

By Senator DiCeglie

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1 A bill to be entitled
2 An act relating to air-conditioning systems; amending
3 s. 489.105, F.S.; revising the definition of the term
4 "class A air-conditioning contractor"; amending s.
5 713.135, F.S.; revising applicability regarding
6 notices of commencement; reenacting ss. 489.107(4)(b),
7 489.113(2), 489.117(4)(d) and (e), 489.141(2), and
8 553.998, F.S., relating to the Construction Industry
9 Licensing Board, qualifications and restrictions for
10 practice, registration and specialty contractors,
11 conditions for recovery and eligibility, and
12 compliance, respectively, to incorporate the amendment
13 made to s. 489.105, F.S., in references thereto;
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (f) of subsection (3) of section
19 489.105, Florida Statutes, is amended to read:

20 489.105 Definitions.—As used in this part:

21 (3) "Contractor" means the person who is qualified for, and
22 is only responsible for, the project contracted for and means,
23 except as exempted in this part, the person who, for
24 compensation, undertakes to, submits a bid to, or does himself
25 or herself or by others construct, repair, alter, remodel, add
26 to, demolish, subtract from, or improve any building or
27 structure, including related improvements to real estate, for
28 others or for resale to others; and whose job scope is
29 substantially similar to the job scope described in one of the

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30 paragraphs of this subsection. For the purposes of regulation
31 under this part, the term "demolish" applies only to demolition
32 of steel tanks more than 50 feet in height; towers more than 50
33 feet in height; other structures more than 50 feet in height;
34 and all buildings or residences. Contractors are subdivided into
35 two divisions, Division I, consisting of those contractors
36 defined in paragraphs (a)-(c), and Division II, consisting of
37 those contractors defined in paragraphs (d)-(q):

38 (f) "Class A air-conditioning contractor" means a
39 contractor whose services are unlimited in the execution of
40 contracts requiring the experience, knowledge, and skill to
41 install, maintain, repair, fabricate, alter, extend, or design,
42 if not prohibited by law, central air-conditioning,
43 refrigeration, heating, and ventilating systems, including duct
44 work in connection with a complete system if such duct work is
45 performed by the contractor as necessary to complete an air-
46 distribution system, boiler and unfired pressure vessel systems,
47 and all appurtenances, apparatus, or equipment used in
48 connection therewith, and any duct cleaning and equipment
49 sanitizing that requires at least a partial disassembling of the
50 system; to install, maintain, repair, fabricate, alter, extend,
51 or design, if not prohibited by law, piping, insulation of
52 pipes, vessels and ducts, pressure and process piping, and
53 pneumatic control piping; to replace, disconnect, or reconnect
54 power wiring on the line or load side of the dedicated existing
55 electrical disconnect switch on single phase electrical systems;
56 to repair or replace power wiring, disconnects, breakers, or
57 fuses for dedicated HVAC circuits with proper use of a circuit
58 breaker lock; to install, disconnect, and reconnect low voltage

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59 heating, ventilating, and air-conditioning control wiring; and
60 to install a condensate drain from an air-conditioning unit to
61 an existing safe waste or other approved disposal other than a
62 direct connection to a sanitary system. The scope of work for
63 such contractor includes the installation and repair of package
64 pool heaters and the connection of package pool heaters to
65 existing pool piping; the installation, repair, or replacement
66 of existing pool/spa equipment, new pool/spa equipment, or
67 cleaning or sanitizing equipment that requires at least a
68 partial disassembling, excluding filter changes; interior
69 finishes; the installation of all perimeter piping and filter
70 piping; and the construction of equipment rooms or housing for
71 pool/spa equipment. The scope of work for such contractor also
72 includes any excavation work incidental thereto, but does not
73 include any work such as liquefied petroleum or natural gas fuel
74 lines within buildings, except for disconnecting or reconnecting
75 changeouts of liquefied petroleum or natural gas appliances
76 within buildings; potable water lines or connections thereto;
77 sanitary sewer lines; swimming pool piping and filters; or
78 electrical power wiring. A Class A air-conditioning contractor
79 may test and evaluate central air-conditioning, refrigeration,
80 heating, and ventilating systems, including duct work; however,
81 a mandatory licensing requirement is not established for the
82 performance of these specific services.

83 Section 2. Subsection (1) of section 713.135, Florida
84 Statutes, is amended to read:

85 713.135 Notice of commencement and applicability of lien.—

86 (1) When a person applies for a building permit, the
87 authority issuing such permit shall:

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88 (a) Print on the face of each permit card in no less than
89 14-point, capitalized, boldfaced type: "WARNING TO OWNER: YOUR
90 FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR
91 PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF
92 COMMENCEMENT MUST BE RECORDED AND POSTED ON THE SITE OF THE
93 IMPROVEMENT BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN
94 FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE
95 RECORDING YOUR NOTICE OF COMMENCEMENT."

96 (b) Provide the applicant and the owner of the real
97 property upon which improvements are to be constructed with a
98 printed statement stating that the right, title, and interest of
99 the person who has contracted for the improvement may be subject
100 to attachment under the Construction Lien Law. The Department of
101 Business and Professional Regulation shall furnish, for
102 distribution, the statement described in this paragraph, and the
103 statement must be a summary of the Construction Lien Law and
104 must include an explanation of the provisions of the
105 Construction Lien Law relating to the recording, and the posting
106 of copies, of notices of commencement and a statement
107 encouraging the owner to record a notice of commencement and
108 post a copy of the notice of commencement in accordance with s.
109 713.13. The statement must also contain an explanation of the
110 owner's rights if a lienor fails to furnish the owner with a
111 notice as provided in s. 713.06(2) and an explanation of the
112 owner's rights as provided in s. 713.22. The authority that
113 issues the building permit must obtain from the Department of
114 Business and Professional Regulation the statement required by
115 this paragraph and must mail, deliver by electronic mail or
116 other electronic format or facsimile, or personally deliver that

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117 statement to the owner or, in a case in which the owner is
118 required to personally appear to obtain the permit, provide that
119 statement to any owner making improvements to real property
120 consisting of a single or multiple family dwelling up to and
121 including four units. However, the failure by the authorities to
122 provide the summary does not subject the issuing authority to
123 liability.

124 (c) In addition to providing the owner with the statement
125 as required by paragraph (b), inform each applicant who is not
126 the person whose right, title, and interest is subject to
127 attachment that, as a condition to the issuance of a building
128 permit, the applicant must promise in good faith that the
129 statement will be delivered to the person whose property is
130 subject to attachment.

131 (d) Furnish to the applicant two or more copies of a form
132 of notice of commencement conforming with s. 713.13.

133 (e) Require the applicant to file with the issuing
134 authority before the first inspection a copy of the notice of
135 commencement if the direct contract is greater than \$5,000. For
136 purposes of this paragraph, the term "copy of the notice of
137 commencement" means a certified copy of the recorded notice of
138 commencement, a notarized statement that the notice of
139 commencement has been filed for recording along with a copy
140 thereof, or the clerk's office's official records identifying
141 information that includes the instrument number for the notice
142 of commencement or the number and page of book where the notice
143 of commencement is recorded, as identified by the clerk.

144 1. In the absence of the filing of a copy of the notice of
145 commencement, the issuing authority or a private provider

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146 performing inspection services may not perform or approve
147 subsequent inspections until the applicant files by mail,
148 facsimile, hand delivery, or any other means such copy with the
149 issuing authority.

150 2. The copy of the notice of commencement must contain the
151 name and address of the owner, the name and address of the
152 contractor, and the location or address of the property being
153 improved. The issuing authority shall verify that the name and
154 address of the owner, the name of the contractor, and the
155 location or address of the property being improved which is
156 contained in the copy of the notice of commencement is
157 consistent with the information in the building permit
158 application.

159 3. The issuing authority shall provide the recording
160 information on the copy of the notice of commencement to any
161 person upon request.

162 4. This paragraph does not require the recording of a
163 notice of commencement before the issuance of a building permit.
164 If a local government requires a separate permit or inspection
165 for installation of temporary electrical service or other
166 temporary utility service, land clearing, or other preliminary
167 site work, such permits may be issued and such inspections may
168 be conducted without providing the issuing authority with a copy
169 of the notice of commencement.

170 (f) Not require that a notice of commencement be recorded
171 as a condition of the application for, or processing or issuance
172 of, a building permit. However, this paragraph does not modify
173 or waive the inspection requirements set forth in this
174 subsection.

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176 This subsection does not apply to a direct contract to repair or
177 replace an existing heating or air-conditioning system in an
178 amount less than \$15,000, which amount must be adjusted and
179 increased annually by the percent change in the Consumer Price
180 Index for All Urban Consumers, U.S. City Average, All Items,
181 1982-1984=100, or successor reports.

182 Section 3. For the purpose of incorporating the amendment
183 made by this act to section 489.105, Florida Statutes, in a
184 reference thereto, paragraph (b) of subsection (4) of section
185 489.107, Florida Statutes, is reenacted to read:

186 489.107 Construction Industry Licensing Board.—

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

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

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

201 489.113 Qualifications for practice; restrictions.—

202 (2) A person must be certified or registered in order to
203 engage in the business of contracting in this state. However,

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204 for purposes of complying with the provisions of this chapter, a
205 subcontractor who is not certified or registered may perform
206 construction work under the supervision of a person who is
207 certified or registered, provided that the work is within the
208 scope of the supervising contractor's license, the supervising
209 contractor is responsible for the work, and the subcontractor
210 being supervised is not engaged in construction work that would
211 require a license as a contractor under any of the categories
212 listed in s. 489.105(3)(d)-(o). This subsection does not affect
213 the application of any local construction licensing ordinances.
214 To enforce this subsection:

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

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

228 Section 5. For the purpose of incorporating the amendment
229 made by this act to section 489.105, Florida Statutes, in
230 references thereto, paragraphs (d) and (e) of subsection (4) of
231 section 489.117, Florida Statutes, are reenacted to read:

232 489.117 Registration; specialty contractors.—

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233 (4)

234 (d) Any person who is not required to obtain registration
235 or certification pursuant to s. 489.105(3)(d)-(o) may perform
236 contracting services for the construction, remodeling, repair,
237 or improvement of single-family residences, including a
238 townhouse as defined in the Florida Building Code, without
239 obtaining a local license if such person is under the
240 supervision of a certified or registered general, building, or
241 residential contractor. As used in this paragraph, supervision
242 shall not be deemed to require the existence of a direct
243 contract between the certified or registered general, building,
244 or residential contractor and the person performing specialty
245 contracting services.

246 (e) Any person who is not certified or registered may
247 perform the work of a specialty contractor whose scope of
248 practice is limited to the type of work specified under s.
249 489.105(3)(j), (k), or (l) for the construction, remodeling,
250 repair, or improvement of commercial or residential swimming
251 pools, interactive water features as defined in the Florida
252 Building Code, hot tubs, and spas without obtaining a local
253 license or certification as a specialty contractor if he or she
254 is supervised by a contractor who is certified or registered
255 under s. 489.105(3)(j), (k), or (l); the work is within the
256 scope of the supervising contractor's license; the supervising
257 contractor is responsible for the work; and the work does not
258 require certification or registration under s. 489.105(3)(d)-
259 (i), (m)-(o), or s. 489.505. Such supervision does not require a
260 direct contract between the contractor certified or registered
261 under s. 489.105(3)(j), (k), or (l) and the person performing

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262 the work, or for the person performing the work to be an
263 employee of the contractor certified or registered under s.
264 489.105(3)(j), (k), or (l). This paragraph does not limit the
265 exemptions provided in s. 489.103 and may not be construed to
266 expand the scope of a contractor certified or registered under
267 s. 489.105(3)(j), (k), or (l) to provide plumbing or electrical
268 services for which certification or registration is required by
269 this part or part II.

270 Section 6. For the purpose of incorporating the amendment
271 made by this act to section 489.105, Florida Statutes, in a
272 reference thereto, subsection (2) of section 489.141, Florida
273 Statutes, is reenacted to read:

274 489.141 Conditions for recovery; eligibility.—

275 (2) A claimant is not qualified to make a claim for
276 recovery from the recovery fund if:

277 (a) The claimant is the spouse of the judgment debtor or
278 licensee or a personal representative of such spouse;

279 (b) The claimant is a licensee who acted as the contractor
280 in the transaction that is the subject of the claim;

281 (c) The claim is based upon a construction contract in
282 which the licensee was acting with respect to the property owned
283 or controlled by the licensee;

284 (d) The claim is based upon a construction contract in
285 which the contractor did not hold a valid and current license at
286 the time of the construction contract;

287 (e) The claimant was associated in a business relationship
288 with the licensee other than the contract at issue; or

289 (f) The claimant had entered into a contract with a
290 licensee to perform a scope of work described in s.

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291 489.105(3)(d)-(q) before July 1, 2016.

292 Section 7. For the purpose of incorporating the amendment
293 made by this act to section 489.105, Florida Statutes, in a
294 reference thereto, section 553.998, Florida Statutes, is
295 reenacted to read:

296 553.998 Compliance.—All ratings must be determined using
297 tools and procedures developed by the systems recognized under
298 this part and must be certified by the rater as accurate and
299 correct and in compliance with procedures of the system under
300 which the rater is certified. The local enforcement agency shall
301 accept duct and air infiltration tests conducted in accordance
302 with the Florida Building Code, 5th Edition (2014) Energy
303 Conservation, by individuals as defined in s. 553.993(5) or (7)
304 or individuals licensed as set forth in s. 489.105(3)(f), (g),
305 or (i). The local enforcement agency may accept inspections in
306 whole or in part by individuals as defined in s. 553.993(5) or
307 (7).

308 Section 8. This act shall take effect July 1, 2025.