Session Law 88-156

Florida Senate & House of Representatives
A bill to be entitled
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

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penalties therefor; prescribing powers and
procedures relating to disciplinary penalties;
creating s. 489.1295, F.S.; allowing the board
to delegate disciplinary authority to the
department for minor violations; prescribing
procedures; 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;
amending s. 455.209, F.S.; providing civil
immunity for certain past board members;
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;

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

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

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 net 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

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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

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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

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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
and 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) 

(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

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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, 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

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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

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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, gunitying, 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, gunitying, 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.

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

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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.

"Plumbing contractor" means is 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,

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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.

(In) "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

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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) "Contracting" means, except as exempted in this part act, engaging in business as a contractor.

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"Certificate" means a certificate of competency issued by the department as provided in this part act.

"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.

"Registration" means registration with the department as provided in this part act.

"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.

"Certification" means the act of obtaining or holding a certificate of competency from the department as provided in this part act.

"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), licenses" means a holder-of-a-certificate-issued pursuant-to-this-act-or-a-person-registered-pursuant-to-this act.

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(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-system-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 176-61 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 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.

(17) "Registered-precision-tank-tester" means any precision-tank-tester who has registered with the department pursuant to s. 489.113(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

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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:

Four Three are primarily engaged in business as general contractors;

(b) 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 is primarily engaged in business as a roofing contractor;

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

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

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

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[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

[f]12. Six alternate members, of whom:

1. One is primarily engaged in business as a roofing contractor, and

2. One is primarily engaged in business as a sheet metal contractor,

3. One is primarily engaged in business as an air conditioning contractor, and

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.

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

- 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.

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 (a); and one of the members appointed pursuant to paragraph (2)(k) subparagraph (a) 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 (a) and one of the members appointed pursuant to paragraph (2)(k) subparagraph (a) 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.

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(5)567 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)(a) 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). Each probable cause panel shall be composed of two members. One probable cause panel member of each panel may, if provided for in administrative rule, be a past board member who is not currently appointed to the board.

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

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

489.109 Fees.--

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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 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 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 January 1, 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 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 of the 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

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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

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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.

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 not to exceed of $4, as established by the board by rule, 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. The Department of Education shall allocate for distribution-in-the-following manner:

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. Only those matters contained in the notice of
meeting provided by the Department of Education shall be
considered at any meeting at which persons who are not
employees of the Department of Education recommend or award
funding for specific proposals. 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. A
report shall be made by the Department of Education 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.--

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(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 set, a minimum of 2,000 man-hours shall be used in determining full-time equivalency.

2. Has a total of at least 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 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

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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.

(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

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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 or municipality 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

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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—
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- 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.

- 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.

- Any person who has operated as a pollutant storage systems specialty contractor during the 5 years preceding September 17, 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

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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. i. 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.

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(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 ss. 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 ss. 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 tasks that are necessary for the proper installation of such tank.

(e) 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.

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.

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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-tanky-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-6200-per-pollutant-storage-tanky
which-fees-shall-fund-the-inspection-program.--The-Department
of-Environmental-Regulation-may-contract-pursuant-to
paragraph-fc, 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
1y-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 31, 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) 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.

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.

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112.--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.

(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

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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.
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 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 phase of construction.

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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 as ordered for the business organization to be certified or registered in the category of the business conducted for which the qualifying agent is

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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 set.

(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 permits and
2. Any other work for which he accepts responsibility.

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

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(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

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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.

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(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 1621, 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.

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(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.

Any person who operates as a pollutant-storage
systems specialty contractor in violation of this part or any
person who violates s. 489.139 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 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 Willfully or deliberately disregarding and violation of the

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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-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:

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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

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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.

(1) 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

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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 489.1295, Florida Statutes, is created to read:

489.1295 Delegation of disciplinary authority.--
(1) Notwithstanding the provisions of s. 455.225(3), the board may delegate to the department the authority to exercise the board's disciplinary powers when:

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

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

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

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

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

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the delegation to a letter of guidance or a fine of $100 or
less:

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

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

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

12) If the probable cause panel concludes during any
investigation that one or more violations within the scope of
the delegation have been committed by a contractor and that no
more serious violations outside the scope of the delegation
have been committed, the department shall prepare and provide
the person with a citation concerning the minor violations.

The citation shall cite the statute alleged to have been
violated, the penalty, a brief statement of facts sufficient
to give the person reasonable notice as to the conduct alleged
to have violated the statute, a brief explanation of the
person's rights, and a provision for the person to indicate
thereon his acceptance or rejection of, and to sign, the
citation.

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

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

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

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

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

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

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

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

489.131 Applicability.--

(1) This part of the 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.

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(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) 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

t(e) No examination is given to 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-net-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
competency-or-a-license-for-such-trade—the-provisions-of-this
subsection-do-not-apply.

Section 17. 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 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

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(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

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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
preceeding September 1, 1986, shall receive within 30 days

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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 of a pollutant storage

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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 18. 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;

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

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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 thereunder. 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

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

455.209 Accountability and liability of board members.--

(2) Each board member, and each past board member serving on a probable cause panel pursuant to s. 489.107(6)(a), shall be exempt from civil liability for any act or omission when acting in his official capacity, and the department or the Department of Legal Affairs shall defend any such member in any action against any board or member of a board arising from any such act or omission. In providing such defense, the department or the Department of Legal Affairs are deletions; words underlined are additions.
Affairs may employ or utilize the legal services of outside counsel.

Section 20. (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 21. 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 22. 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 23. Section 489.5331, Florida Statutes, is renumbered as section 768.0425, Florida Statutes, and amended to read:

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768.0425 Damages in actions against contractors for injuries sustained from negligence, malfeasance, or misfeasance.

(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 24. 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 25. Except as otherwise provided herein, this act shall take effect October 1, 1988.
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.

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A bill to be entitled
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

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penalties therefor; prescribing powers and procedures relating to disciplinary penalties; creating s. 489.1295, F.S.; allowing the board to delegate disciplinary authority to the department for minor violations; prescribing procedures; 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; amending s. 455.209, F.S.; providing civil immunity for certain past board members; 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;

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providing an appropriation; providing an
effective date.

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

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 of the 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 200,000 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

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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 exception
to that law. The exception 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

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for your own use and occupancy. It may not be built for sale
or lease. If you build 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

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regulating architects and engineers, including persons doing
design work as specified in s. 489.259(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 set:
(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 set, 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)-(p) (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 set.
(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

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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
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

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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

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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

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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,
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,
evacuation, operation of construction pumps for dewatering
purposes, steelwork, installation of light niches, pouring of
floors, guniting, 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.

(1) "Swimming pool/spa servicing contractor" means a
contractor any-person whose scope of work involves the
1 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 is 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,

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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
thereeto, 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 multi-occupancy 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) "Contracting" means, except as excepted in this part act, engaging in business as a contractor.

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"Certificate" means a certificate of competency issued by the department as provided in this part act.

"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.

"Registration" means registration with the department as provided in this part act.

"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.

"Certification" means the act of obtaining or holding a certificate of competency from the department as provided in this part act.

"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)-(n) of subsection (3).

"Licensee" means a holder of a certificate issued pursuant to this act or a person registered pursuant to this act.
"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.

"Pollutant-storage-systems-specialty-contractor" means a contractor who installs a pollutant-storage-tank.

"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 §376.381 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.

"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 wherein, in such manner that any leak in such container may be readily detected.

"Registered-precision-tank-tester" means any precision-tank-tester who has registered with the department pursuant to §489.113(12). This registration shall be exempt from the provisions of prior municipality, county, or development district registration as required under §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

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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 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 is primarily engaged in business as a
roofing contractor;
(d) One is primarily engaged in business as a sheet
metal contractor;
(e) One is primarily engaged in business as an air
conditioning contractor;
(f) One is primarily engaged in business as a
mechanical contractor;
CODING: Words stricken are deletions; words underlined are additions.
(a) One is primarily engaged in business as a pool contractor;

(b) One is primarily engaged in business as a plumbing contractor;

(c) One is primarily engaged in business as an underground utility contractor;

(d) 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

(e) Two are building officials of a municipality or county, and

(f) Six alternate members, any or all of whom:

(1) One is primarily engaged in business as a roofing contractor;

(2) One is primarily engaged in business as an electrical 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;

(6) One is primarily engaged in business as a plumbing contractor;

(3) To be eligible for appointment, each contractor 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.

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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)(1) subparagraph (e) and one of the members appointed pursuant to paragraph (2)(k) subparagraph (e) 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)(1) subparagraph (e) and one of the members appointed pursuant to paragraph (2)(k) 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.

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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.

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 § 485.225(3). Each probable cause panel shall be composed of two members. One probable cause panel member of each panel may, if provided for in administrative rule, be a past board member who is not currently appointed to the board.

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

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

489.109 Fees.--

CODING: Words stricken are deletions; words underlined are additions.
(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 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 of the 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

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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. 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. 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. 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 inoperative 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

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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.

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:

CODING: Words stricken are deletions; words underlined are additions.
(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;

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(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 5 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. 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.
1. All junior college or community college-level courses shall be
   considered accredited college-level courses.
2. 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.
3. 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.
4. 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.
6. 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.
7. 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.
8. 6.a. An active certified swimming pool servicing
   contractor is eligible to take the residential swimming pool

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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 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

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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 as 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 or municipality 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

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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 thereof, 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
system specialty contractor.
(b) Requirements for certification as a pollutant storage
system specialty contractor.
(c) Requirements for certification without examination
of pollutant storage systems specialty contractors for any
person who has passed a local licensure examination.
licensure examination in another state or a licensure
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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-contractor-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-17-1986, or

has been registered-and-passed-such-local-examination-prior-to

July-17-1986.

The-board-may-use-standards-and-examinations-of-national
organizations-if-such-standards-and-examinations-are-adequate

to ensure-competent-installation-and-removal-of-pollutan

storage-tanks—All such-standards-and-examinations-shall-be
designed-to-ensure-that-leaks-and-other-discharges-are

eliminated-to-the-greatest-extent-possible:

(f) Any person who has operated as a pollutant

storage-systems-specialty-contractor-during-the-5-years

preceding-September-17-1986, shall receive within-30-days

after written-request-a-temporary-certificate-permitting-such

person-to-continue-operating-without-certification-until-July

17-1986, if such person:

1. Notifies the-department-in-writing-that-he-intends

2. Continue-such-operation-and-submits-an-application-fee-not

by-the-board-not-to-exceed-650; and

2. Provides-a-history-of-successful-operation-as-a

pollutant-storage-systems-specialty-contractor-within-such

time-period:

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(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 SR 489-f127 or SR 489-f129.

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 SR 376-f303. The Department of Environmental Regulation may inspect the installation of any pollutant storage tank.

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

1. A signed statement by the certified pollutant
2. Storage systems specialty contractor that such installation is in accordance with standards adopted pursuant to s. 376.303,
3. and
4. Signed statements by the onsite persons performing or supervising the installation of a pollutant storage tank,
5. which statements shall be required of tasks that are necessary for the proper installation of such tank.
6. (c)-(i) 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.
7. (c)-(ii) For 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.
8. (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.
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 $200 per pollutant storage tank, which fees shall fund the inspection program. The Department of Environmental Regulation may contract pursuant to paragraph (7) 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 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, CODING: Words stricken are deletions; words underlined are additions.
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.

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.

The board shall, by January 1, 1987, adopt rules providing standards for registration of precision tank testers who 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. 489.1111, 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

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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

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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 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 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

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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 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

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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
The 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

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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

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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.
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) of this part is guilty of a misdemeanor of the first degree, punishable as provided in ss. 775.082, 775.083, or 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
111(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 local 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

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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 irreversible 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). 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 (c) 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 (a).

3. If a person cited for a violation pursuant to this
subsection pays the applicable civil penalty established
pursuant to paragraph (a) 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.

(a) 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.

(b) 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.

1. The local governing body of the county or
municipality may enact an ordinance establishing procedures
for implementing this subsection.

2. 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.

(ii) 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 system specialty contractor in violation of this part or any person who violates s. 489.123(9)(a) is guilty of a felony of the third degree, punishable as provided in ss. 775.082, 775.083 or s. 775.084.

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

489.129 Disciplinary proceedings.--

CODING: Words stricken are deletions; words underlined are additions.
(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-directory-trustee-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-orabetting-any-uncertified-or-unregistered-person-to-evoke-any provision-of-this-act;

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

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1. A certificate or registration to be used by any 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

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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.

   (1) 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.

   (1) 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.

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(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.

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

489.1295 Delegation of disciplinary authority.—
(1) Notwithstanding the provisions of s. 455.225(3), the board may delegate to the department the authority to exercise the board’s disciplinary powers when:
(a) Such delegation of authority is set out in a written agreement between the board and the department;
(b) The department is constrained, for purposes of such delegation, to follow the rules promulgated by the board pursuant to this part;
(c) The delegation of authority limits violations on which the department may act under the delegation to violations that do not involve financial or physical harm to the public;
(d) The delegation of authority limits the violations on which the department may act under the delegation to which the board's disciplinary guideline rules recommend a letter of guidance or a fine of $100 or less;
(e) The delegation of authority limits the disciplinary action that may be taken by the department under the delegation to a letter of guidance or a fine of $100 or less;
(f) The department completes disciplinary action under the delegation within 1 year of the date that the violation should reasonably have been discovered or reported;
(g) All disciplinary actions taken by the department are reported to the board on a monthly basis; and
(h) The delegation of authority provides that the board may at any time rescind the delegation or reduce the powers delegated to the department.

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

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

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

(c) The department may, at any time before its final receipt of a completed citation, withdraw the citation upon the grounds that the violations for which the person was cited were outside the delegation. Upon such withdrawal, the processing of the case shall continue as otherwise provided in s. 455.225.
(3)(a) The department shall provide notice to the person of its receipt of the completed citation by certified mail directed to the address provided by the person on the citation. Payment of a fine to the department shall be due not later than 45 days after the person's receipt of such notice.

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

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

Section 16. 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).

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(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 of the 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

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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) To engage in contracting in the territorial
area, an applicant shall also be registered with the board.

g Each local board or agency which licenses
contractors transmits monthly 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 licensees and

t--No-examination-is-given-the-holder-of-
s 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
constructed-to-permit-a-contractor-to-perform-mechanical-or
plumbing-work-for-which-an-examination-for-a-certificate-of

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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 17. 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 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

(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

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development district registration, as required under s. 469.117, 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

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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.
1. 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 system specialty contractor unless such person is certified as a pollutant storage system specialty contractor pursuant to this part, nor shall any official authorized to issue building or other related permits issue 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 system specialty contractor.

b) Any person installing a pollutant storage tank shall perform such installation in accordance with the standards adopted pursuant to s. 376.307.

c) Any person who operates as a pollutant storage system specialty contractor in violation of this section or any person who violates subsection (5) is guilty of a felony.
Section 18. 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 tanks 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.

2. 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 § 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

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

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

455.209 Accountability and liability of board members.--

(2) Each board member, and each past board member serving on a probable cause panel pursuant to s. 489.107(4)(a), shall be exempt from civil liability for any act or omission when acting in his official capacity, and the department or the Department of Legal Affairs shall defend any such member in any action against any board or member of a board arising from any such act or omission. In providing such defense, the department or the Department of Legal Affairs may employ or utilize the legal services of outside counsel.

Section 20. (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.

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(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 person 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. 489.10217, Florida Statutes, the committee shall be funded during the 1988-1989 fiscal year in the amount appropriated by the Legislature up to $25,000 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 to 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 21. 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 22. 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 23. 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.-- 489.5331--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 24. 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 25. 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 26. Except as otherwise provided herein, this act shall take effect October 1, 1988.

CODING: Words struck through are deletions; words underlined are additions.
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.
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.;

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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.

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

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

489.103 Exemptions.--This part set does not apply to:

CODING: Words stricken are deletions; words underlined are additions.
(1) Contractors in work on bridges, roads, streets, highways, railroads, or utilities and services incidental thereto.

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

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

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

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

(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 inground or aboveground swimming pools with a capacity in excess of 500 gallons. 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 presumptive evidence that the construction was undertaken for purposes of sale or lease. This subsection 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.

(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 $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.

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

(b) Regularly constituted irrigation districts or reclamation districts; or
(c) Clearing or other work on the land in rural districts for fire prevention purposes or otherwise except when performed by a licensee.

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

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

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

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

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

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

489.105 Definitions.—As used in this part:

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

(2) "Department" means the Department of Professional Regulation.
"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)-(e):

(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 services.
manufacture, fabrication, assembling, handling, erection, 
installation, dismantling, conditioning, adjustment, 
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, including all kinds of roof coating. However, 
it is not necessary to be licensed in order to apply a coating 
to a roof when the coating is not represented to protect, 
repair, waterproof, stop leaks, or extend the life of the 
roof.

(f) "Class A air conditioning contractor" means 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 install 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 load side of the disconnect switch.

(g) "Class B air conditioning contractor" means 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 insulation of pipes, vessels, and ducts; to install 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.

(h) "Class C air conditioning contractor" means 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.

(1) "Mechanical contractor" means 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, and fuel transmission lines;
to install 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

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safe waste or other approved disposal other than a direct
collection 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.

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

(1) "Commercial pool contractor" means any person
whose scope of work involves, but is not limited to, the
construction, repair, water treatment, and servicing of any
swimming pool, 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, 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.

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(k) "Residential pool contractor" means any person whose scope of work involves, but is not limited to, the construction, repair, water treatment, and servicing of any residential swimming pool, 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, guniteing, 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.

(1) "Swimming pool servicing contractor" means 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, 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)1. "Plumbing contractor" is 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

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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

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

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

(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, or storm sewer collection systems at storm sewer structures. An underground utility contractor may not install any piping that is an integral part of a fire protection system, as defined in s. 633.021, beginning at the point where the piping is used exclusively for such system.

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

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(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 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) "Contracting" means, except as exempted in this part act, engaging in business as a contractor.

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

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

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

(10) "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 these areas.

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

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

(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 or removes 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 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.

(17) "Registered precision tank tester" means any
precision tank tester who has registered with the department
pursuant to s. 489.113(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 3. 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; four 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 full terms on
the board.

(2) The board shall consist of-

ten seventeen regular members, of whom:

Three are primarily engaged in business as
general contractors;

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Three are primarily engaged in business as building contractors or residential contractors;

One is primarily engaged in business as a roofing contractor;

One is primarily engaged in business as a sheet metal contractor;

One is primarily engaged in business as an air conditioning contractor;

One is primarily engaged in business as a mechanical contractor;

One is primarily engaged in business as a pool contractor;

One is primarily engaged in business as a plumbing contractor;

One is primarily engaged in business as an underground utility contractor;

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

Two are building officials of a municipality or county, and

Six alternate members, of whom:

One is primarily engaged in business as a roofing contractor;

One is primarily engaged in business as a sheet metal contractor;

One is primarily engaged in business as an air conditioning contractor;

One is primarily engaged in business as a mechanical contractor;

CODING: Words stricken are deletions; words underlined are additions.
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.

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.

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 (f); and one of the members appointed pursuant to paragraph (2)(k) subparagraph (f) 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)(j); and one of the members appointed pursuant to paragraph (2)(k) subparagraph (2)(k); 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, and specialty contractors.

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.

Section 4. Subsections (1) and (4) of section 489.109, Florida Statutes, are 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 17, 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 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 biennial renewal fee shall not exceed $50.

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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 $20 for certification and $10 registration. 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.

(4) In addition to the fees provided in subsection (1) for application and renewal for certification and registration, all 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 for distribution in the following manner:

(a) Fifty percent shall be allocated to fund research projects relating to the building construction industry in a graduate program in building construction in a Florida university.

(b) Fifty percent 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. Each institution receiving funds under this subsection shall utilize such funds for research projects relating to the building construction industry or for

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continuing education programs to be offered to those engaged in the building construction industry in Florida.

A report shall be made by the Department of Education 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.

Section 5. Subsection (2) of section 489.111, Florida Statutes, is 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:

(a) Is 18 years of age;
(b) Is of good moral character; and
(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 combination of at least 4 3 years of active experience as a workman, foreman, or supervisor 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, which experience must include and has at least 1 year of active experience at the level of a foreman who is in charge of a group of workmen and is usually a

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responsible to a superintendent or a contractor or his equivalent.

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 in the appropriate field of engineering, architecture, or building construction; 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 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.

CODING Words stricken are deletions; words underlined are additions.
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.

Section 6. Subsections (1), (3), and (6) of section 489.113, Florida Statutes, are 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.

(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 and the water distribution system, not including the continuation of utility lines from the mains to the buildings, and the storm collection system. 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.

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

Section 7. Subsections (2), (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 licensure 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 were substantially equivalent to the licensure criteria that existed in this state at the time the license was issued. adopt-rules describing-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,

(4) As a prerequisite to the initial issuance or the
renewal of a certificate, the applicant shall submit
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. 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 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 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 8. Section 489.1155, Florida Statutes, is created to read:

489.1155 Journeyman, voluntary certification.--Any person working as a journeyman in the mechanical trade or as a journeyman plumber who applies to the department in writing and who passes the certification examination shall be certified by the board as a journeyman in the mechanical trade or journeyman plumber and may perform the work of a journeyman in the respective trade throughout the state. The board shall establish by rule procedures and guidelines for the certification and discipline of journeymen certified in accordance with this section.

Section 9. Subsection (3) of section 489.117, Florida Statutes, is amended to read:

489.117 Registration.--

(3) Upon findings of fact supporting the need therefor, the board may grant a limited nonrenewable registration to a contractor not domiciled in the state, for one project. Such registration may not be granted until the contractor has satisfied the licensing requirements of the jurisdiction in which the project will be located. During the period of such registration, the board may require compliance with this and any other statute of the state.

Section 10. Section 489.119, Florida Statutes, is amended to read:

489.119 Business organizations; qualifying agents.--

CODING: Words struck are deletions; words underlined are additions
(1) If an individual proposes to engage in contracting in his own name, registration or certification may be issued only to that individual.

(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 entities, is itself a separate and distinct entity that must be qualified. 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 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

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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.

(4) When a certified qualifying agent, on behalf of a
business organization, makes application for an occupational
license in any municipality or county of this state, the
application shall be made with the tax collector in the name
of the qualifying agent and the name of the business
organization; and the license, when issued, shall be issued to
the qualifying agent and the business organization, upon
payment of the appropriate licensing fee and exhibition to the
tax collector of a valid certificate issued by the department, and the state license number shall be noted thereon.

(5)(a) A joint venture, of which one or more of the participants is not a licensed contractor under this part, may submit a bid on a construction project under the following circumstances:

1. The joint venture agreement must be in writing;
2. One of the joint venturers must be a business entity that is properly qualified by a licensed contractor;
3. Each participant must sign a statement of authority giving the licensed contractor full authority to conduct the contracting business of the participant;
4. A bonding company must issue a letter of bondability of the joint venture participants which guarantees the subsequent performance of the contract; and
5. Copies of the joint venture agreement, statements of authority, and the letter of bondability must be received and approved by the board prior to the time of the bid.

(b) If the joint venture is awarded the contract, the licensed contractor must qualify all business entities participating in the joint venture within 60 days.

(c) A licensed contractor is restricted to one use of this method of limited qualification at any one time.

(d) A licensed contractor who uses this method of limited qualification must maintain on file with the board up-to-date information, as required on the application, concerning all business entities that he qualifies.

(e) This method of limited qualification may not be used by any business entity whose application is subject to denial under subsection (8) due to an officer's, partner's,
director's, or member's having been fined pursuant to s. 489.129(2).

(f) The board may limit the qualification issued, as to the project or projects bid upon, and prescribe the time period for which the qualification is to remain effective.

(5) 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 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.

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

(8) If a business 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 entity.

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Section 11. Section 489.1195, Florida Statutes, is created to read

489.1195 Primary and secondary qualifying agents; 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, or 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

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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 unilaterally terminate his status as such. To terminate his status, he must give actual notice to all secondary qualifying agents of his intention to terminate his status and, within 30 days after giving such notice, apply to the board for change of status. His application must include proof satisfactory to the board that he has given the notice required in this paragraph. If the board determines that the application is in good order, it shall approve the termination; and the status of the qualifying agent will cease upon the designation of a new sole primary qualifying agent or on the 60th day after the approval of his application by the board, whichever first occurs. All qualifying agents for a business organization become primary qualifying agents if the status of the sole primary qualifying agent terminates and another sole primary qualifying agent has not been designated.

(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. Paragraphs (e), (f), (g), and (j) of subsection (1) of section 489.129, Florida Statutes, are amended, and subsections (4) and (5) are added to said section, 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 and impose an administrative fine not to exceed $5,000, place a contractor on probation, or reprimand or censure a contractor if the contractor, or if the business entity or any general partner, officer, director, trustee, or member of a business entity for which the contractor is a qualifying agent, is found guilty of any of the following acts:

(e) Performing any act which in fact assists any person or entity in engaging in the prohibited, unlicensed practice of contracting, if the licensee knows or has reasonable grounds to know that the person or entity is unlicensed Aiding-or-abetting-any-uncertified-or-unregistered person-to-evoke-any-provision-of-this-act.

(f) Knowingly combining or conspiring with an uncertified or unregistered person by allowing one's certificate or registration to be used by 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 compar·es without having any active participation in the operations, management, or control of such companies, such act

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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.

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

(4) In recommending penalties after any formal hearing, a hearing officer shall generally follow the penalty guidelines established by the board by rule. Any deviation from these guidelines by the hearing officer must be explained in detail in the recommended order.

(5) The board may not reinstate the license of, or cause a license 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 13. 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.

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(2) The state or any county or municipality shall 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.

(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 a bond for contractors in an amount not to exceed $5,000, which bond shall be conditioned only upon

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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.

Nothing in this act shall be construed to waive any requirement of any existing ordinance or resolution of a board of county commissioners regulating the type of work required to be performed by a specialty contractor.

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.

Municipalities or counties may continue to provide examinations for their territorial area, provided that:

To engage in contracting in the territorial area, an applicant shall also be registered with the board;

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(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 the licensee; and

(c) No examination is given the holder of a certificate.

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

(7) Only a Division I contractor may construct or alter 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 14. Notwithstanding the provisions of chapter 81-318, chapter 82-179, and chapter 86-159, Laws of Florida, sections 489.101, 489.103, 489.105, 489.107, 489.109, 489.111, 489.113, 489.115, 489.117, 489.119, 489.121, 489.123, 489.125, 489.127, 489.129, and 489.131, Florida Statutes, shall not stand repealed or expire October 1, 1988, as scheduled by such
laws, but said sections, as amended, are hereby revived and
readopted.

Section 15. Sections 489.101, 489.103, 489.105,
489.107, 489.108, 489.109, 489.111, 489.113, 489.115,
489.1155, 489.117, 489.119, 489.1195, 489.121, 489.123,
489.125, 489.127, 489.129, and 489.131, Florida Statutes, are
repealed October 1, 1998, and shall be reviewed by the
Legislature prior to that date pursuant to section 11.61,
Florida Statutes.

Section 16. Section 16 of chapter 87-310, Laws of
Florida, is repealed; and section 489.5331, Florida Statutes,
is revived and readopted and transferred, renumbered as
section 768.0425, Florida Statutes, and amended to read:

768.0425 489-533\ Damages in actions against
contractors for injuries sustained from negligence,
malfeasance, or misfeasance

(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 an,
state or local law, including, but not limited to, this
chapter 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

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a contractor pursuant to the laws of the municipality or county within which he is conducting business.

Section 17. This act shall take effect October 1, 1988.

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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.

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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.

CODING: Words strucken are deletions; words underlined are additions.
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.

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

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

489.103 Exemptions.—This part set does not apply to:

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

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

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

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

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

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 inground or aboveground swimming pools or spas with a capacity in excess of 200,000 gallons. 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,

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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 presumptive evidence
that the construction was undertaken for purposes of sale or
lease. This subsection 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.

(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 $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.

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

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

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

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

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

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

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

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

Section 2. 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)-(f).

(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

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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,
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, including all kinds of roof coating. However,
it is not necessary to be licensed in order to apply a coating
to a roof when the coating is not represented to protect,
repair, waterproof, stop leaks, or extend the life of the
roof.

(f) "Class A air conditioning contractor" means 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

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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 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 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.

(h) "Class C air conditioning contractor" means 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.

(i) "Mechanical contractor" means 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

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piping, ink and chemical lines, and fuel transmission lines;
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
evacuation 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 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 any person
whose scope of work involves, but is not limited to, the
construction, repair, water treatment, and servicing of any

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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, 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 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" is 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,
oxigen 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).

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"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 multi-occupancy properties at manhole or wye lateral extended to an invert elevation as engineered to accommodate future building sewers, or storm sewer collection systems at storm sewer structures. An underground utility contractor may not install any piping that is an integral part of a fire protection system, as defined in s. 633.021, beginning at the point where the piping is used exclusively for such system.

"Specialty contractor" means any contractor whose work is limited to a specific phase of construction and whose responsibility is likewise limited to that phase of construction.

"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 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) "Contracting" means, except as exempted in this part, engaging in business as a contractor.

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

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

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

(10) "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 these areas.

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

Specialty-contractor" means any contractor who does not fall within the categories established in paragraphs (a) of subsection (3).
(12) "Licensee" means a holder of a certificate issued pursuant to this part or a person registered pursuant to this part.

(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 or removes 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 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.

(17) "Registered precision tank tester" means any precision tank tester who has registered with the department pursuant to s. 489.113(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 3. Section 489.107, Florida Statutes, is amended to read:

489.107 Construction Industry Licensing Board.--

(1) To carry out the provisions of this part set, 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; four 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 terms on the board.

(2) The board shall consist of:

(a) Seventeen regular members, of whom:

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

   (b) Three are primarily engaged in business as building contractors or residential contractors;

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

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

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

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(f) One is primarily engaged in business as a mechanical contractor,

(g) One is primarily engaged in business as a pool contractor;

(h) One is primarily engaged in business as a plumbing contractor;

(i) 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) Two are building officials of a municipality or county, and

(b) 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

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of not less than 5 consecutive years before the date of his appointment. Each appointee must be a citizen and resident of the state.

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.

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) and one of the members appointed pursuant to paragraph (2)(k) 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) and one of the members appointed pursuant to paragraph (2)(k) 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, and specialty contractors.

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(5) 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.

Section 4. Subsections (1) and (4) of section 489.109, Florida Statutes, are 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 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 biennial renewal fee shall not exceed $50.

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 $20 for certification and $10 registration. 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 and the provisions of law with respect to the regulation of the construction industry.

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(4) In addition to the fees provided in subsection (1) for application and renewal for certification and registration, all 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 for distribution in the following manner:

(a) Fifty percent shall be allocated to fund research projects relating to the building construction industry in a graduate program in building construction in a Florida university.

(b) Fifty percent 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. 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.

A report shall be made by the Department of Education 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.

Section 5. Subsection (2) of section 489.111, Florida Statutes, is 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 the state if the person:

(a) Is 18 years of age;

(b) Is of good moral character; and

(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, a minimum of 2,000 man-hours shall be used in determining full-time equivalency.

2. Has a combination of at least 3 years of active experience as a workman, foreman, or supervisor 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, which experience must include and has at least 1 year of active experience at the level of a foreman who is in charge of a group of workmen and is usually is responsible to a superintendent or a contractor or his equivalent.

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 in the appropriate field of engineering, architecture, or building construction; 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 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.

Section 6. Subsections (1), (2), (3), and (6) of section 489.113, Florida Statutes, are 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 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 or municipality 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 and the water distribution system, not including the continuation of utility lines from the mains to the buildings, and the storm collection system. 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.

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

Section 7. Subsections (2), (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 licensure 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 were substantially equivalent to the licensure 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.

(4) As a prerequisite to the initial issuance or the renewal of a certificate, the applicant shall submit 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. 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 licensee shall, upon requesting a change of

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status, submit to the board a credit report from a nationally recognized credit agency that reflects the financial responsibility of the applicant or 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 8. Subsection (3) of section 489.117, Florida Statutes, is amended to read:

489.117 Registration.--

(3) Upon findings of fact supporting the need therefor, the board may grant a limited nonrenewable registration to a contractor not domiciled in the state, for one project. Such registration may not be granted until the contractor has satisfied the licensing requirements of the jurisdiction in which the project will be located. During the period of such registration, the board may require compliance with this and any other statute of the state.

Section 9. Section 489.119, Florida Statutes, is amended to read:

489.119 Business organizations; qualifying agents.--

(1) If an individual proposes to engage in contracting in his own name, registration or certification may be issued only to that individual.

(2) If the applicant proposes to engage in contracting as a partnership, corporation, business trust, or other legal

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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 entities, is itself a separate and distinct entity that must be qualified. 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.

(4) When a certified qualifying agent, on behalf of a business organization, makes application for an occupational license in any municipality or county of this state, the application shall be made with the tax collector in the name of the qualifying agent and the name of the business organization; and the license, when issued, shall be issued to the qualifying agent and the business organization, upon payment of the appropriate licensing fee and exhibition to the tax collector of a valid certificate issued by the department, and the state license number shall be noted thereon.

(5)(a) A joint venture, of which one or more of the participants is not a licensed contractor under this part, may

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submit a bid on a construction project under the following circumstances:

1. The joint venture agreement must be in writing;
2. One of the joint venturers must be a business entity that is properly qualified by a licensed contractor;
3. Each participant must sign a statement of authority giving the licensed contractor full authority to conduct the contracting business of the participant;
4. A bonding company must issue a letter of bondability of the joint venture participants which guarantees the subsequent performance of the contract, and
5. Copies of the joint venture agreement, statements of authority, and the letter of bondability must be received and approved by the board prior to the time of the bid.

(b) If the joint venture is awarded the contract, the licensed contractor must qualify all business entities participating in the joint venture within 60 days.

(c) A licensed contractor is restricted to one use of this method of limited qualification at any one time.

(d) A licensed contractor who uses this method of limited qualification must maintain on file with the board up-to-date information, as required on the application, concerning all business entities that he qualifies.

(e) This method of limited qualification may not be used by any business entity whose application is subject to denial under subsection (8) due to an officer's, partner's, director's, or member's having been fined pursuant to s. 489.129(2).

(f) The board may limit the qualification issued, as to the project or projects bid upon, and prescribe the time period for which the qualification is to remain effective.
(6) 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 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.

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

(8) If a business 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 entity.

Section 10. Section 489.1195, Florida Statutes, is created to read:

489.1195 Primary and secondary qualifying agents; 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

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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 unilaterally terminate his status as such. To terminate his status, he must give actual notice to all secondary qualifying agents of his intention to terminate his status and, within 30 days after giving such notice, apply to the board for change of status. His application must include proof satisfactory to the board that he has given the notice required in this paragraph. If the board determines that the application is in good order, it shall approve the termination; and the status of the qualifying agent will cease upon the designation of a new sole primary qualifying agent or on the 60th day after the approval of his application by the board, whichever first occurs. All qualifying agents for a business organization become primary qualifying agents if the status of the sole primary qualifying agent terminates and another sole primary qualifying agent has not been designated.

(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 11. Paragraphs (d), (e), (f), (g), and (j) of subsection (1) of section 489.129, Florida Statutes, are amended, and subsections (4) and (5) are added to said section, to read:

489.129 Disciplinary proceedings.--

CODING: Words stricken are deletions; words underlined are additions.
(1) The board may revoke, suspend, or deny the issuance or renewal of the certificate or registration of a contractor and impose an administrative fine not to exceed $5,000, place a contractor on probation, or reprimand or censure a contractor if the contractor, or if the business entity or any general partner, officer, director, trustee, or member of a business entity for which the contractor is a qualifying agent, is found guilty of any of the following acts:

(d) Proceeding on any job without first assuring that all applicable local building department permit and inspection requirements have been complied with. Wilful 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 in fact assists any person or entity in engaging in the prohibited, unlicensed practice of contracting, if the licensee knows or has reasonable grounds to know that the person or entity is unlicensed 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 one's certificate or registration to be used by any uncertified or unregistered person with intent to evade the provisions of this part act. When a certificate holder or registrant allows his certificate or registration to be used by one or more companies without having any active participation in the operations, management, or control of such 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.

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

(4) In recommending penalties after any formal hearing, a hearing officer shall generally follow the penalty guidelines established by the board by rule. Any deviation from these guidelines by the hearing officer must be explained in detail in the recommended order.

(5) The board may not reinstate the license of, or cause a license 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 12. 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

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evidence that the bidder holds an appropriate certificate or registration.

(3) Nothing in this part set 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 set 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 a bond for 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.

Nothing in this act shall be construed to waive
any requirement of any existing ordinance or resolution of a
board of county commissioners regulating the type of work
required to be performed by a specialty contractor.

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.

Municipalities or counties may continue to
provide examinations for their territorial area, provided
that:

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

(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 the
licensee; and
(c) No examination is given the holder of a certificate.

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

(7) Only a Division I contractor may construct or alter 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—and-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 13. Notwithstanding the provisions of chapter 81-318, chapter 82-179, and chapter 86-159, Laws of Florida, sections 489.101, 489.103, 489.105, 489.107, 489.109, 489.111, 489.113, 489.115, 489.117, 489.119, 489.121, 489.123, 489.125, 489.127, 489.129, and 489.131, Florida Statutes, shall not stand repealed or expire October 1, 1988, as scheduled by such laws, but said sections, as amended, are hereby revived and readopted.

489.119, 489.1195, 489.121, 489.123, 489.125, 489.127, 489.129, and 489.131, Florida Statutes, are repealed October 1, 1998, and shall be reviewed by the Legislature prior to that date pursuant to section 11.61, Florida Statutes.

Section 15. Section 16 of chapter 87-310, Laws of Florida, is repealed; and section 489.5331, Florida Statutes, is revived and readopted and transferred, renumbered as section 768.0425, Florida Statutes, and amended to read:

768.0425 489.5331 Damages in actions against contractors for injuries sustained from negligence, malfeasance, or misfeasance @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 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 16. This act shall take effect October 1, 1988.

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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.
S 166 GENERAL BILL/CS/ENG by Economic, Community and Consumer Affairs:

(Similar CS/H 1646, Compare CS/ENG/H 72, 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 Amend 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 On Committee agenda—Economic, Community and Consumer Affairs
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 1285, Reconsidered—HJ 1298, 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 HOUSE 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 1046 GENERAL BILL/CS by Appropriations; Regulatory Reform, Lippman; Kelly; Sansom (Similar CS/ENG/S 165, Compare CS/ENG/H 72, ENGH 1624, 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 Amend 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 Introducesd, 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 88-382)
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, 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 at least two 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 herefore mentioned.

(9) Except for those investments described in paragraph (2)(k), 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
Bloom
Bronson
Brown
Canady
Carlton
Casas
Clark
Davis
Deutsch
Diaz-Balart
Friedman
Garcia
Glickman
Gonzalez
Quevedo

Nays—44

Arnold
Ascherl
Banter
Banjann
Bankhead
Bell
Carpenter
Clements
Crady
Crotty
Drage

Nay 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, CSSB 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, revising and readopting ss. 489 101-489 107, 489 109-489 101. F.S., notwithstanding their scheduled repeal, providing for future review and repeal of ss. 489 101-489 101, F.S., revising, readopting, transferring, and amending s. 489 5331, F.S., relating to damages in civil action; repealing s. 7, ch. 57-310, 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 does not apply to:

(2) Any employee of a certificateholder or registrant who is a subordinate of such certificateholder or registrant 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 saps or inground or aboveground swimming pools with a capacity in excess of 200,000 gallons, and for aboveground swimming pools with a capacity in excess of 200,000 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, 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 the work. This subsection does not exempt anyone from the requirements of this act 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 authority shall provide the owner a 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, 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. It is your responsibility to see that people employed by you have licenses required by state law and by county or municipal licensing ordinances.

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

(2) 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 to do for the purpose of evading this part.

(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, engineer, or residential designer acting within the scope of his practice in his profession or any person exempted by the law regulating architects and engineers, including persons doing design work as defined in § 489.1225(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.

(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, the person who, for compensation, undertakes to submit 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 divided into two divisions, Division I, consisting of those contractors defined in paragraphs (a) through (c), and Division II, consisting of those contractors defined in paragraphs (d) through (e).

(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.

(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, alteration, 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, 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 in buildings, parking spaces 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, ventilation, 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, parking spaces or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring on the line side of the disconnect switch.
(b) "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 and no mechanical contractor 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 business is 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 condensing and reconnection, 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, gas engine tanks and pump installations and piping for same, standpipes, air piping, vacuum line piping, oxygen line piping, nitrous oxide piping, and in electrical systems, fuel 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 installations of a condensate drain from an air conditioning unit to an existing safe waste or other approved outlet. The work of 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 water lines 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, gutting, 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 water lines.

(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, gutting, 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 water lines.

(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 reinstatement 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, 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; 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 the work of the plumbing contractor also includes the design, when not prohibited by law, and installation, 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, sanitary drainage systems, distribution systems, public or private water supply systems, 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 use lateral extended to an insert elevation as engineer and to accommodate future expansion, or, a system of 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.

(o) "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, as attested by the department.

(p) "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)(d) "Contracting" means, except as exempted in this part, engaging in business as a contractor

(7)(d) "Certificate" means a certificate of competency issued by the department as provided in this part

(8)(d) "Certified contractor" means any contractor who possesses a certificate of competency issued by the department and who shall be allowed to enter into any contract in any jurisdiction in the state without being required to fulfill the competency requirements of that jurisdiction

(9)(d) "Registration" means registration with the department as provided in this part

(10)(d) "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 those areas

(11)(d) "Certification" means the act of obtaining or holding a certificate of competency from the department as provided in this part

(12)(d) "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)-(n) of subsection (3).

(13) "License" means a holder of a certificate issued pursuant to this act or a person registered pursuant to this act

(14) "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.

(15) "Pollutant storage system" means a contractor who installs a pollutant storage tank

(16) "Pollutant storage tank" means a tank, together with associated pumping or dispensing facilities, which is or could be used for the storage or supply of pollutants as defined in s. 376.303 and which is required to be registered under chapter 74-61 of the Florida Administrative Code or for which notification must be submitted under Subtitle I of the Resource Conservation and Recovery Act.

(17) "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 liquid in such container may be readily detected

(18) "Registered pressure tank testing" means any pressure tank tester who has registered with the department pursuant to s. 489.13(12). This registration shall be exempt from the prorata payment requirement for professional membership, county, or development district registration, as required under s. 489.117, and shall be registered on a prorata 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, 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 2 years, and five members, each for a term of 4 years. A vacancy on the board shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(2) The board shall consist of

(a) Seventeen regular members, of whom

(b) Four Three are primarily engaged in business as general contractors,

(c) 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;

(d) One is primarily engaged in business as a roofing contractor;

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

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

(g) One is primarily engaged in business as a pool contractor;

(h) One is primarily engaged in business as a plumbing contractor;

(i) One is primarily engaged in business as an underground utility contractor;

(j) 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) 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;

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

(a) Division I is comprised of the general contractor, roofing contractor, and residential contractor members of the board, one of the members appointed pursuant to paragraph (2)(j) and one of the members appointed pursuant to paragraph (2)(k) 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)(a) subparagraph (e) of Section 489.109, and one of the members appointed pursuant to paragraph (2)(b) subparagraph (d) of Section 489.109 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)(c) Five members of Division I 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 board, 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 § 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 recordkeeping. Effective October 2, 1978, the fees shall be 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, 1978, shall remain in effect through December 30, 1974. The board, by rule, may also establish penalty fees for late renewal not to exceed $40 for certification and $20 for registration 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 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 voluntarily 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 involuntarily inactive 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 active period the inactive period has been. The department, and in addition, the board may require reexamination of the applicant.

(6) 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 under the following conditions: (a) he shall pay the biennial renewal fee 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) In addition to the fees provided in subsection (1) for application and renewal for certification and registration, all certificateholders and registrants licensed 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 problems 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 fee distribution in the following manner:

- Fifty percent of the funds to be allocated to fund research projects relating to the building construction industry in a graduate program in building construction in a Florida university and

- Fifty percent of the funds to be apportioned among all accredited private and state universities and community colleges within the state offering approved courses in building construction, 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 advise the board of the need for the funds and the status of previously funded projects. Each institution receiving funds shall report those funded projects to the board and to the department. Each institution shall, in turn, cooperate with the arbitrary 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, a minimum of 2,000 man-hours shall be used in determining full-time equivalency.

2. Has a total of at least 4 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 foreman and not less than 3 years of 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 1 year of experience as an apprentice for any accredited college-level courses.

For the purpose of this part, a person 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 3 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. An active certified residential contractor shall be eligible to take the swimming pool commercial contractors' examination if he possesses a minimum of 3 years of proven experience in the classification in which he is certified.

b. When an applicant is found to be unqualified for a certificate 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. 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, unless exempted by this part. 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 as a foreman 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 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 in 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, the 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, 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 concern-
ing 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 set

(3) The board, by July 1, 1982, adopt rules providing standards
for certification of pollutant storage systems specialty contractors and
by July 1, 1983, 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 licensing examination, a license examination in another state,
or a licensing 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 by July 1, 1982, and has been
registered and passed such local examination prior to July 1, 1986.

The board may use standards and examinations of national organiza-
tions 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.

(2)(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, 1986, if such person:

1. Notifies the department in writing that he intends to continue
such operation and submit 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 (2)(a)
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 (2)(b), provided that such contractor:

1. Notifies the department in writing that he intends to apply for
certification under paragraph (2)(b), 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. 468.127 or s. 468.129.

Effective October 1, 1986, notwithstanding any provision of
this chapter to the contrary, no person shall engage in contracting on
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 certifies that the appli-
cant 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, 1982, shall certify that such
installation is in accordance with the standards adopted pursuant to
s. 468.303. The Department of Environmental Regulation shall prom-
ounce 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
the standards adopted pursuant to s. 468.303; and

2. Signed statements by the on-site personnel performing or supervis-
ing the installation of a pollutant storage tank, which statements shall
be required of tasks that are necessary for the proper installation of
such tank.

e) The Department of Environmental Regulation shall, to the
greater extent possible, contract with local governments to provide for
the administration of its responsibilities under this part set.
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
the options hereunder. As an 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 exempt
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. The inspector shall have a
connection to the tank prior to placing the pollutant storage tank in
service. All such inspections shall be conducted pursuant to the standards
adopted under s. 468.303. 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 (e), with the county government to perform such inspec-
tions; 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 govern-
ment opposes the Department of Environmental Regulation, 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.
The program shall be established within 30 days after election of a
new administration by the county. If no county applies by that deadline,
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 Regula-
tion shall report to the Legislature on the results of the program.
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.

(4) 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.

(4) The board shall, by January 1, 1988, adopt rules providing standards for registration of pressure vessel licensees who provision 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 the state at the time the license was issued. The board may establish standards for any specialty for which the criteria for issuance of such license is substantially different from the certification criteria.

(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 satisfies the following:

(a) 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 on 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 on 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, limited liability company, or other legal entity, the applicant shall apply through a qualifying agent, the applicant 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 set 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 set.

(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 to 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 § 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 489.115, 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 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 CERTIFICATEHOLDER OR REGISTRANT LICENSEE.

(e) USE OR ATTEMPT TO USE A CERTIFICATE OR REGISTRATION WHICH HAS BEEN SUSPENDED OR REVOKED,

(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;

(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) of this part is guilty of a misdemeanor of the first degree, punishable as provided in s 775.082, ss 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 152, 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 irreparable 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) 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;
3. Any previous violations committed by the violator;
4. The section 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;
5. The local governing body of the county or municipality may enact an ordinance establishing procedures for implementing this subsection.

(f) 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.

(g) 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.

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

(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.

(k) Any person who operates as a pollutant storage systems specialty contractor in violation of this section, who violates s. 489.113(1)(a) is guilty of a felony of the third degree, punishable as provided in ss. 775.083, 775.084, or 775.085.

Section 14. Section 489.129, Florida Statutes, is amended to read as follows:

Section 129. 489.129, Florida Statutes, is amended to read as follows:

1. The board may revoke, suspend, or deny the issuance or renewal of the certificate or registration of a contractor, require fulfillment of a consumer, and impose an administrative fine not to exceed $500, 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 or using a certificate or registration has been issued 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 section 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. Asking or enticing 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 or the certificate or registration to be used by the any uncertified or unregistered person with intent to evade the provisions of this part of the act. When a certificateholder or registrant allows his certificate or registration to be used by someone else, without having any active participation in the operation of any building code or the control of such business organizations companies, such acts constitutes prima facie evidence of an intent to evade the provisions of this part of the 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 applications for the certificate or registration, or as later changed as provided in this part set.

(b) Committing financial mismanagement or misconduct in the practice of contracting that causes financial harm to a customer.

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.

(g) Failing failure in any material respect to comply with the provisions of this part set.

(k) Abandoning abandoning 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 found upon proof that the license 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 the 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 of such organization entity, or against any person, 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 set 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 set before awarding any contract for construction, improvement, remodelling, or repair.

(2) The state or any county or municipality may require that bids submitted for construction, improvement, remodelling, 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 set 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 set 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 one a bond for each contractor license 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 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 of acting in the capacity of a contractor without a license.
4. Nothing in this part set 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.

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

6(c) Each local board or agency which licenses contractors transmits monthly 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 license, and

6(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 part 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 499.133, Florida Statutes, is created to read

499.133 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.

(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 pressure tank tester" means any pressure 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. 483.117, and shall be registered on a statewide basis.

(e) "Registered pressure tank tester" means any pressure 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. 483.117, and shall be registered on a statewide basis.

(2) The board shall adopt rules providing standards for registration of pressure tank testers who perform tests on a pollutant storage tank. The Department of Environmental Regulation shall review and comment on such rules prior to adoption.
(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 inspect 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 interest 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 489.1093, 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 $1 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 provisos of s 489.1093, Florida Statutes, the committee shall report to the Legislature on the termination of its work.

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 11.11, 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 injures sustained from negligence, malfeasance, or misfeasance — 489.5331 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, those 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
that in any manner provides for review and repeal in accordance with s 116, Florida Statutes, and except as otherwise specifically provided herein, 768.045, 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 $20,000 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, which was adopted.

The question recurred on the adoption of Amendment 1, as amended, which was adopted.

Representative Martin offered the following title 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 ordinances.

Rep. Lippman moved the adoption of 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 Francel Kelly Rochlin
Abrams Fredman King Rudd
Arnold Frushe Langton Rush
Ascherl Gardner Lawson Sample
Banter Glickman Lewis Sandersson
Bannan Gonzalez Liberti Sansom
Bankhead Quevedo Lippman Saunders
Bass Goode Locke Shelley
Bell Gordon Logan Silver
Bloom Grindle Lombard Simon
Bronson Guber Long Simone
Brown Gustafson Mackenzie Smith
Burke Goutman Mackey South
Burnsed Hanson Martin Starks
Canydy Harden Martinez Stone
Carpenter Hargrett McEwan Thomas
Casas Harris Meffert Titone
Clark Hawkins Messersmith Tobissenn
Clemente Healey McTal Tolin
Cosgrove Hill Mitchell Trammell
Cready Holland Morse Troxler
Cretty Ireland Northam Upchurch
Dantaler Irvine Nergard Wallace
Davis Jameson Ostrau Webster
Deutsch Jennings Patchett Wetherell
Dezz-Balart Johnson, B L Peoples Wise
Draga Johnson, R C Reeves Woodruff
Dubnar Jones, C F Rehm Young
Figg Jones, D L Renke

Nays—None
Votes after roll call

Yeas—Mills
Yeas to Nays—Clement

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. 556.3055, 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) 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, 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, 1987, 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 22 month grace period ending on December 31, 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 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 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 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. 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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 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 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 s 376.3072, F.S., creating the Florida Petroleum Liability Insurance Program to be administered by the Department of Environmental Regul

On motion by Rep Smith, 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 Honorable Jon Mills, Speaker

I am directed to inform the House of Representatives that the Senate has amended House Amendments 1 and 2, concurrently 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 1, 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 Licensng 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 a § 489.1195, F.S., prescribing classes of qualifying agents, defining responsibilities of such agents, amending a § 489.129, F.S., providing grounds and penalties for disciplinary action, providing for recommendations by hearing officers concerning penalties, providing for revocation, amending a § 489.131, F.S., reviving, readopting and readopting a § 489.101-489.107, 489.109-489.131,F.S., notwithstanding their scheduled repeal, providing for future review and repeal of a § 489.101-489.131, F.S.; reviving, readopting, transferring, and amending a § 489.5331, F.S., relating to damages in certain actions against contractors; clarifying the application of said section, repealing a § 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 a § 489.101, F.S., providing purpose; amending a § 489.103, F.S., providing for exemptions; amending a § 489.105, F.S., providing definitions; amending a § 489.107, F.S., providing for the membership, quorum, and probable cause panels of the Construction Industry Licensing Board, amending a § 489.109, F.S., providing for renewal and fees, amending a § 489.111, F.S., providing for examinations; amending a § 489.113, F.S., providing an enforcement mechanism with respect to persons engaged in contracting who are not certified or registered; amending a § 489.115, F.S.; providing for certification by endorsement; amending a § 489.117, F.S., providing for issuance and renewal of certificates and registrations, amending a § 489.119, F.S., providing procedures for the certification or registration of business organizations, creating a § 489.1195, F.S., providing responsibilities of primary and secondary qualifying agents, amending a § 489.121, F.S., relating to emergency registration; amending a § 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 a § 489.129, F.S., prohibiting certain acts and providing penalties therefor; prescribing powers and procedures relating to disciplinary penalties, amending a § 489.131, F.S., relating to government bids, prescribing powers and duties of municipalities and counties, limiting the construction of structural components; creating a § 489.133, F.S.; relating to pollutant storage systems specially 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 a § 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 a § 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," a § 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 a § 376.30-376.319 and to regulate underground and aboveground facilities and their on-site integral piping systems not covered by a § 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 a § 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 a § 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, 1988, may be eligible to participate in the Early Detection Incentive Program under a § 376.3071(9).

Section 25. Paragraphs (g) and (b) 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 a § 376.303(1)(a)1 to minimize the potential for further contamination sites, and

(i) Funding of the provisions of a § 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
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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, 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 Section 376:303(1)(b) and to other interested persons upon request to be used for such purposes. Unless 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, 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, 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 (a) or paragraph (8)(b) of this section between January 1, 1985, and December 31, 1988, who intends to file for reimbursement shall submit written notice of such intent to the department prior to midnight on December 31, 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 (a) or subparagraph (b) 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 “restoration” means the restoration 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. 376.303(3)(c). 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, shall be entitled 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 shall 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 shall 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 stationary 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:

2. The owner or operator of a site upon which discharge is discovered prior to January 1, 1988; 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 is 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 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.

(h) The department shall use the revenues derived from collection of the excess tax imposed pursuant to s. 206.9955(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).

(i) 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. 627.063, 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 statement:

"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 testing 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 require 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. 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 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 local program is approved by the department pursuant to section 4(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 that 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 § 376.3073, Florida Statutes, 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 § 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 § 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 that result from the acts or omissions of the response action contractor in carrying out a response action, and 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 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.

June 3, 1988

Section 31. The Department of Professional Regulation shall, by January 1, 1989, adopt rules providing 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 sections 376.3072(4), Florida Statutes, to carry out the provisions of section 376.3072(1), 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 "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 § 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 § 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 § 376.3073, F.S.; requiring the department to contract with local governments to administer as § 376.3072 and § 376.3077, F.S., under certain circumstances, transferring, renumbering, and amending § 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 § 376.317, F.S.; revising criteria regarding the authorization of county governments to adopt ordinances regulating underground storage tanks; amending § 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—

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 § 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 § 154.011, F.S., requiring counties to coordinate certain health care services with existing federal programs, amending § 154.02, F.S.; modifying the provisions governing the Public Health Unit Trust Fund; specifying expenditure report requirements and providing timeframes for reporting; amending § 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 § 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 § 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 § 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 58-1, Laws of Florida, excluding...
Journal
of the
SENATE
State of Florida

TWENTIETH REGULAR SESSION
UNDER THE CONSTITUTION AS REVISED IN 1968
APRIL 5 THROUGH JUNE 7, 1988
June 2, 1988
JOURNAL OF THE SENATE 733

Year—34

Beard Gordon Langley Ros-Lehtinen
Brown Grant Lehtinen Scott
Childers, D. Grizzle Margolis Thomas
Childers, W D. Hair Margolis Thurman
Crenshaw Hill McGhee Wenner
Deraney Hollingworth Meek Wenke
Dudley Jenne Myers Woodson
Frank Johnson Peterson Wemkes
Girardeau Kaser Plummer

Nays—None

Vote after roll call.

Yea—Crawford, Jenne, 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 R 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 debarment 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 remutation; 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; revising and readopting as s 489.101-489.107, 489.109-489.131, F.S., notwithstanding their scheduled repeal, providing for future review and repeal of s. 489.101-489.131, F.S., revising, readopting, transferring, and amending s 489.333, 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 to our economy. 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 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 aboveground swimming pools with a capacity in excess of 200,000 gallons, and aboveground swimming pools with a capacity in excess of 200 gallons that involve excavation, plumbing, chemicals, or warg 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 lease. In an action brought under this part, 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 signs 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 repairable and not subject to the occupational licensing laws. 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

(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 different contractors, or in which a division of the operation is made in contracts of amounts less than $1,000 $600 for the purpose of evading this part, 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)(6), 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:

(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, the person who, for compensation, undertakes to sub-
mita a bud 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) and subdivision of Section 734 to the extent such work is performed by the contractor as necessary to make complete an air-conditioning system being installed under this classification.

(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.

(b) "Building contractor" means a contractor whose services are limited to commercial building and single-family, multifamily, or three-family residences not exceeding two stories in height and accessory use structures in connection therewith or a contractor whose services are limited to remodeling, repair, or improvement of any existing 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, cleaning, 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 thinner, and including the balancing or 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, alteration, 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 necessary to make complete an air-conditioning system being installed under this classification.

(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 necessary to make complete an air-conditioning 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 and reconnect power and duct work, 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.

(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 air conditioning, heating, or refrigeration systems, issued pursuant to this part, was valid on October 1, 1968.

(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 necessary to make complete an air-conditioning system being installed under this classification.

(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.

(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.

(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 swimming pool, or hot tub or spa, whether public or private.
(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 walls; 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 the plumbing contractor’s certificate of competency from the department issued in this part as provided in this part set.

(9)(g) “Registration” means registration with the department as provided in this part set.

(10)(g) “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)(g) “Certification” means the act of obtaining or holding a certificate of competency from the department as provided in this part set.

(12)(g) “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 paragraph (a)-(m) 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 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.

(14) “Local construction regulation board” means a board, composed of not fewer than three residents of a county or municipality, which shall maintain the proper standard of construction of that county or municipality.

(15) “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 set, as attested by the department.

(16) “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 set, as attested by the department.

(17) “Contracting” means, except as exempted in this part set, engaging in business as a contractor.

(18) “Certificate” means a certificate of competency issued by the department as provided in this part set.

(19)(g) “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.

(20) The board shall consist of:
(a) Fourteen regular members, of whom
(b) Four are primarily engaged in business as a contractor.
(c) 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.
(d) One is primarily engaged in business as a roofing contractor,

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 set, 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.

(2) 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.
(d) One is primarily engaged in business as a sheet metal contractor,
(e) One is primarily engaged in business as an air conditioning contractor,
(f) One is primarily engaged in business as a mechanical contractor,
(g) One is primarily engaged in business as a pool contractor,
(h) One is primarily engaged in business as a plumbing contractor;
(i) One is primarily engaged in business as an underground utility contractor;
(j) 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) 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 under the jurisdiction of the board 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)(a) 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)(a)(10), and one of the members appointed pursuant to paragraph (2)(b) subparagraph (9)(e)(1), 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)(c) subparagraph (9)(e)(1), and one of the members appointed pursuant to paragraph (2)(d) subparagraph (9)(e)(1), 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) 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. 465.225(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 recordkeeping effective October 4, 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 $40 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 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 has 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 renew their certificates or registration 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 such additional period the license has been delinquent, and in addition, the board may require reexamination of the applicant.

6. 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. In addition to the fees provided in subsection (1) for application and renewal for certification and registration, all certificateholders and registrants between shall pay a fee of $4 to the department at the time of application or biennial renewal. The funds shall be transferred at such time to each biennial 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 fees distribution as follows:

(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 appropriated 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 in which they pay. The Department of Education shall allocate 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, a minimum of 2,000 man-hours shall be used in determining full-time equivalency.

2. Has a total of at least 4 2 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 4 years of active experience at the level of a 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 2 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. 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

5a. 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 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 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. An active certified swimming pool service 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 service 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 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. 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, to a sufficient extent, be registered pursuant to this part, unless exempted by this part. 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-leree 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-
2. Provides a history of successful operation as a pollutant storage systems specialty contractor within such 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. 489.727 or s. 489.728.

(9)(e) Effective October 1, 1988, 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 or that has issued such permits or for that installation of a pollutant storage tank unless such official certifies that the applicant for such permit or permittee 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. 376.671. 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. 376.671 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.

(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 option hereunder. At its option, any local government may apply to the Department of Environmental Regulations for such purpose, in forms to be provided by the Department of Environmental Regulation. Upon receipt of such application, the department shall supply such information as the Department of Environmental Regulation may require.

(d) The Department of Environmental Regulation may require 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 for inspections of pollutant storage tanks in a county of less than 100,000 population. The Department of Environmental Regulation shall adopt rules providing for such inspection program, which rules shall provide for an inspection prior to placing the pollutant storage tank in service, 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. 376.671. Inspection fees shall be set by the Department of Environmental Regulation and shall be paid by the person installing the pollutant storage tank. The Department of Environmental Regulation shall adopt rules for the inspection program. The Department of Environmental Regulation may contract, pursuant to paragraph (e), 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 the county, and 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 as late as July 1, 1988. The program shall be continued for a period of 18 months. Within 30 days after the conclusion of this program, the Department of Environmental Regulation shall report to the Legislature on the results of the program.

(7) (a) 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.

(b) 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 regulation of precision tank testers who perform tests on pollutant storage tanks. 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 §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, and satisfies the procedures for the certification of registrants 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 satisfies 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 receivership. Such rules shall define 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 malconduct 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 otherwise limited to that particular phase of construction, provided local licensing is required for that particular 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 as 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.

(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 present before it and present evidence of ability and financial responsibility of each such organization entity. The issuance of such certificate 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 § 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 489.1185, Florida Statutes, is amended to read:

489.1185 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 qualifying agent is not responsible for supervision of financial matters.

(c)(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 licensees.

(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) is guilty of a misdemeanor of the first degree, punishable as provided in §§ 775.082, 775.083, or 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. 152.07 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) 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 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,
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 served personally or by 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.

(p) 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 or cities to which 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.

Section 4 — Any person who operates as a pollutant storage systems specialty contractor in violation of any part or any person who violates 489 1190(6)(a), guilty of a felony of the third degree, punishable as provided in s. 775.083, 775.085, or s. 775.086.

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 Wilfully 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 unincorporated and unregistered practice of contracting, if the certificateholder or registrant knows or has reasonable grounds to know that the person or entity was unincorporated and unregistered. Acting or allowing any uncertificate or unregistered person to evade any provision of this act.

(f) Knowingly combining or conspiring with an unincorporated or unregistered person by allowing his own certificate or registration to be used by the same unincorporated or unregistered person with intent to evade the provisions of this part. 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.

(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 in 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.

(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 bids 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 lien removed from the property, by payment or by bond, within 30 days after the date of such lien.

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 disciplinary 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 set.

(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 set 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 set before awarding any contract for construction, improvement, remodeling, or repair of public buildings to 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 set 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 set 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 or 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)(e), for engaging in the business or acting in the capacity of a contractor without a license.

(4) Nothing in this part set 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)(a) To engage in contracting in the territorial area, an applicant shall also be registered with the board.

(b)(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 licensees and

(c) No examination is given to the holder of a certificate.
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(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 system 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 municipal, 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 license examination, either in another state, or a license 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 permit for the installation or removal of a pollutant storage tank unless such official certifies that the applicant for such permit or permit 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 ss 775.082, 775.083, or 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 enjoy the installation or use of any pollutant storage tank that has been or is being installed in violation of this section or of § 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 after placing the pollutant storage tank in service. All such inspections shall be conducted pursuant to the standards adopted under the 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 the 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 ordnances 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 § 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 January 1, 1988, and upon this act becoming a law, whichever occurs later.

Section 19. Notwithstanding the provisions of the Regulatory Sunsets Act or of any other provision of law which provides for review and repeal in accordance with § 116.071, 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 renewed by the Legislature pursuant to § 116.071, Florida Statutes.

Section 21 Section 489:5331, Florida Statutes, is renumbered as section 768:4225, Florida Statutes, and amended to read: 768:4225 Damages in actions against contractors for injuries sustained from negligence, malfeasance, or misfeasance - 489:5334 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 533, 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 533.

(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 Sunsets Act or of any other provision of law which provides for review and repeal in accordance with § 116.071, Florida Statutes, and except as otherwise specifically provided herein, § 768:4225, 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 $39,000 for the purpose of conducting the study provided for in section 30 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. 403.183, 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 criteria 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. 403.101, F.S.; providing purpose, amending s. 489.103, F.S., providing exemptions, amending s. 489.106, F.S., providing definitions; amending s. 489.107, F.S.; providing for the membership, quorum, 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) 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. 376.307(19) or December 31, 1987, whichever is earlier.

2. Undertake a notification program for those underground storage 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 owner 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, 1988, may be eligible to participate in the Early Detection Incentive Program under s. 376.307(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

(b) Establishment of the compliance verification program as authorized in s. 376.303(1)(a). to minimize the potential for further contamination sites, and:

(i) Funding of the processes 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 encour-
age 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 grace period ending on December 31,
October 4, 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. 376.3031(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 4, 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 (b)(4) 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 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).

Upon discovery by the department that the owner or operator of a petroleum storage system has or has not been 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 376, Florida Statutes, to the contrary notwithstanding. For the purposes of this paragraph, willful failure to maintain inventory and reconciliation records, willful failure to maintain monitoring and record-keeping requirements within the schedules established under this chapter, or violation of similar rules adopted by the Department of Natural Resources, after the beginning of the grace period, 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 eligible 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 4, 1986, any person conducting site rehabilitation under this subsection, either through his or her 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;

(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 institute and conduct site rehabilitation.—Any person initiating site rehabilitation pursuant to this section between January 1, 1986, and December 31, October 4, 1988, who intends to file for reimbursement shall submit written notice of such intent to the department prior to midnight on December 31, October 4, 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) or subparagraph (b) and shall notify the applicant as to his or her eligibility in writing.

(2) SCOPE AND TYPE OF COVERAGE — The Florida Petroleum Liability Insurance Program shall 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 shall 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 Insurability Guarantee 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 person from a participating insurer.

(3) ROLE OF THE INSURANCE.—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 contracts. 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 program is subject to the same deductible as the liability insurance program. The $1 million amount is a limitation and is meant to apply to the aggregate for all restoration costs or third-party claims arising from any one incident or occurrence. For purposes of this section, the term "$1 million amount" means the total amount of liability insurance coverage provided for each incident of inland contamination related to the storage of petroleum and petroleum products.
(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). 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, 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:

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.
(e) In computing the earned premiums for the purposes of this section, the gross premium received by the Florida Petroleum Liability Insurance Program shall be used as a base, deducting therefrom solely charges not recoverable by the insurance company or reinsurer or from 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 unless as provided in subsection (8).

(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. 376.307(3). The Liability Insurance Account may not be included in computing earnings 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 resecure liabilities arising from third-party coverage with another 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:

(1) The department shall, to the greatest extent possible, contract with local governments to provide for the administration of its departmental responsibilities under 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 526.0055, Florida Statutes, is transferred, renumbered as section 376.3077, Florida Statutes, and amended to read:

376.3077 Unlawful to deposit motor fuel into a 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 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 local program 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 program 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 prior to this section, the department shall either 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-
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 86-169, 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.

Section 31. The Department of Professional Regulation shall, by January 1, 1999, 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 $115,566 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 other 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 s. 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 disposal 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 158 passed as amended and the action of the Senate was certified to the House. The vote on passage was
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 House of Representatives.

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) 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, taxi cab, 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) 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/lesees, 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/lesees, 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/lesees, and for tow truck owners/lesees 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) The name, 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.
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
   Expenses

   $15,000
   13,050

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STANDARD FORM 5/88
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: Staff Director:
Richard Herring
Cliff Nilson

APPROPRIATIONS:
Prepared by: Staff Director:
Lori L. E. Kilpatrick
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