qualifying agent shall inform the department in writing when he proposes to engage in contracting in his own name or in affiliation with another business organization, and he or such new business organization shall supply the same information to the department as required of applicants under this part act.

(c) Upon a favorable determination by the board, after investigation of the financial responsibility, credit, and business reputation of the qualifying agent and the new business organization, the department shall issue, without an examination, a new certificate or registration in the qualifying agent's name, and the name of the new business organization shall be noted thereon.

(5)(a) Each registered or certified contractor shall affix the number of his registration or certification to each application for a building permit and on each building permit issued and recorded. Each city or county building department shall require, as a precondition for the issuance of the building permit, that the contractor taking out the permit must provide verification giving his Construction Industry Licensing Board registration or certification license number.

(b) The registration or certification number of each contractor shall appear in any newspaper, airwave transmission, phone directory, or other advertising medium used by that contractor.

(6) Each qualifying agent shall pay the department an amount equal to the original fee for certification or registration of a new business organization entity. If the qualifying agent for a business organization entity desires to qualify additional business organizations entities, the board shall require him to appear before it and present evidence of ability and financial responsibility of each such organization entity. The issuance of such certification or registration is discretionary with the board.

(7) If a business organization entity or any of its partners, officers, directors, trustees, or members is fined for violating s. 489.129(2), the board may, on that basis alone, deny issuance of a certificate or registration to a qualifying agent on behalf of that business organization entity.

Section 11. Section 489.1195, Florida Statutes, is created to read:

489.1195 Responsibilities —

(1) A qualifying agent is a primary qualifying agent unless he is a secondary qualifying agent under this section. All primary qualifying agents for a business organization are jointly and equally responsible for supervision of all operations of the business organization, for all field work at all sites, and for financial matters, both for the organization in general and for each specific job.

(2) One of the qualifying agents for a business organization that has more than one qualifying agent may be designated as the sole primary qualifying agent for the business organization by a joint agreement that is executed, on a form provided by the board, by all qualifying agents for the business organization. The joint agreement must be submitted to the board for approval. If the board determines that the joint agreement is in good order, it shall approve the designation and immediately notify the qualifying agents of such approval. The designation made by the joint agreement is effective upon receipt of the notice by the qualifying agents. The qualifying agent designated for a business organization by a joint agreement is the sole primary qualifying agent for the business organization, and all other qualifying agents for the business organization are secondary qualifying agents.

(a) A designated sole primary qualifying agent has all the responsibilities and duties of a primary qualifying agent, notwithstanding that there are secondary qualifying agents for specified jobs. The designated sole primary qualifying agent is jointly and equally responsible with secondary qualifying agents for field work supervision.

(b) A secondary qualifying agent is responsible only for

The supervision of field work at sites where his license was used to obtain the building permit, and

2. Any other work for which he accepts responsibility.

A secondary qualifying agent is not responsible for supervision of financial matters.

(3)(a) A qualifying agent who has been designated by a joint agreement as the sole primary qualifying agent for a business organization may terminate his status as such by giving actual notice to the business

organization, to the board, and to all secondary qualifying agents of his intention to terminate his status. His notice to the board must include proof satisfactory to the board that he has given the notice required in this paragraph. The status of the qualifying agent shall cease upon the designation of a new primary qualifying agent or 60 days after satisfactory notice of termination has been provided to the board, whichever first occurs. If no new primary qualifying agent has been designated within 60 days, all secondary qualifying agents for the business organization shall become primary qualifying agents unless the joint agreement specifies that one or more of them shall become sole qualifying agents under such circumstances, in which case only they shall become sole qualifying agents.

(b) Any change in the status of a qualifying agent is prospective only. A qualifying agent is not responsible for his predecessor's actions but is responsible, even after a change in status, for matters for which he was responsible while in a particular status.

Section 12. Section 489.121, Florida Statutes, is amended to read

489.121 Emergency registration upon death of contractor—If an incomplete contract exists at the time of death of a contractor, the contract may be completed by any person even though not certified or registered. Such person shall notify the board, within 30 days after the death of the contractor, of his name and address, his knowledge of the contract, and his ability to complete it. If the board approves, he may proceed with the contract. For purposes of this section, an incomplete contract is one which has been awarded to, or entered into by, the contractor before his death, or on which he was the low bidder and the contract is subsequently awarded to him, regardless of whether any actual work has commenced under the contract before his death.

Section 13. Section 489.127, Florida Statutes, is amended to read

489.127 Prohibitions, penalties —

(1) No person shall:

(a) Falsely hold himself out as a certificateholder or registrant licensee

(b) Falsely impersonate a certificateholder or registrant licensee,

(c) Present as his own the certificate or registration of another,

(d) Give false or forged evidence to the board or a member thereof for the purpose of obtaining a certificate or registration,

(e) Use or attempt to use a certificate or registration which has been suspended or revoked, or

(f) Engage in the business or act in the capacity of a contractor or advertise himself as available to engage in the business or act in the capacity of a contractor without being duly registered or certified, or:

(g) Operate a business organization engaged in contracting after 60 days following the termination of its only qualifying agent without designating another primary qualifying agent.

(2) Any person who violates any of the provisions of subsection (1) ~~the part~~ is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Each county or municipality may, at its option, designate one or more of its code inspectors, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of paragraph (1)(f), against persons who engage in activity for which certification or registration under this part is required.

(a) A code inspector designated pursuant to this subsection may issue a citation for any violation of paragraph (1)(f) whenever, based upon personal investigation, the officer has reasonable and probable grounds to believe that such a violation has occurred.

(b) A citation issued by a code inspector must be in a form prescribed by the local governing body of the county or municipality and must state the time and date of issuance, the name and address of the violator, the date of the violation, a description of the violation, the name of the code inspector, and the timeframe during which the person charged must appear in court if the citation is appealed.

(c) The act for which the citation is issued must be ceased upon receipt of the citation, and the person charged with the violation, or

other person designated in writing by the person charged, may, within 3 days, exclusive of weekends and legal holidays, submit a written request to the enforcement or licensing board for an appearance before the enforcement or licensing board to challenge the validity of the citation, to show that the violation has been corrected, or to establish a time before which the violation must be corrected

1 Hearings by the enforcement or licensing board shall be conducted pursuant to the requirements of ss 162.07 and 162.08

2 If the person charged, or his designated representative, shows that the citation is invalid or that the violation has been corrected prior to appearing before the enforcement or licensing board, the enforcement or licensing board shall dismiss the citation. If the violation is corrected within the time set by the enforcement or licensing board for correction, the enforcement or licensing board shall dismiss the citation, but if the violation has not been corrected within that time, the provisions of paragraph (d) apply

3 If the enforcement or licensing board determines that the violation is irreparable or irreversible in nature, the enforcement or licensing board shall impose a civil penalty pursuant to paragraph (e).

4 Each day a willful, knowing violation continues shall constitute a separate offense under the provisions of this subsection.

(d)1 A person cited for a violation pursuant to this subsection is deemed to be charged with a noncriminal infraction and cited to appear in court, unless the citation is dismissed pursuant to the provisions of paragraph (c)

2 A person cited for a violation pursuant to this subsection may post a bond equal in amount to the applicable civil penalty established pursuant to paragraph (e) or sign and accept a citation indicating a promise to appear. If he refuses to post a bond or accept and sign the citation and does not submit a written request to the enforcement or licensing board for an appearance before the enforcement or licensing board pursuant to the provisions of paragraph (c), he is in violation of this act and shall be punished in accordance with paragraph (e)

3 If a person cited for a violation pursuant to this subsection pays the applicable civil penalty established pursuant to paragraph (e) before the date he is to appear in court, he shall have the option to admit the commission of the infraction or to indicate that he does not wish to contest the citation. If such a person forfeits the bond he has posted by not appearing at the designated time and location, he is deemed to have admitted the commission of the infraction.

(e) The civil penalty required for the disposition of violations of this subsection shall be a fine not to exceed \$500. An enforcement or licensing board, upon notification by the code inspector that an order of the enforcement or licensing board has not been complied with by the set time or, upon finding that the same violation has been repeated by the same violator, may order the violator to pay a fine not to exceed \$250 for each day the violation continues past the date set for compliance or for each time the violation has been repeated, and a hearing shall not be necessary for issuance of the order. In determining the amount of the fine, if any, the enforcement or licensing board shall consider the following factors

The gravity of the violation,

- 2 Any actions taken by the violator to correct the violation, and
- 3 Any previous violations committed by the violator

(f) This subsection does not authorize or permit a code enforcement officer to perform any function or duty of a law enforcement officer other than a function or duty that is authorized in this subsection

(g) The local governing body of the county or municipality may enact an ordinance establishing procedures for implementing this subsection

(h) An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement or licensing board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement or licensing board. An appeal shall be filed within 30 days of the execution of the order to be appealed

(i) All notices required by this subsection shall be provided to the alleged violator by certified mail, return receipt requested, by hand delivery by the sheriff or other law enforcement officer or code inspector, or by leaving the notice at the violator's usual place of residence with some person of his family above 15 years of age and informing such person of the contents of the notice

(j) For those counties which enact ordinances to implement this subsection and which have local construction licensing boards or local government code enforcement boards, the local construction licensing board or local government code enforcement board shall be responsible for the administration of such citation program and training of investigators. The local governing body of the county shall enter into interlocal agreements with any municipalities in the county so that such municipalities may by ordinance, resolution, policy, or administrative order, authorize individuals to enforce the provisions of this section. Such individuals shall be subject to the requirements of training as specified by the local construction licensing board.

~~(3) Any person who operates as a pollutant storage systems specialty contractor in violation of this part or any person who violates s. 489.113(9)(a) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 14. Section 489.129, Florida Statutes, is amended to read:

489.129 Disciplinary proceedings —

(1) The board may revoke, suspend, or deny the issuance or renewal of the certificate or registration of a contractor, require financial restitution to a consumer, and impose an administrative fine not to exceed \$5,000, place a contractor on probation, require continuing education or reprimand or censure a contractor if the contractor, or if the business organization entity or any general partner, officer, director, trustee, or ~~member of a business entity~~ for which the contractor is a primary qualifying agent or is a secondary qualifying agent responsible under s. 489.1195, is found guilty of any of the following acts

(a) Obtaining Upon proof that a certificate or registration has been obtained by fraud or misrepresentation.

(b) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting.

(c) Violating ~~Violation of~~ chapter 455.

(d) Willfully or deliberately disregarding and violating Willful or deliberate disregard and violation of the applicable building codes or laws of the state or of any municipalities or counties thereof

(e) Performing any act which assists a person or entity in engaging in the prohibited uncertified and unregistered practice of contracting, if the certificateholder or registrant knows or has reasonable grounds to know that the person or entity was certified and unregistered. Aiding or abetting any uncertified or unregistered person to evade any provision of this act

(f) Knowingly combining or conspiring with an uncertified or unregistered person by allowing his one's certificate or registration to be used by the any uncertified or unregistered person with intent to evade the provisions of this part act. When a certificateholder or registrant allows his certificate or registration to be used by one or more business organizations companies without having any active participation in the operations, management, or control of such business organizations companies, such act constitutes prima facie evidence of an intent to evade the provisions of this part act.

(g) Acting in the capacity of a contractor under any certificate or registration issued hereunder except in the name of the certificateholder or registrant as set forth on the issued certificate or registration, or in accordance with the personnel of the certificateholder or registrant as set forth in the application for the certificate or registration, or as later changed as provided in this part act.

(h) Committing Financial mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

1 Valid liens have been recorded against the property of a contractor's customer for supplies or services ordered by the contractor for the customer's job, the contractor has received funds from the customer to

pay for the supplies or services, and the contractor has not had the liens removed from the property, by payment or by bond, within 30 days after the date of such liens

2 The contractor has abandoned a customer's job and the percentage of completion is less than the percentage of the total contract price paid to the contractor as of the time of abandonment, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess funds within 30 days after the date the job is abandoned.

3. The contractor's job has been completed, and it is shown that the customer has had to pay more for the contracted job than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances beyond the control of the contractor, was the result of circumstances caused by the customer, or was otherwise permitted by the terms of the contract between the contractor and the customer.

(i) ~~Being disciplined~~ ~~Disciplinary action~~ by any municipality or county for an act or violation of this part, which discipline action shall be reviewed by the state board before the state board takes any disciplinary action of its own

(j) ~~Failing~~ Failure in any material respect to comply with the provisions of this part act.

(k) ~~Abandoning~~ Abandonment of a construction project in which the contractor is engaged or under contract as a contractor. A project is to be considered abandoned after 90 days if the contractor terminates the project without notification to the prospective owner and without just cause

(l) Signing a statement with respect to a project or contract falsely indicating that the work is bonded; falsely indicating that payment has been made for all subcontracted work, labor, and materials which results in a financial loss to the owner, purchaser, or contractor; or falsely indicating that workers' compensation and public liability insurance are provided

(m) ~~Being found~~ ~~Upon proof that the licensee is~~ guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the practice of contracting

(n) ~~Proceeding on any job without obtaining applicable local building department permits and inspections.~~

(2) If a contractor disciplined under subsection (1) is a qualifying agent for a business organization entity and the violation was performed in connection with a construction project undertaken by that business organization entity, the board may impose an additional administrative fine not to exceed \$5,000 against the business organization entity or against any partner, officer, director, trustee, or member if such person participated in the violation or knew or should have known of the violation and failed to take reasonable corrective action.

(3) The board may specify by rule the acts or omissions which constitute violations of this section.

(4) In recommending penalties in any proposed recommended final order, the department shall follow the penalty guidelines established by the board by rule. The department shall advise the hearing officer of the appropriate penalty, including mitigating and aggravating circumstances, and the specific rule citation

(5) The board may not reinstate the certification or registration of, or cause a certificate or registration to be issued to, a person who the board has determined unqualified until it is satisfied that such person has complied with all the terms and conditions set forth in the final order and is capable of competently engaging in the business of contracting.

Section 15. Section 489.131, Florida Statutes, is amended to read:

489.131 Applicability.—

(1) This part act applies to any contractor performing work for the state or any county or municipality. Officers of the state or any county or municipality shall determine compliance with this part act before awarding any contract for construction, improvement, remodeling, or repair.

(2) The state or any county or municipality shall may require that bids submitted for construction, improvement, remodeling, or repair of public buildings be accompanied by evidence that the bidder holds an

appropriate certificate or registration, unless the work to be performed is exempt under s 489.103, or the contractor is not domiciled in this state and can satisfactorily show that he will comply with s 489 117(3).

(3) Nothing in this part act limits the power of a municipality or county

(a) To regulate the quality and character of work performed by contractors through a system of permits, fees, and inspections which is designed to secure compliance with and aid in the implementation of state and local building laws.

(b) To enforce other laws for the protection of the public health and safety.

(c) To collect occupational license and inspection fees for engaging in contracting or examination fees from persons who are registered with the board pursuant to local examination requirements. However, nothing in this part act shall be construed to require general contractors, building contractors, or residential contractors to obtain additional occupational licenses for specialty work when such specialty work is performed by employees of such contractors on projects for which they have substantially full responsibility and such contractors do not hold themselves out to the public as being specialty contractors.

(d) To adopt any system of permits requiring submission to and approval by the municipality or county of plans and specifications for work to be performed by contractors before commencement of the work.

(e) To require one a bond for each contractor contractors in an amount not to exceed \$5,000, which bond shall be conditioned only upon compliance with the applicable state minimum building code and applicable local building code requirements adopted pursuant to s. 553.73. Any such bond must be equally available to all contractors without regard to the period of time a contractor has been certified or registered and without regard to any financial responsibility requirements. Any such bonds shall be payable to the Governor and filed in each county or municipality in which a building permit is requested. Bond reciprocity shall be granted statewide. All such bonds shall be included in meeting any financial responsibility requirements imposed by any statute or rule. Any contractor who provides a third party insured warranty policy in connection with a new building or structure for the benefit of the purchaser or owner shall be exempt from the bond requirements under this subsection with respect to such building or structure.

(f) To refuse to issue permits or issue permits with specific conditions to a contractor who has committed multiple violations, when he has been disciplined for each of them by the board and when each disciplinary action has involved revocation or suspension of a license, imposition of an administrative fine of at least \$1,000, or probation, or to issue permits with specific conditions to a contractor who, within the previous 12 months, has had final action taken against him by the department or by a local board or agency which licenses contractors and has reported the action pursuant to paragraph (6)(c), for engaging in the business or acting in the capacity of a contractor without a license

(4) Nothing in this part act shall be construed to waive any requirement of any existing ordinance or resolution existing on October 1, 1979, of a board of county commissioners regulating the type of work required to be performed by a specialty contractor.

(5) Any official authorized to issue building or other related permits shall, before issuing a permit, ascertain that the applicant contractor is certified or is registered in the area where the construction is to take place.

(6)(a) Municipalities or counties may continue to provide examinations for their territorial area, provided that no examination is given to the holder of a certificate

(b)(e) To engage in contracting in the territorial area, an applicant shall also be registered with the board;

(c)(b) Each local board or agency which licenses contractors transmits monthly annually during May to the board a report of any disciplinary action taken against contractors and of any administrative or disciplinary action taken against unlicensed persons for engaging in the business or acting in the capacity of a contractor including any cease and desist orders issued pursuant to s. 489 113(2)(b) and any fine issued pursuant to s 489 127(3) the licensee; and

(e)—No examination is given the holder of a certificate



(7) The right to create local boards in the future by any municipality or county is preserved.

(8) A Division I contractor, except as otherwise provided in this part, shall be responsible for any construction or alteration of a structural component of a building or structure. The term "structural component" is defined, for purposes of this subsection, to mean any vertical or horizontal load-bearing member of a structure which supports dead or live loads in addition to its own weight and includes, but is not limited to, a foundation, an exterior or interior load-bearing wall, a column, a column beam, a floor, and a roof structure. ~~No provision of this act shall be construed to permit a contractor to perform mechanical or plumbing work for which an examination for a certificate of competency or a license is required, unless such contractor holds such certificate of competency or such license as may be required by the appropriate local authority. If the appropriate local authority does not require a certificate of competency or a license for such trade, the provisions of this subsection do not apply.~~

Section 16. Section 489.133, Florida Statutes, is created to read:

489.133 Pollutant storage systems specialty contractors, definitions, certification, restrictions —

(1) As used in this part:

(a) "Pollutant storage systems specialty contractor" means a contractor who installs or removes a pollutant storage tank.

(b) "Pollutant storage tank" means a tank, together with associated piping or dispensing facilities, which is or could be used for the storage or supply of pollutants as defined in s. 376.301 and which is required to be registered under chapter 17-61 of the Florida Administrative Code or for which notification must be submitted under Subtitle I of the Resource Conservation and Recovery Act.

(c) "Tank" means any container other than one which is above-ground and either elevated or situated upon an impermeable surface, or which is located in an accessible underground area and either elevated or situated upon an impermeable surface therein, in such manner that any leak in such container may be readily detected.

(d) "Registered precision tank tester" means any precision tank tester who has registered with the department pursuant to subsection (2). This registration shall be exempt from the provisions of prior municipality, county, or development district registration, as required under s. 489.117, and shall be registered on a statewide basis.

(2) The board shall adopt rules providing standards for registration of precision tank testers who precision test a pollutant storage tank. The Department of Environmental Regulation shall review and comment on such rules prior to adoption.

(3) The board shall adopt rules providing standards for certification of pollutant storage systems specialty contractors and, by July 1, 1988, amend such rules to include persons who remove such systems. The board shall provide the proposed rules to the Department of Environmental Regulation for review and comment prior to adoption. The rules shall include, but not be limited to:

(a) Standards for operating as a pollutant storage systems specialty contractor.

(b) Requirements for certification as a pollutant storage systems specialty contractor.

(c) Requirements for certification without examination of pollutant storage systems specialty contractors for any person who has passed a local licensure examination, a licensure examination in another state, or a licensure examination of a national organization, which is at least as stringent as the examination adopted by the board.

(d) Requirements for certification without examination of pollutant storage systems specialty contractors for any certified mechanical contractor, any certified plumbing contractor, and any registered mechanical or plumbing contractor who has passed a local examination judged by the board to be at least as stringent as the equivalent state mechanical or plumbing contractor's examination, provided that such contractor has been certified prior to July 1, 1986, or has been registered and passed such local examination prior to July 1, 1986.

(e) Requirements for certification by practical examination, demonstrating the ability to competently install or remove pollutant storage tanks, of pollutant storage systems specialty contractors for any person who has received a temporary certificate under paragraph (4)(a) and has operated as a pollutant storage systems specialty contractor since September 1, 1981, provided that such person pays for the actual cost of the practical examination.

The board may use standards and examinations of national organizations if such standards and examinations are adequate to ensure competent installation and removal of pollutant storage tanks. All such standards and examinations shall be designed to ensure that leaks and other discharges are eliminated to the greatest extent possible.

(4)(a) Any person who has operated as a pollutant storage systems specialty contractor during the 5 years preceding September 1, 1986, shall receive within 30 days after written request a temporary certificate permitting such person to continue operating without certification until July 1, 1989, if such person:

1. Notifies the department in writing that he intends to continue such operation and submits an application fee set by the board not to exceed \$50.

2. Provides a history of successful operation as a pollutant storage systems specialty contractor within such time period.

(b) A contractor seeking to be certified pursuant to paragraph (3)(d) shall receive within 30 days after written request a temporary certificate permitting such contractor to continue operating without certification until the board determines whether he qualifies for a certificate under paragraph (3)(d), provided that such contractor:

1. Notifies the department in writing that he intends to apply for certification under paragraph (3)(d).

2. Provides the board sufficient information to determine that such contractor qualifies on the basis of certification or registration and the passage of an examination.

The board may revoke or refuse to issue such temporary certificate for violation of s. 489.127 or s. 489.129.

(5)(a) Notwithstanding any provision of this part to the contrary, no person shall engage in contracting as a pollutant storage systems specialty contractor unless such person is certified as a pollutant storage systems specialty contractor pursuant to this part, nor shall any official authorized to issue building or other related permits issue a permit or permits for the installation or removal of a pollutant storage tank unless such official ascertains that the applicant for such permit or permits is certified as a pollutant storage systems specialty contractor.

(b) Any person installing a pollutant storage tank shall perform such installation in accordance with the standards adopted pursuant to s. 376.303.

(6) Any person who operates as a pollutant storage systems specialty contractor in violation of this section or any person who violates subsection (5) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 17. Subsection (3) is added to section 376.303, Florida Statutes, to read:

376.303 Powers and duties of the Department of Environmental Regulation —

(3)(a) The department may inspect the installation of any pollutant storage tank. Any person installing a pollutant storage tank, as defined in s. 489.133, shall certify that such installation is in accordance with the standards adopted pursuant to this section. The department shall promulgate a form for such certification which shall at a minimum include:

1. A signed statement by the certified pollutant storage systems specialty contractor, as defined in s. 489.133, that such installation is in accordance with standards adopted pursuant to this section, and

2. Signed statements by the onsite persons performing or supervising the installation of a pollutant storage tank, which statements shall be required of tasks that are necessary for the proper installation of such tank.

(b) The department shall, to the greatest extent possible, contract with local governments to provide for the administration of its responsibilities under this subsection. Such contracts may allow for administration outside the jurisdictional boundaries of a local government. However, no such contract shall be entered into unless the local government is deemed capable of carrying out such responsibilities to the satisfaction of the department.

2 To this end, the department shall inform local governments as to the provisions of this section and as to their options hereunder. At its option, any local government may apply to the department for such purpose, on forms to be provided by the department, and shall supply such information as the department may require.

(c) The department may enjoin the installation or use of any pollutant storage tank that has been or is being installed in violation of this section or of s. 489.133.

(d) The department shall establish a pilot program providing for inspections of pollutant storage tanks in a county of less than 300,000 population. The department shall adopt rules providing for such inspection program, which rules shall provide for an inspection prior to placing a pollutant storage tank in the excavation, an inspection after assembly but before connection to the tank, and an inspection prior to placing the pollutant storage tank in service. All such inspections shall be conducted pursuant to the standards adopted under this section. Inspection fees shall be set by rule and shall not exceed \$200 per pollutant storage tank, which fees shall fund the inspection program. The department may contract, pursuant to paragraph (b), with the county government to perform such inspections, in which case the county government shall receive the inspection fees to fund the program. The county government shall make application to the department for the administration of the program. If more than one county government applies, the department shall determine which county is most capable of administering the program and may contract with that county. If no county of less than 300,000 population applies to administer the program by September 1, 1987, all counties in the state shall be eligible to administer the program, regardless of population. The county government shall not require any additional inspections, except for electrical inspections, of a pollutant storage tank installed during the term of the pilot inspection program. Such program shall be established within 30 days after execution of a contract with a county or, if no county applies by December 1, 1987, within 30 days after the date on which the department designates the county in which it will administer the program, but in any event no later than July 1, 1988. The program shall be continued for a period of 18 months. Within 3 months after the conclusion of this program, the department shall report to the Legislature on the results of the program.

Section 18 (1) The Secretary of the Department of Professional Regulation shall appoint a committee to consider the basis and validity of complaints by consumers against persons who are engaged in the practice of contracting regulated under part I of chapter 489, Florida Statutes. The committee shall focus on complaints involving

- (a) Homestead property
  - (b) Actual financial harm to the person
  - (c) Statutory violations of part I of chapter 489, Florida Statutes, or of county or municipal practice acts, or unlicensed activity
- (2) The following persons shall be invited to serve on the committee
- (a) The Director of the Division of Consumer Services in the Department of Agriculture and Consumer Services or his designee
  - (b) A member of the Construction Industry Licensing Board who is certified under part I of chapter 489, Florida Statutes
  - (c) Two local building officials suggested by the Building Officials Association of Florida
  - (d) The secretary or his designee
  - (e) A certified Division I contractor who is primarily engaged in the construction of residential property
  - (f) A consumer who is not certified or registered under part I of chapter 489, Florida Statutes, and has no ongoing financial interests with any person who is so certified or registered

(g) A person suggested by the Florida League of Cities

(3) Members of the committee shall serve without compensation, but shall be entitled to receive reimbursement for per diem and traveling expenses as provided in s. 112.061, Florida Statutes.

(4) Notwithstanding the provisions of s. 489.109(7), Florida Statutes, the committee shall be funded during the 1988-1989 fiscal year in the amount appropriated by the Legislature up to \$75,000 from the additional \$4 fee paid at the time of each contractor's biennial renewal of his certification or registration.

(5) On or before March 1, 1989, the secretary shall submit the committee's final findings and recommendations to the Legislature.

(6) This section shall take effect July 1, 1988, or upon this act becoming a law, whichever occurs later.

Section 19. Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11 61, Florida Statutes, and except as otherwise specifically provided herein, part I of chapter 489, Florida Statutes, shall not stand repealed on October 1, 1988, and shall continue in full force and effect as amended herein.

Section 20 Part I of chapter 489, Florida Statutes, is repealed on October 1, 1988, and shall be reviewed by the Legislature pursuant to s. 11 61, Florida Statutes.

Section 21 Section 489 5331, Florida Statutes, is renumbered as section 768.0425, Florida Statutes, and amended to read:

768 0425 Damages in actions against contractors for injuries sustained from negligence, malfeasance, or misfeasance — ~~489-633-1 Civil remedies~~

(1) For purposes of this section only, the term "contractor" means any person who contracts to perform any construction or building service which is regulated by any state or local law, including, but not limited to, ~~the~~ chapter 489 and chapter 633, and: the term "consumer" means a person who contracts for the performance of any construction or building service which is regulated by any state or local law, including, but not limited to, chapters 489 and 633.

(2) In any action against a contractor for injuries sustained resulting from the contractor's negligence, malfeasance, or misfeasance, the consumer shall be entitled to three times the actual compensatory damages sustained in addition to costs and attorney's fees if the contractor is neither certified as a contractor by the state nor licensed as a contractor pursuant to the laws of the municipality or county within which he is conducting business.

Section 22 Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11 61, Florida Statutes, and except as otherwise specifically provided herein, s. 768 0425, Florida Statutes, shall not stand repealed on October 1, 1988, and shall continue in full force and effect as amended herein.

Section 23. There is hereby appropriated to the Department of Professional Regulation from the Professional Regulation Trust Fund for the fiscal year 1988-1989 the sum of \$28,050 for the purpose of conducting the study provided for in section 20 of this act.

Section 24 Except as otherwise provided herein, this act shall take effect October 1, 1988.

House Amendment 1 to House Amendment 1—On page 60, line 28, insert:

Section 18 Subsection (3) of section 376 317, Florida Statutes, is amended to read

376.317 Superseded laws, state preemption —

(3) A county government is authorized to adopt countywide ordinances that regulate underground storage tanks, as described herein, which ordinances are more stringent or extensive than any state law or rule regulating such tanks, provided

(a) The original ordinance was legally adopted by the county and filed with the Secretary of State before July 1, 1987 ~~and in force before September 1, 1984, or~~

(b) The ordinance establishing the local program was approved by the department.

The department is authorized to adopt rules that permit any county government to establish, in accordance with s. 403.182, a program regulating underground storage tanks, which program is more stringent or extensive than that established by any state law or rule regulating underground storage tanks. The department shall approve or deny a request by a county for approval of an ordinance establishing such a program according to the procedures and time limits of s. 120.60. When adopting the rules, the department shall consider local conditions that warrant such more stringent or extensive regulation of underground storage tanks, including, but not limited to, the proximity of a county to a sole or single-source aquifer, the potential threat to the public water supply because of the proximity of underground storage tanks to public wells or ground water, or the detection of petroleum products in public or private water supplies.

(Renumber subsequent sections)

**Amendment 2**—On page 1, line 1, through page 2, line 27, strike all of said language and insert: An act relating to the construction industry, amending s. 489.101, F.S.; providing purpose, amending s. 489.103, F.S., providing for exemptions, amending s. 489.105, F.S., providing definitions; amending s. 489.107, F.S.; providing for the membership, quorums, and probable cause panels of the Construction Industry Licensing Board; amending s. 489.109, F.S.; providing for renewals and fees, amending s. 489.111, F.S.; providing for examinations, amending s. 489.113, F.S., providing an enforcement mechanism with respect to persons engaged in contracting who are not certified or registered, amending s. 489.115, F.S.; providing for certification by endorsement, amending s. 489.117, F.S., providing for issuance and renewal of certificates and registrations, amending s. 489.119, F.S., providing procedures for the certification or registration of business organizations; creating s. 489.1195, F.S., providing responsibilities of primary and secondary qualifying agents; amending s. 489.121, F.S.; relating to emergency registration, amending s. 489.127, F.S.; prohibiting certain acts and prescribing civil penalties; allowing counties and municipalities to issue noncriminal citations to unlicensed persons; prescribing procedures; amending s. 489.129, F.S., prohibiting certain acts and providing penalties therefor; prescribing powers and procedures relating to disciplinary penalties, amending s. 489.131, F.S., relating to government bids; prescribing powers and duties of municipalities and counties; limiting the construction of structural components, creating s. 489.133, F.S., relating to pollutant storage systems specialty contractors; providing definitions, providing for rules; providing for certification by practical examination of certain persons; providing for temporary certificates, providing prohibitions, providing a penalty; amending s. 376.303, F.S., providing for powers and duties of the Department of Environmental Regulation with respect to pollutant storage tanks; requiring the department to establish a committee and to report to the Legislature on consumer complaints; providing for the funding of said committee, saving part 1 of chapter 489, F.S., from Sunset repeal; providing for future review and repeal; amending and renumbering s. 489.5331, F.S., transferring provisions related to damages in actions against contractors for certain injuries, saving said section from Sunset repeal; providing an appropriation, providing an effective date.

**House Amendment 2 to House Amendment 2**—On page 2, line 16, after "tanks," insert: amending s. 376.317, F.S., providing adoption requirements for original ordinance;

Senator Thurman moved the following amendment to House Amendment 1 which was adopted:

**Amendment 1**—On page 63, strike lines 25 and 26, and insert:

Section 24 Paragraph (a) of subsection (1) of section 376.303, Florida Statutes, is amended to read:

376.303 Powers and duties of the Department of Environmental Regulation.—

(1) The department has the power and the duty to:

(a)1 Establish rules, including, but not limited to, construction standards, permitting or registration of tanks, maintenance and installation standards, and removal or disposal standards, to implement the intent of ss. 376.30-376.319 and to regulate underground and above-ground facilities and their onsite integral piping systems not covered by ss. 376.011-376.21 or by chapter 377. Stationary tanks with storage capac-

ities of 550 gallons or less at nonresidential locations that contain pollutants shall, by December 31, 1987, be required to be registered. The department shall develop a compliance verification program for chapter 17-61, Florida Administrative Code, which may include investigations or inspections to locate improperly abandoned tanks and which shall be implemented upon termination of the Early Detection Incentive Program established under s. 376.3071(9) or December 31, 1987, whichever is earlier.

2. Undertake a notification program for those underground tanks which are excluded from the definition of "facility" as set forth in s. 376.301(4) solely by virtue of having a storage capacity of 550 gallons or less, and are not otherwise required to be registered, in order that such tanks may be located. Pursuant thereto, the department shall develop postcard notification forms, which shall elicit the following information: the tank owner's name and current address; whether such person owns a storage tank or tanks which are totally or partially underground and which are being used, are intended to be used, or have been used for the storage or supply of any petroleum product, the number of such tanks owned; the number in active use, and the general location of each such tank. Multiple copies of this form shall be mailed to every distributor and marketer of petroleum products in this state, who shall make such form available to his customers whenever such person has reason to believe the customer owns such a tank or tanks. In addition, the department shall make such forms available to interested persons upon request. Any person who completes and returns such form before ~~December 31~~ October 1, 1988, may be eligible to participate in the Early Detection Incentive Program under s. 376.3071(9).

Section 25 Paragraphs (g) and (h) of subsection (4) of section 376.3071, Florida Statutes, are amended, paragraph (i) is added to said subsection, and paragraph (a) of subsection (5), subsection (9), and paragraphs (b) and (c) of subsection (12) of said section are amended to read:

376.3071 Inland Protection Trust Fund, creation, purposes; funding—

(4) USES.—Whenever, in its determination, incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the environment or the public health, safety, or welfare, the department shall obligate moneys available in the fund to provide for:

(g) Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health and Rehabilitative Services in providing field and laboratory services, toxicological risk assessment, and other assistance to the department in the investigation of drinking water contamination complaints; and

(h) Establishment of the compliance verification program as authorized in s. 376.303(1)(a)1. to minimize the potential for further contamination sites, and—

(i) Funding of the provisions of s. 376.3072

(5) SITE SELECTION AND CLEANUP CRITERIA.—

(a) The department shall establish criteria by rule for the purpose of prioritizing contamination sites based upon factors that include, but need not be limited to:

1. The degree to which human health, safety, or welfare may be affected by exposure to the contamination,

2. The size of the population or area affected by the contamination,

3. The present and future uses of the affected aquifer or surface waters, with particular consideration as to the probability that the contamination is substantially affecting, or will migrate to and substantially affect, a known public or private source of potable water, and

4. The effect of the contamination on the environment, and—

5. The amount of contamination cleanup tasks that an owner or operator will complete.

Moneys in the fund shall then be obligated for activities described in paragraphs (4)(a)-(e) at individual sites in accordance with such established criteria. However, nothing in this paragraph shall be construed to restrict the department from modifying the priority status of a rehabilitation site where conditions warrant.



(9) **EARLY DETECTION INCENTIVE PROGRAM.**—To encourage early detection, reporting, and cleanup of contamination from leaking petroleum storage systems, the department shall, within the guidelines established in this subsection, conduct an incentive program which shall provide for a 30-month ~~27 month~~ grace period ending on *December 31 October 1, 1988*. Pursuant thereto:

(a) The department shall establish reasonable requirements for the written reporting of petroleum contamination incidents and shall distribute forms to registrants under s. 376.303(1)(b) and to other interested parties upon request to be used for such purpose. Until such forms are available for distribution, the department shall take reports of such incidents, however made, but shall notify any person making such a report that a complete written report of the incident will be required by the department at a later time, the form for which will be provided by the department.

(b) When reporting forms become available for distribution, all sites involving incidents of contamination from petroleum storage systems initially reported to the department at any time from midnight on June 30, 1986, to midnight on *December 31 October 1, 1988*, shall be qualified sites, provided that such a complete written report is filed with respect thereto within a reasonable time. Subject to the delays which may occur as a result of the prioritization of sites under paragraph (5)(a) for any qualified site, costs for activities described in paragraphs (4)(a)-(e) shall be absorbed at the expense of the fund, without recourse to reimbursement or recovery, with the following exceptions:

1 The provisions of this subsection shall not apply to any site where the department has been denied site access to implement the provisions of this section.

2 The provisions of this subsection shall not be construed to authorize or require reimbursement from the fund for costs expended prior to the beginning of the grace period, except as provided in subsection (12).

3 Upon discovery by the department that the owner or operator of a petroleum storage system has been grossly negligent in the maintenance of such petroleum storage system; has, with willful intent to conceal the existence of a serious discharge, falsified inventory or reconciliation records maintained with respect to the site at which such system is located, or has intentionally damaged such petroleum storage system, the site at which such system is located shall be ineligible for participation in the incentive program and the owner shall be liable for all costs due to discharges from petroleum storage systems at that site, any other provisions of chapter 86-159, Laws of Florida, to the contrary notwithstanding. For the purposes of this paragraph, willful failure to maintain inventory and reconciliation records, willful failure to make monthly monitoring system checks where such systems are in place, and failure to meet monitoring and retrofitting requirements within the schedules established under chapter 17-61, Florida Administrative Code, or violation of similar rules adopted by the Department of Natural Resources under this chapter, shall be construed to be gross negligence in the maintenance of a petroleum storage system.

If, in order to avoid prolonged delay, the department in its discretion deems it necessary to expend sums from the fund to cover ineligible sites or costs as set forth in this paragraph, the department may do so and seek recovery and reimbursement therefor in the same manner and in accordance with the same procedures as are established for recovery and reimbursement of sums otherwise owed to or expended from the fund.

(c) No report of a discharge made to the department by any person in accordance with this subsection, or any rules promulgated pursuant hereto, shall be used directly as evidence of liability for such discharge in any civil or criminal trial arising out of the discharge.

(d) The provisions of this subsection shall not apply to petroleum storage systems owned or operated by the Federal Government.

#### (12) REIMBURSEMENT FOR CLEANUP EXPENSES —

(b) **Entitlement; conditions.**—To accomplish this purpose, for sites initially reported on or prior to midnight on *December 31 October 1, 1988*, any person conducting site rehabilitation under this subsection, either through his own personnel or through responsible response action contractors or subcontractors, shall be entitled to reimbursement from the fund at reasonable rates for allowable costs incurred on or after January 1, 1985, in connection with such site rehabilitation, subject to the following conditions:

1 Nothing in this subsection shall be construed to authorize reimbursement of any person or for any site excluded from participation in the Early Detection Incentive Program under subparagraph 1 or subparagraph 3 of paragraph (9)(b) or paragraph (9)(d).

2 The provisions of this subsection shall not apply to any site initially reported prior to July 1, 1986, where the department has initiated an administrative or civil enforcement action with respect to such site, unless the responsible party has, prior to July 1, 1986, undertaken, and made a reasonable effort to carry out, one or more of the following remedial actions at the site:

- a Product recovery;
- b Groundwater restoration, or
- c Soil removal

3 Reimbursement under this subsection shall not be considered a state contract and shall not be subject to the provisions of chapter 287.

4 Site rehabilitation shall be completed in accordance with cleanup criteria established by the department pursuant to paragraph (5)(b).

5 Procedural requirements of this subsection shall have been met.

(c) **Procedure to initiate and conduct site rehabilitation.**—Any person initiating site rehabilitation pursuant to this section between January 1, 1985, and *December 31 October 1, 1988*, who intends to file for reimbursement shall submit written notice of such intent to the department prior to midnight on *December 31 October 1, 1988*, together with documentation of site conditions prior to initiation of cleanup.

Within 60 days after receipt of such notice and sufficient documentation of site conditions prior to initiation of cleanup, the department shall determine whether the person is ineligible to apply for reimbursement under subparagraph (b)1 or subparagraph (b)2 and shall notify the applicant as to his eligibility in writing.

Section 26 Section 376.3072, Florida Statutes, is created to read:

376.3072 Florida Petroleum Liability Insurance Program —

(1) **PROGRAM OF INSURANCE.**—There is hereby created the Florida Petroleum Liability Insurance Program to be administered by the Department of Environmental Regulation. The department shall establish the Florida Liability Insurance Program on or before January 1, 1989. The program must provide third-party liability insurance to qualified program participants for incidents of inland contamination related to the storage of petroleum products and must provide restoration for eligible sites of participants in the liability insurance program or sites of owners or operators who are eligible for self-insurance under the provisions of this section. The program may not participate in the Florida Insurance Guaranty Association. Chapter 624 does not apply to the program. The program shall not be prohibited from recovering indemnities and expenses which are covered by the Florida Insurance Guaranty Association pursuant to coverage purchased by the program from a participating insurer.

(2) **SCOPE AND TYPE OF COVERAGE.**—The Florida Petroleum Liability Insurance Program must provide up to \$1 million of liability insurance for each incident of inland contamination related to the storage of petroleum and petroleum products. The program shall have a \$500 deductible for third-party insurance to be paid by the insured for the first two premium years. The department shall adopt a deductible schedule for the remainder of the program that shall not exceed \$25,000 per year to be paid by the insured. The department shall issue policies to eligible owners and operators. In order to implement the restoration program, the department may contract with an insurance company, a reinsurance company, or an insurance consultant to issue policies, to verify compliance with this section, to determine reasonable rates for allowable costs, and to manage response action contractors. The purchase of the insurance services is not subject to chapter 287. An eligible site at which a discharge has occurred must be restored if the owner or operator of the site is a participant in the liability insurance program. The cost of restoration will be paid through the Inland Protection Trust Fund. The restoration must be conducted using the criteria and procedures established pursuant to s. 376.3071. The cost of restoration is limited to \$1 million. The restoration is subject to the same deductible scale as the liability insurance program. The \$1-million amount is a limitation and is meant to apply in the aggregate for all restoration costs or third-party claims arising from any one incident or occurrence. For purposes of this section, the term

(a) "Restoration" means rehabilitation of contaminated sites both on and off the property of the owner or operator of the petroleum storage system, and shall consist of investigation and assessment, cleanup of affected soil, groundwater and surface water in accordance with the site selection and cleanup criteria established by the department pursuant to s. 376.3071(5), and maintenance and monitoring of the contaminated sites. The term "restoration" also means the expeditious rehabilitation or replacement of potable water supplies as provided in s. 376.30(3)(c)1. The term "restoration" does not mean cost which may be associated with site rehabilitation, such as the cost of compliance with rules relating to stationary tanks adopted pursuant to s. 376.303.

(b) "Third-party liability" means the insured's liability, other than for restoration costs, for bodily injury or property damage caused by an incident of inland contamination related to the storage of petroleum or petroleum product.

(c) "Incident" means an accident, including continuous or repeated exposure to conditions, which is neither expected nor intended from the standpoint of the insured, and which results in third-party liability or in site conditions requiring restoration.

(3)(a) ELIGIBILITY FOR PARTICIPATION.—Any owner or operator of a petroleum storage system, as defined in s. 376.301, who is subject to and in compliance with this chapter and the rules relating to stationary tanks adopted pursuant to s. 376.303 with respect to a particular location, as determined by the department, is eligible to participate in the Florida Petroleum Liability Insurance Program for that location. For purposes of this section, any owner or operator of a stationary storage tank that has a storage capacity of 550 gallons or less who otherwise meets the requirements adopted by the department under the rules relating to stationary tanks adopted pursuant to s. 376.303 is eligible to participate in the program. In order to participate in the program, an owner or operator must file an affidavit with the department, which affidavit states that the owner or operator has read and is familiar with this chapter and the rules relating to stationary tanks adopted pursuant to s. 376.303 and that his facility is in compliance with this chapter and the rules adopted pursuant to s. 376.303. The owner or operator must file the affidavit upon enrollment in the program and must file an affidavit each year upon the scheduled date of payment of the annual registration fee assessed pursuant to s. 376.303, or, upon the date of installation of the facility or enrollment in the program and each year thereafter, if the facility is a petroleum storage system that is not subject to the registration fee. The department may require an owner or operator to submit documentation that is certified as true and correct to verify compliance with this section.

(b) The failure of any owner or operator of a petroleum storage system to maintain compliance with this chapter and rules relating to stationary tanks adopted pursuant to s. 376.303 at any location will result in the cancellation of liability insurance provided through the program for that location. For purposes of this paragraph, the department may, in its discretion, waive minor violations of this chapter or of rules adopted pursuant to s. 376.303, including, without limitation, violations of provisions relating to the form of inventory or reconciliation records or violations of registration requirements.

(c) The following owners or operators are not eligible to participate in the restoration program:

1. The Federal Government,
2. The owner or operator of a site upon which discharge is discovered prior to January 1, 1989; and
3. The owner or operator of a facility where the department has been denied site access.

(4) PREMIUMS FOR PARTICIPATION —

(a) The department may collect premiums for funding the Petroleum Liability Insurance Account of the Inland Protection Trust Fund from the owner or operator of any petroleum storage system participating in the program.

(b) The premium for each tank, for an owner or operator of a petroleum storage system at a location at which the requirements of rules relating to stationary tanks adopted pursuant to s. 376.303 have been fully implemented and which is in compliance with all monitoring, control, and reporting requirements, will be in an amount determined by the department and approved by the Department of Insurance.

(c) The premium for each tank, for an owner or operator at any location where the replacement or retrofit requirements of chapter 17-61 of the Florida Administrative Code are being met within the schedules established therein and all monitoring and reporting requirements are being complied with to the satisfaction of the department, will be in an amount determined by the department and approved by the Department of Insurance.

(d) The premium for each tank, for an owner or operator of a storage tank having a storage capacity of 550 gallons or less who is required to register the tank pursuant to s. 376.303, will be in an amount determined by the department and approved by the Department of Insurance if the owner or operator is in compliance with the criteria established by the department for such tanks.

(e) The department may establish reduced premiums as approved by the Department of Insurance for owners or operators of storage tanks who operate many facilities each of which are in compliance with this chapter and the rules relating to stationary tanks adopted pursuant to s. 376.303.

(f) The department may establish reduced premiums as approved by the Department of Insurance for owners or operators of storage tanks, based upon the relative degree of effectiveness of the storage tanks for protecting the environment.

(g) The department shall use the revenues derived from collection of the excise tax imposed pursuant to s. 206.9935(3) and the revenues derived from collection of the tank registration fees imposed pursuant to s. 376.303(1)(b) in order to provide the restoration provided under the Florida Petroleum Liability Insurance Program. An owner or operator of a petroleum storage system who elects to conduct site restoration is eligible for reimbursement at a reasonable rate for allowable expenses in accordance with the rule relating to reimbursement adopted pursuant to s. 376.303 and s. 376.3071. The payment of reimbursement claims must be in accordance with the rule relating to the priority of the payment of reimbursement adopted pursuant to s. 376.3071(5).

(h) The department shall use the premiums charged pursuant to this section and collected from the owners or operators of petroleum storage systems in order to provide, in an actuarially sound manner, pursuant to s. 627.062, the third-party liability insurance coverage under the Florida Petroleum Liability Insurance Program, to assure that owners and operators who are in compliance with state environmental requirements have the opportunity to obtain petroleum liability insurance.

(5) PARTICIPANT'S LIABILITY FOR THIRD-PARTY LIABILITY INSURANCE COVERAGE —

(a) The liability of each participant for the obligations of the Florida Petroleum Liability Insurance Program emanating from third-party liability shall be individual, several, and proportionate, but not joint, except as provided in this section.

(b) Each policy issued by the Florida Petroleum Liability Insurance Program shall contain a statement of the contingent liability. Both the application for insurance and the policy shall contain, in contrasting color and in not less than 10-point type, the following statements: "This is a fully assessable policy. In the event the Florida Petroleum Liability Insurance Program is unable to pay its obligations, policyholders will be required to contribute on a pro rata earned premium basis the money necessary to meet any unfilled obligations."

(c) The Florida Petroleum Liability Insurance Program may assess from time to time policyholders, covered for third-party liability, liable therefor under the terms of their policies and pursuant to this section, or the department may assess the policyholders in the event of liquidation of the Florida Petroleum Liability Insurance Program.

(d) Each policyholder's share of a deficiency for which an assessment is made shall be computed by applying to the premium earned on the participant's policy or policies during the period to be covered by the assessment the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to the assessment. In the event one or more policyholders fail to pay an assessment, the other policyholders are liable on a proportionate basis for an additional assessment. The Florida Petroleum Liability Insurance Program, acting on behalf of all policyholders who paid the additional assessment, shall institute legal action when necessary and appropriate to recover the assessment from policyholders who failed to pay it.

(e) In computing the earned premiums for the purposes of this section, the gross premium received by the Florida Petroleum Liability Insurance Program for the policy shall be used as a base, deducting therefrom solely charges not recurring upon the renewal or extension of the policy. This paragraph does not apply if the department contracts for liabilities pursuant to subsection (8).

(f) No policyholder shall have an offset against any assessment for which he is liable on account of any claim for unearned premium or losses payable.

(6) SELF INSURANCE.—Any owner or operator of a petroleum storage system may elect not to participate in the Florida Petroleum Liability Insurance Program for third-party liability coverage if he demonstrates to the satisfaction of the department or its designee sufficient financial responsibility for such liabilities or if he meets United States Environmental Protection Agency tests for financial responsibility. An owner or operator who elects not to participate in the third-party liability coverage of the program is eligible for restoration insurance coverage under the program, if, prior to the occurrence of a discharge, a demonstration is made that the owner or operator is otherwise qualified.

(7) DISPOSITION OF PREMIUMS.—

(a) All premiums collected by the department or its designee from participating owners and operators pursuant to this section must be deposited into the Liability Insurance Account of the Inland Protection Trust Fund to be used for the Florida Petroleum Liability Insurance Program. However, if the department contracts for services pursuant to subsection (8), the department shall use the premiums to pay contract fees and deposit the remainder of the premiums into the Liability Insurance Account of the Inland Protection Trust Fund.

(b) The Liability Insurance Account of the Inland Protection Trust Fund must be maintained separately from the portion of the fund used for the purposes established in s. 376.3071(4)(a)-(h). The Liability Insurance Account may not be included as a part of the obligated or unobligated balance of the Inland Protection Trust Fund and must in all respects remain separate from that portion of the fund. A person may not execute against any portion of the Inland Protection Trust Fund or against the department, if the program has insufficient funds to pay any claim.

(8) PURCHASE OF SERVICES AND REINSURING LIABILITIES.—The department is authorized to purchase from an insurance company, a reinsurance company, or an insurance consultant such insurance management or underwriting services, including, but not limited to, risk and claims control and legal defense investigation and adjustment services, as may be required to establish and maintain the third-party liability coverage of the Florida Petroleum Liability Insurance Program. The department may reinsure liabilities arising from third-party coverage with an insurance company, reinsurance company or through a reinsurance broker. This transaction is subject to approval by the Department of Insurance. The purchase of such insurance and management services is not subject to chapter 287.

(9) REPORTING OF THIRD-PARTY LIABILITY CLAIMS.—All third-party liability claims related to a discharge of petroleum products by a qualified participant in the program must be filed with the secretary of the department or his designee.

(10) RULES.—

(a) The department shall adopt rules for the proper management and maintenance of the Florida Petroleum Liability Insurance Program. In setting premium rates, the department shall receive the approval of the Department of Insurance.

(b) The Department of Insurance shall offer assistance as requested by the Department of Environmental Regulation in the development of necessary rules to implement the program.

(c) The department shall establish criteria for stationary storage tanks that have storage capacities of 550 gallons or less, that are required to be registered pursuant to s. 376.303, and that are not agricultural tanks. Compliance with such criteria is not required, except for participation in the Florida Petroleum Liability Insurance Program. On and after September 1, 1989, an underground tank having a storage capacity of 550 gallons or less may not be installed unless it is required by the State Fire Marshal or it is protected against corrosion.

(11) DIVIDENDS.—The Florida Petroleum Liability Insurance Program shall obtain the approval of the Department of Insurance prior to paying any dividend or refund to its policyholders. No such dividend or refund may be approved until 12 months after the last day of the fiscal year for which the dividend or refund is payable, or such later time as the insurance department may require in accordance with sound actuarial principles.

Section 27 Subsection (1) of section 376.3073, Florida Statutes, is amended to read

376.3073 Local programs for control of contamination —

(1) The department shall, to the greatest extent possible, contract with local governments to provide for the administration of its departmental responsibilities under ss. s. 376.3071(4)(a)-(e), and (h), 376.3072, and 376.3077 through locally administered programs. However, no such contract shall be entered into unless the local government is deemed capable of carrying out such responsibilities to the department's satisfaction.

Section 28. Section 526.3055, Florida Statutes, is transferred, renumbered as section 376.3077, Florida Statutes, and amended to read:

376.3077 526-2065 Unlawful to deposit motor fuel in tank required to be registered, without proof of registration display.—It is unlawful for any person engaged in commerce in this state to sell any motor fuel and pump or otherwise deposit such motor fuel into a tank required to be registered under s. 376.303 unless proof of valid registration is displayed on such tank itself or the dispensing or measuring device connected thereto or, where appropriate, in the office or kiosk of the facility where the tank is located. *The Department of Environmental Regulation shall enforce the provisions of this section pursuant to this chapter. The department may enter into an interagency agreement with the Department of Agriculture and Consumer Services to enforce the provisions of this section.*

Section 29. Subsection (3) of section 376.317, Florida Statutes, is amended to read.

376.317 Superseded laws, state preemption —

(3) A county government is authorized to adopt countywide ordinances that regulate underground storage tanks, as described herein, which ordinances are the same as or more stringent or extensive than any state law or rule regulating such tanks, provided

(a) The original ordinance was legally adopted and in force before September 1, 1984; or

(b) The ordinance establishing a more stringent or extensive the local program ~~is~~ was approved by the department pursuant to subsection (4) after the county demonstrates to the department that it has effectively administered the state law or rules for a period of 2 years prior to filing a petition for approval. However, any county which has sought approval of a local tank program from the department prior to January 1, 1988, shall not be required to demonstrate that it has effectively administered the state program for any minimum period.

(c) The department shall either approve or disapprove a request for a compliance verification program authorized pursuant to s. 376.3073 within 90 days after receipt of the application. If the local government has adopted the department's stationary tank rule or a more stringent or extensive local tank program pursuant to this section, the department shall also approve or disapprove a request for delegation of enforcement responsibilities within 90 days after receipt of the application. If approved, the department shall provide full funding to carry out the delegated compliance and enforcement responsibilities. The department may not disapprove an application due to the population size of a county and may delegate compliance verification and enforcement to those local governments who agree to enforce the state's program jointly.

(4) The department is authorized to adopt rules that permit any county government to establish, in accordance with s. 403.182, a program regulating underground storage tanks, which program is more stringent or extensive than that established by any state law or rule regulating underground storage tanks. The department shall approve or deny a request by a county for approval of an ordinance establishing such a program according to the procedures and time limits of s. 120.60. When adopting the rules, the department shall consider local conditions that warrant such more stringent or extensive regulation of underground stor-

age tanks, including, but not limited to, the proximity of the county to a sole or single-source aquifer, the potential threat to the public water supply because of the proximity of underground storage tanks to public wells or ground water, or the detection of petroleum products in public or private water supplies.

Section 30 Section 376.319, Florida Statutes, is amended to read:

376.319 Response action contractors, indemnification.—

(1) The department may agree to hold harmless and indemnify a response action contractor who has a written contract with the department, or who has a written contract with a local government which has contracted with the department to administer a program pursuant to chapter 86-159, Laws of Florida, for any civil damages to third parties

(a) That result from the acts or omissions of the response action contractor in carrying out a response action, and

(b) That are caused by a discharge or release of a hazardous substance, pollutant, or other contaminant from a site upon which the response action is being carried out.

(2) The department, in determining whether or not to enter into hold-harmless and indemnification agreements, shall consider:

(a) The availability of cost-effective insurance,

(b) The immediate need for the response action,

(c) The availability of qualified response action contractors; and

(d) Restricting the applicability of such agreements to exclude gross negligence or intentional conduct.

(3) Any payment or cost, including the cost of defending such actions, which is incurred as a result of an agreement by the department to hold harmless or indemnify shall be payable from the Water Quality Assurance Trust Fund or the Inland Protection Trust Fund, whichever is appropriate, based upon the nature of the discharge or release.

(4) No state employee or employee of a political subdivision who provides services relating to a response action while acting within the scope of his authority as a governmental employee shall be personally liable for any actions undertaken by the department, the political subdivision, or a response action contractor pursuant to this act. However, nothing in this section shall affect the liability of any other person.

(5) This section is repealed effective October 1, 1997 1988, and shall be reviewed by the Legislature during the 1997 1988 regular legislative session

Section 31 The Department of Professional Regulation shall, by January 1, 1989, adopt rules providing standards for the certification of response action contractors as defined in section 376.301, Florida Statutes, provided, however, that no certification shall be required for a professional engineer licensed under chapter 471, Florida Statutes. The Department of Environmental Regulation shall cooperate with the Department of Professional Regulation in the adoption of such rules and shall review and comment upon such rules prior to their adoption.

Section 32. (1) There is hereby appropriated from the Inland Protection Trust Fund to the Department of Environmental Regulation the sum of \$4 million to provide the department with funds to contract with counties that have adopted department rules relating to stationary tanks pursuant to section 376.303, Florida Statutes, as the countywide stationary tank ordinance pursuant to section 376.317, Florida Statutes, or that have adopted a more stringent or extensive ordinance to verify and enforce compliance with department rules relating to stationary tanks adopted pursuant to section 376.303, Florida Statutes

(2) There is hereby appropriated from the Inland Protection Trust Fund to the Department of Environmental Regulation the sum of \$2 million to carry out the provisions of section 376.3072(2), Florida Statutes, and to pay for contracts for the tank verification program required in section 376.303, Florida Statutes.

(3) There is hereby appropriated from the Liability Insurance Account of the Inland Protection Trust Fund the premium fee, as it is collected, authorized under section 376.3072(4), Florida Statutes, to carry out the provisions of section 376.3072(8), Florida Statutes

Section 33. The sum of \$161,566 is appropriated from the Inland Protection Trust Fund to the Department of Environmental Regulation to implement the Florida Petroleum Liability Insurance Program created pursuant to section 376.3072, Florida Statutes. The department is authorized to create six positions to carry out the provisions of the program

Section 34. The sum of \$60,000 is appropriated from the Inland Protection Trust Fund to the Department of Environmental Regulation to implement the local government compliance verification and enforcement program authorized by sections 376.3073 and 376.317, Florida Statutes. The department is authorized to create two positions to carry out the provisions of the program

Section 35. The Department of Insurance is hereby directed to compile a report on the availability and cost of pollution liability insurance issued by private insurers. The department shall submit this report to the President of the Senate and the Speaker of the House of Representatives on or before January 1, 1993.

Section 36. Except as otherwise provided herein, this act shall take effect upon becoming a law. The Florida Petroleum Liability Insurance Program expires July 1, 1993

Senator Thurman moved the following amendment to House Amendment 2 which was adopted.

**Amendment 1**—In title, on page 2, line 24, after the semicolon (;) insert: amending s. 376.303, F.S.; extending the deadline for filing information with the Department of Environmental Regulation in order to participate in the Early Detection Incentive Program, amending s. 376.3071, F.S., providing that moneys in the Inland Protection Trust Fund may be used to pay for the provisions of the Florida Petroleum Liability Insurance Program, providing a criterion by which the department establishes priority for the cleanup of contamination sites; extending the period of operation of the Early Detection Incentive Program, creating s. 376.3072, F.S., creating the Florida Petroleum Liability Insurance Program to be administered by the Department of Environmental Regulation; specifying the scope and type of insurance coverage under the program, providing for the payment of restoration costs through the Inland Protection Trust Fund; providing eligibility for participation, providing for charging of premiums; specifying participant's liability under a certain type of coverage, authorizing department assessments of participants under certain circumstances; providing for self-insurance, specifying criteria for self-insurance, providing for disposition of the premiums collected, providing for the purchase of insurance management or underwriting services and certain management services and tank registration compliance verification services by the department; providing for the reporting of third-party liability claims, authorizing the department to adopt rules and to establish criteria for certain storage tanks, amending s. 376.3073, F.S., requiring the department to contract with local governments to administer ss. 376.3072 and 376.3077, F.S., under certain circumstances; transferring, renumbering, and amending s. 526.3055, F.S.; requiring the department to enforce certain provisions relating to the deposit of motor fuels into certain tanks, authorizing the department to contract with the Department of Agriculture and Consumer Services to enforce such provisions, amending s. 376.317, F.S., revising criteria regarding the authorization of county governments to adopt ordinances regulating underground storage tanks, amending s. 376.319, F.S., extending the time period for the statutory indemnification of certain response action contractors; directing the Department of Professional Regulation to adopt rules for the certification of response action contractors; providing an exemption from certification; providing appropriations to the Department of Environmental Regulation for contracting with counties for verification and enforcement of compliance with certain rules, for contracting with businesses for certain services, and for implementation of the Florida Petroleum Liability Insurance Program; directing the Department of Insurance to compile a report on the availability and cost of pollution liability insurance issued by private insurers,

On motions by Senator Margolis, the Senate concurred in House Amendment 1 as amended and House Amendment 2 as amended and the House was requested to concur in the Senate amendments to the House amendments, and refused to concur in House Amendment 1 to House Amendment 1 and House Amendment 2 to House Amendment 2 and the House was requested to recede

CS for SB 155 passed as amended and the action of the Senate was certified to the House. The vote on passage was

Yeas—33

Beard	Gordon	Langley	Ros-Lehtinen
Brown	Grant	Lehtinen	Scott
Childers, D	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Margolis	Weinstein
Crenshaw	Hill	McPherson	Weinstock
Deratany	Hollingsworth	Meek	Woodson
Dudley	Jenne	Myers	
Frank	Johnson	Peterson	
Girardeau	Kiser	Plummer	

Nays—None

Vote after roll call.

Yea—Crawford, Jennings, Stuart

*The Honorable John W. Vogt, President*

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 173 and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

SB 173—A bill to be entitled An act relating to the Department of Highway Safety and Motor Vehicles; amending s. 715.05, F.S.; requiring the department to provide certain information regarding towed or removed vehicles to a law enforcement agency upon request, providing an effective date.

**Amendment 1**—On pages 1 and 2 strike everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (1) of section 125.0103, Florida Statutes, is amended to read:

125.0103 Ordinances and rules imposing price controls; findings required, procedures.—

(1)

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, towing of vehicles from private property, or port rates.

Section 2. Paragraph (b) of subsection (1) of section 166.043, Florida Statutes, is amended to read:

166.043 Ordinances and rules imposing price controls, findings required; procedures.—

(1)

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, towing of vehicles from private property, or port rates.

Section 3. It is the intent of the Legislature that the provisions of this act require the department to register tow truck owners/lessees, as defined in s. 320.901. There are no further requirements that the department investigate consumer complaints, complaints concerning uncertified operators, inspect the records or facilities of licensed owners/lessees, or verify any information contained in the application for certification. The registration process shall serve as a mechanism for the public to identify certified tow truck owners/lessees, and for tow truck owners/lessees to obtain compensation for costs incurred in the removal of derelict vehicles.

Section 4. Subsection (3) is added to section 320.18, Florida Statutes, to read:

320.18 Withholding registration.—

(3) The department shall make every good faith effort to withhold the registration of any motor vehicle the owner of which has neglected or refused to pay costs for the removal, storage, or destruction of a motor vehicle as provided by s. 705.103(4), unless such person presents a paid receipt to the department or an agent of the department showing that such costs have been paid.

Section 5. Section 320.901, Florida Statutes, is created to read:

320.901 Definitions.—The following words, terms, and phrases when used in ss. 320.901-320.911 shall have the following meanings:

(1) "Department" means the Department of Highway Safety and Motor Vehicles.

(2) "Person" means any natural person, corporation, firm, partnership, association, or other legal entity.

(3) "Tow truck owner/lessee" means any person who regularly engages in the business of transporting wrecked, disabled, or abandoned vehicles on public highways. The term does not include a person who does not serve the public and does not receive a fee, consideration, or benefit from any source, directly or indirectly, for towing a vehicle by wrecker, tow truck, or car carrier or recovering, towing, or storing a vehicle.

(4) "Certificate of authority" means a document of authorization issued by the department to a tow truck owner/lessee.

Section 6. Section 320.902, Florida Statutes, is created to read:

320.902 Certificate of authority required.—No person shall engage in the business as, serve in the capacity of, or act as a tow truck owner/lessee in this state unless such person has a valid certificate of authority as provided in ss. 320.901-320.911.

(1) The certificate of authority shall be in the form of a decal which must be conspicuously displayed on the left front door of each vehicle being operated.

(2) The transfer of decals between vehicles is prohibited.

(3) When a vehicle is removed from service, the decal shall be removed from the vehicle and destroyed.

Section 7. Section 320.903, Florida Statutes, is created to read:

320.903 Application.—

(1) The application for a certificate of authority shall be in such form as may be prescribed by the department and shall be submitted to the department by the applicant under penalty of perjury.

(2) The application shall include, in addition to such information as the department requires by rule, the following:

(a) The name, address, and dates of birth of all applicants.

(b) If the applicant is a corporation, the names and dates of birth of its officers, directors, and principal shareholders, the address of the corporation's principal place of business, and a copy of its articles of incorporation.

(c) If the applicant is a partnership, the names, addresses, and dates of birth of the partners, and a copy of its partnership agreement.

(d) A listing of all felonies and misdemeanors, if any, of which the applicant, or any partner, officer, director, or principal shareholder of the applicant, has been convicted.

(e) The trade name under which the applicant intends to engage in business.

(f) The applicant's sales tax identification number.

(g) The address from which the applicant intends to engage in business and the applicant's telephone number.

(h) A certificate by the applicant that it will maintain an office at its principal location for the conduct of its business which is open and accessible to the public during normal working hours; and that the location from which the applicant intends to conduct its business contains facilities of adequate size for the temporary and secure storage of motor vehicles under its custody and control.

(i) Evidence in such form as may be required by the department by rule that the applicant has obtained liability insurance coverage in an amount not less than \$100,000 per claim, with a minimum annual aggregate of not less than \$300,000, from an insurer authorized to transact business within the state.

STORAGE NAME: h1646-f.rr  
Date: 6/9/88

HOUSE OF REPRESENTATIVES  
COMMITTEE ON REGULATORY REFORM  
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 1646 (Passed as CS/SB 155)

RELATING TO: Construction Contracting

SPONSOR(S): Cmtes. on Appropriations and Regulatory Reform and  
Reps. Lippman, Kelly & Sansom

EFFECTIVE DATE: October 1, 1988

DATE BECAME LAW: 6-16-88

CHAPTER #: 88-156 Laws of Florida

COMPANION BILL(S): CS/SB 155

OTHER COMMITTEES OF REFERENCE: (1) Finance & Taxation

(2) Appropriations

\*\*\*\*\*

I. SUMMARY:

A. PRESENT SITUATION:

Chapter 489, Florida Statutes, regulates construction contracting in Florida. This law is subject to repeal on October 1, 1988, pursuant to the Regulatory Sunset Act. The law provides for the certification or registration of general, building, and residential contractors, as well as, sheet metal, roofing, class A, B, and C air conditioning, mechanical, commercial and residential pool, swimming pool servicing, plumbing, pollutant storage systems specialty, and specialty contractors. This law creates the Construction Industry Licensing Board, lists violations, provides both disciplinary and civil penalties, and provides exemptions.

B. EFFECT OF PROPOSED CHANGES:

This bill saves Part I of Chapter 489, Florida Statutes, from Sunset repeal. It narrows certain exemptions, and broadens the scope of practice of certain kinds of contractors. The size of the Construction Industry Licensing Board is reduced and a provision is added to prevent problems with obtaining a quorum. Local government authority over unlicensed persons is strengthened to include the authority to issue citations and cease and desist orders. Local government authority to refuse to issue building permits or to issue permits with conditions is strengthened. Several changes are made related to business



organization qualifying agents. Several violations and two new disciplinary penalties, continuing education, and financial restitution are added.

Governmental entities are required to bid construction projects to licensed contractors and to report disciplinary actions monthly. Language on pollutant storage is transferred to its own section in this law and into a statute regulating the Department of Environmental Regulation. This bill will require a report on consumer complaints by a committee of building officials, industry representatives, and consumer representatives. A section on damage actions by consumers is transferred to the chapter on negligence.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 and the following sections: Make grammatical changes.

Section 2: Limits exemptions related to swimming pools and spas. Places additional requirements in the owner-builder exemption. Deletes the term "residential designer" and references the architecture law.

Section 3: Clarifies or expands the scope of practice of sheet metal, roofing, air conditioning, mechanical, and swimming pool servicing contractors. Allows employees of natural gas utilities to connect water lines to install hot water heaters. Adds definitions for underground utility contractor, primary qualifying agent and secondary qualifying agent. Deletes definitions related to pollutant storage. Redefines "specialty contractor" to include those specialty contractors currently set out in board rule.

Section 4: Deletes alternate members from the Construction Industry Licensing Board in order to reduce size and costs. Provides for members terms. Allows the two divisions of the board to borrow members on probable cause panels in order to reduce quorum problems.

Section 5: Clearly distinguishes between voluntary inactive and involuntarily inactive certificates or registrations. Changes the process by which inactive certificates or registrations are handled to encourage contractors to pay fees promptly or to voluntarily seek inactive status. Increases the penalty for late renewals. Provides for a reactivation fee. Provides more criteria for the portion of certification and registration fees that is transferred to the Department of Education.

Section 6: Expands eligibility criteria for certification examination.

Section 7: Requires the board to register specialty contractors only when the specialty is statewide and local licensing is required. Authorizes DPR, counties, municipalities, and local

licensing boards created by special act to issue cease and desist orders to unlicensed persons. Allows general contractors to construct storm collection systems. Allows local governments to issue building permits with conditions and to refuse to issue permits if a contractor has committed violations in other Florida jurisdictions. Deletes language on pollutant storage that has been moved to Sections 16 and 17.

Section 8: Sets a more open standard for certification by endorsement. Clarifies the method of showing insurance coverage.

Section 9: Deletes language related to specialty contractors that has been included in Section 3.

Section 10: Includes joint ventures as a type of business organization. Requires qualifying agents to be replaced within 60 days.

Section 11: Sets standards and procedures for primary and secondary qualifying agents to encourage more qualifiers. Only the primary is responsible for the business organization, but a secondary may become responsible if the primary leaves.

Section 12: Requires the board to approve a third party, including an unlicensed person, who will complete a construction contract after the death of the contractor.

Section 13: Provides a misdemeanor penalty, like that for unlicensed activity, for continuing to operate a contracting business for more than 60 days without a qualifying agent. Allows a county or municipality to issue non-criminal citations to unlicensed persons. Deletes language related to pollutant storage.

Section 14: Adds continuing education and financial restitution to consumers as disciplinary penalties. Broadens the violation for assisting an unlicensed person to engage in contracting. Creates a violation for proceeding on a job without pulling permits. Requires the department to recommend penalties, as established in the board's penalty guidelines, to hearing officers. Prohibits the board from reinstating a certificate or registration until the person has complied with the final order.

Section 15: Requires rather than permits governmental entities to accept bids from certified or registered contractors except as provided in this law. Allows counties and municipalities to refuse to issue permits or to issue permits with conditions to contractors who have had recent and serious multiple violations or to issue permits with conditions to contractors who have recently been acted against for unlicensed activity. Requires local boards to report disciplinary actions against contractors and against unlicensed persons to the board monthly rather than annually. Allows only a division I contractor, except as



otherwise provided by law, to construct or alter structural components of buildings. Strikes unnecessary language related to mechanical and plumbing licenses.

Section 16: Transfers language related to pollutant storage from other sections of the law. Provides for certification by practical examination of certain current contractors who are temporarily certified.

Section 17: Transfers language pollutant storage that related to the responsibilities of the Department of Environmental Regulation to Chapter 376, Florida Statutes. Sections 16 and 17, together, contain all the provisions on pollutant storage that are deleted earlier in the bill.

Section 18. Allows countywide ordinances regulating underground storage tanks more stringently than state law to be effective if adopted and filed before July 1, 1987, rather than September 1, 1984.

Section 19: Requires DPR to establish a committee to study consumer complaints in the construction industry. Committee members will include persons representing local building departments, the construction industry, consumers, and local governments.

Section 20: Saves Part I of Chapter 489, Florida Statutes, from Sunset repeal.

Section 21: Provides for future Sunset review of Part I of Chapter 489, Florida Statutes.

Section 22: Transfers language on damage actions by consumers against contractors to Chapter 768, Florida Statutes. This language was adopted in the 1987 legislative session.

Section 23: Saves the language in Section 23 from Sunset repeal.

Section 24: Provides an appropriation of \$28,050 for the purpose of implementing the study.

Section 25: Provides for October 1, 1988 as the effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:      FY 88-89      FY 89-90      FY 90-91

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

Expenditures:

Department of Professional Regulation

Other Personal Services      \$15,000

Expenses      13,050

TOTAL NON-RECURRING EXPENDITURES: \$28,050

2. Recurring or Annualized Continuation Effects:

Revenues:

Department of Professional Regulation					
License Fees	\$	0	\$29,500	\$	0

The elimination of the board's requirement to register specialty contractors included only in local ordinances (and not in state law) will reduce the workload of board staff.

The reduction in the number of board members and prevention of quorum problems will allow the board to reduce its costs by as much as \$15,000 annually.

Tighter disciplinary criteria should reduce the costs associated with disciplinary actions.

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

Revenues:

Department of Professional Regulation					
Professional Regulation Trust Fund	\$	0	\$29,500	\$	0

Expenditures:

Department of Professional Regulation				
Professional Regulation Trust Fund		\$28,050		

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None (See section 2. below)

2. Recurring or Annualized Continuation Effects:

The authority provided to local governments to issue cease and desist orders or to issue citations to unlicensed persons should result in a cost savings for local enforcement efforts. A citation program will specifically raise revenues by the amount of the fines collected.

The new authorities for local governments to refuse to issue permits or to issue permits with conditions to persons with violations in other localities or at the state level should improve the cost-effectiveness of local enforcement efforts.

Local permitting agencies will have a cost associated with providing the 1-page disclosure statement to unlicensed persons qualifying under the owner-builder exemption. The requirement that local governments notify the

board monthly, rather than annually, of disciplinary actions will increase reporting costs. The amount of fiscal impact is indeterminate.

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Doubling the penalty for late renewal of a certificate or registration and creating a reactivation fee of up to \$100 will have a direct impact on those contractors who choose to delay.

2. Direct Private Sector Benefits:

Limiting the liability of secondary qualifying agents should promote business organizations to have more qualifiers and reduce the time they operate without a qualifier when the primary qualifying agent leaves. This will reduce activity for which no licensed person is responsible and should financially protect the public.

Providing more guidance on the fees that are transferred to the Department of Education should result in construction studies that are more valuable to the industry, and that identify improved cost-efficiency and safety measures.

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

Expanding provision on licensure by endorsement will allow more persons to engage in contracting. Competition is generally thought to lower prices.

Expanding the scope of practice of many types of contractors should also promote broader competition and reduce costs to consumers.

Expanding eligibility for the certification exam should encourage more competition.

D. FISCAL COMMENTS:

Revenues and expenditures collected and incurred by the Construction Industry Licensing Board to regulate the construction industry during fiscal year 1988-89 are as follows:

Available Revenues:	\$6,011,700
Estimated Expenditures:	5,908,420

Currently, the Department collects an additional fee of \$4.00 on certification and registration renewals. The revenues from this additional fee are transferred biennially to the Department of Education to fund research and continuing education in construction contracting. The Department estimates the transfer for the current biennium to be \$245,600. The bill appropriates \$28,050

of the money that is normally transferred to the Department of Education to be used to fund the committee on complaints established by the bill.

III. LONG RANGE CONSEQUENCES:

This bill is believed to provide improved protection to the public while also opening up competition within the construction industry.

IV. COMMENTS:

When two terms are used to refer to the same thing, this bill deletes the less accurate term from the current law solely for the sake of uniformity and not as a substantive change. The terms "license" and "licensee" are uniformly changed to "certificate and registration" and "certificateholder and registrant." The reference to this "act" is changed to this "part" to avoid confusion about reference to Parts II or III of Chapter 489, F.S. The term "business entity" is changed to "business organization," the term used in the original 1979 law. A "business organization" can be a person practicing in his own name.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

Richard Herring <sup>h L</sup>

Staff Director:

Cliff Nilson <sup>3</sup>

APPROPRIATIONS:

Prepared by:

Lori L. E. Kilpatrick

Staff Director:

Dr. James A. Zingale