

By Senator Constantine

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1 A bill to be entitled
2 An act relating to construction contracting; amending
3 s. 489.128, F.S.; providing that an individual or
4 business organization may not be considered unlicensed
5 for failure to have a required local jurisdiction
6 license; providing for retroactive application;
7 providing an effective date.

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

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11 Section 1. Subsection (1) of section 489.128, Florida
12 Statutes, is amended to read:

13 489.128 Contracts entered into by unlicensed contractors
14 unenforceable.—

15 (1) As a matter of public policy, contracts entered into on
16 or after October 1, 1990, by an unlicensed contractor shall be
17 unenforceable in law or in equity by the unlicensed contractor.

18 (a) For purposes of this section, an individual is
19 unlicensed if the individual does not have a license required by
20 this part concerning the scope of the work to be performed under
21 the contract. A business organization is unlicensed if the
22 business organization does not have a primary or secondary
23 qualifying agent in accordance with this part concerning the
24 scope of the work to be performed under the contract. For
25 purposes of this section, if no state ~~or local~~ license is
26 required for the scope of work to be performed under the
27 contract, the individual performing that work shall not be
28 considered unlicensed.

29 (b) For purposes of this section, an individual or business

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30 organization may not be considered unlicensed for failing to
31 have a business tax receipt issued under the authority of
32 chapter 205. For purposes of this section, an individual or
33 business organization may not be considered unlicensed for
34 failing to have a license required by a local jurisdiction. A
35 business organization may not be considered unlicensed for
36 failing to have a certificate of authority as required by ss.
37 489.119 and 489.127. For purposes of this section, a business
38 organization entering into the contract may not be considered
39 unlicensed if, before the date established by paragraph (c), an
40 individual possessing a license required by this part concerning
41 the scope of the work to be performed under the contract has
42 submitted an application for a certificate of authority
43 designating that individual as a qualifying agent for the
44 business organization entering into the contract, and the
45 application was not acted upon by the department or applicable
46 board within the time limitations imposed by s. 120.60.

47 (c) For purposes of this section, a contractor shall be
48 considered unlicensed only if the contractor was unlicensed on
49 the effective date of the original contract for the work, if
50 stated therein, or, if not stated, the date the last party to
51 the contract executed it, if stated therein. If the contract
52 does not establish such a date, the contractor shall be
53 considered unlicensed only if the contractor was unlicensed on
54 the first date upon which the contractor provided labor,
55 services, or materials under the contract.

56 Section 2. This act applies retroactively to contracts
57 entered into on or after October 1, 2000, and applies to all
58 actions that are pending on or are filed on or after the

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59 effective date of this act.

60 Section 3. This act shall take effect upon becoming a law.