

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Regulated Industries Committee

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BILL: SB 1422  
 INTRODUCER: Senator Baker  
 SUBJECT: Construction Contracting Requirements/Exemptions  
 DATE: March 27, 2009      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harrington	Rhea	RI	<b>Pre-meeting</b>
2.	_____	_____	CA	_____
3.	_____	_____	BI	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

The bill requires owners of property acting as their own contractor and providing direct, onsite supervision of all work not performed by licensed contractors to read and sign a disclosure statement before a permit is issued by the local permitting agency.

This bill amends section 489.103, Florida Statutes.

**II. Present Situation:**

The Department of Business and Professional Regulation (department) provides support functions to the Construction Industry Licensing Board (CILB), including processing of licensure applications, investigation of disciplinary cases, and prosecution of disciplinary matters. Licensure and regulation of construction contractors is governed by part I of ch. 489, F.S. The CILB is responsible for licensing and regulating state construction contractors. Contractors must either be certified, i.e., licensed by the state to contract statewide, or registered, i.e., licensed by a local jurisdiction and registered by the state to contract work within the geographic confines of the local jurisdiction only.

Section 489.105(3)(a)-(c), F.S., requires licensure for general contractors, building contractors, and residential contractors. Section 489.105(3)(d)-(q), F.S., requires licensure for persons who perform the following categories of construction: sheet metal, roofing, air-conditioning, mechanical, swimming pool/spa, plumbing, underground utility and excavation, solar, pollutant storage system, and specialty contracting.

Section 489.105(3), F.S., defines the term “contractor” to mean the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others.

Section 489.103, F.S., provides for certain licensure exemptions. Section 489.103(7), F.S., exempts property owners when acting as their own contractor and providing direct, on-site supervision of all work performed not by licensed contractors, when building or improving farm outbuildings or one-family or two-family residences for the owner’s occupancy and use, or improving commercial buildings for the owner’s occupancy or use, provided the property is not offered for sale or lease. The work performed on commercial buildings may not exceed \$75,000.

Section 489.103(7)(b), F.S., exempts from licensure property owners who repair or replace wood shakes or asphalt or fiberglass shingles on one-family, two-family, or three-family residences for the occupancy or use of the owner or owner’s tenant and not offered for sale within one year when the property has been damaged by natural causes from an event recognized as an emergency situation designated by executive order issued by the Governor declaring the existence of a state of emergency as a result and consequence of a serious threat posed to the public health, safety, and property in this state.

To qualify for an exemption, the property owner must personally appear and sign the building permit application and must satisfy local permitting agency requirements, if any, proving that the owner has a complete understanding of their obligations. The local permitting agency must provide the person applying for an owner-builder permit with a disclosure statement in substantially the following form:

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 with certain restrictions even though you do not have a license. You must provide direct, onsite supervision of the construction yourself. You may build or improve a one-family or two-family residence or a farm outbuilding. You may also build or improve a commercial building, provided your costs do not exceed \$75,000. The building or residence must be for your own use or occupancy. It may not be built or substantially improved for sale or lease. If you sell or lease a building you have built or substantially improved yourself within 1 year after the construction is complete, the law will presume that you built or substantially improved it for sale or lease, which is a violation of this exemption. You may not hire an unlicensed person to act as your contractor or to supervise people working on your building. 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. You may not delegate the responsibility for supervising work to a licensed contractor who is not licensed to perform the work being done. Any person working on your building who is not licensed must work under your direct supervision and must be employed by you, which means that you must deduct F.I.C.A. and withholding tax and provide workers’ compensation for that employee, all as prescribed by law. Your construction must comply with all applicable laws, ordinances, building codes, and zoning regulations.

### III. Effect of Proposed Changes:

The bill requires owners of property acting as their own contractor and providing direct, onsite supervision of all work not performed by licensed contractors to read and sign a disclosure statement before a permit is issued by the local permitting agency. The bill amends the disclosure statement and provides a new statement that lists 12 paragraphs of clauses all stated in the first person. The bill requires that the disclosure statement be signed and dated by the property owner.

The disclosure statement contains the same provisions as in the current disclosure statement; however, the bill adds the following provisions:

- I understand that building permits are not required to be signed by a property owner unless the owner is responsible for the construction and is not hiring a licensed contractor to assume this responsibility.
- I understand that as an owner-builder, I am the responsible party of record on the permit. I understand that I may protect myself from potential financial risk by hiring a licensed contractor and having the permit filed in his or her name instead of my own. I also understand that contractors are required by law to be licensed and bonded in Florida and to list their license numbers on permits and contracts.
- I understand that a frequent practice of unlicensed persons is to have the property owner obtain an owner-building permit that erroneously implies that the property owner is providing his or her own labor and materials. I, as an owner-builder, may be held liable and subject to serious financial risk for any injuries sustained by an unlicensed person and his or her employees while working on my property. My homeowner's insurance may not provide coverage for those injuries. I am willfully acting as an owner-builder and am aware of the limits of my insurance coverage for injuries to workers on my property.
- I understand that I may obtain more information regarding my obligations as an employer from the Internal Revenue Service, the United States Small Business Administration, the Florida Department of Financial Services, and the Florida Department of Revenue. I also understand that I may contact the Florida Construction Industry Licensing Board (CILB) at 850-487-1395 or [www.myflorida.com/dbpr/pro/cilb/index.html](http://www.myflorida.com/dbpr/pro/cilb/index.html) for more information about licensed contractors.
- I am aware of and consent to an owner-builder building permit applied for in my name, and understand that I am the party legally and financially responsible for proposed construction activity at the following address: (address of location of construction activity).
- I agree to notify the issuer of this form immediately of any additions, deletions, or changes to any of the information I have provided on this form.

The bill provides that licensed contractors are regulated by laws designed to protect the public. The bill provides that if a person hires an unlicensed person, the state may not be able to assist with any financial loss sustained and that the person's only remedy may be in civil court.

The bill provides an effective date of July 1, 2009.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

The revised disclosure statement provides that contractors are required to be licensed and bonded in Florida. However, contractors are not currently required to be bonded.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

## A. Committee Substitute – Statement of Substantial Changes:

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

None.

## B. Amendments:

None.