



JIMERSON & COBB, P.A.

Construction Industry Licensing Board Laws & Rules

Presented by:

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CILB Chairman
Division II Board Member



FLORIDA'S CONSTRUCTION INDUSTRY LICENSING

- ▶ Regulated under Chapter 489, Florida Statutes
- ▶ 61G4 12-23, Florida Administrative Code
- ▶ Chapter 489, Florida Statutes, is divided into three parts

Part I: Construction Contracting

(ss. 489.101-489.146)

Part II: Electrical Contracting

(ss.489.501-489.538)

Part III: Septic Tank Contracting

(ss. 489.551-489.558)



CONSTRUCTION INDUSTRY LICENSING BOARD

Created by 489.107, Florida Statutes

Consists of 18 members:

- Four (4) General Contractors
- Three (3) Building or Residential Contractors
- One (1) Roofing Contractor
- One (1) Sheet Metal Contractor
- One (1) Air-conditioning Contractor
- One (1) Mechanical Contractor
- One (1) Pool Contractor
- One (1) Plumbing Contractor
- One (1) Underground Utility Contractor
- Two (2) Consumer members
- Two (2) Building Code Officials



CILB: DIVISIONS

► Division I

- 3 classes of licensure

► Division II:

- 13 classes of licensure

► Specialty Licenses:

- Assigned to the Board Divisions based on scope of work



LICENSURE TYPES

► Certified Contractors (State Wide)

- Operate on a state wide basis
- Required to only exhibit their state license and comply with local occupational license and permitting requirements (489.113(4)(a), F.S.)

► Registered Contractors (Local)

- Licensed by local jurisdiction (competency card)
- Registered with the State of Florida: DBPR
- Only permitted to operate in the geographic area of the licensing jurisdiction
- May register multiple local competency cards

PRIMARY VS. SECONDARY QUALIFIER

Primary Qualifier (s.489.105(4), F.S.) must supervise, direct, manage, and control of both business activities and construction activities of the business.

Secondary Qualifier (s. 489.105(5), F.S.) responsible to supervise construction activities only on jobs for which they have obtained a permit. No financial responsibility.

489.1195(1)(a), F.S. FINANCIALLY RESPONSIBLE OFFICER

- ▶ Responsible for all financial aspects of the business organization and may not be designated as the primary qualifying agent.
- ▶ Relieves the primary qualifying of responsibility for the business organization.
- ▶ FRO is assigned a number in DBPR system. However, no requirement to renew or to take continuing education.
- ▶ May be subject to disciplinary action.



CILB LICENSING: WHAT IS CONTRACTING?

489.105(3), F.S., defines Contractor as a person:

- for compensation
- 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; and
- job scope is substantially similar to scope in (3)(a)-(p)

Negotiation, bidding for or advertising for these services constitutes contracting.



CILB LICENSING: WHO NEEDS A LICENSE?

Only a person who is certified or registered as a contractor in the State of Florida can engage in the business of contracting. (489.113(2), F.S.)

Exemptions:

- ▶ Jim Walter
- ▶ Owner Builder
- ▶ Big Boy
- ▶ Demolition of certain structures
- ▶ Developer
- ▶ Manufactured Housing



CILB LICENSING REQUIREMENTS

- ▶ Examination - Div. I - Contract Admin, Project Admin., Business and Finance. Div. II – Trade Knowledge, & Business and Finance
- ▶ Experience/Education - College v. Work Experience
- ▶ Financial Responsibility - No Liens/Judgments
660 Credit Score
- ▶ Good Moral Character/Criminal Background
- ▶ Insurance - Workers Comp Ins., General Liability



CILB: DIVISION I

- ▶ General contractor: unlimited as to the type of work which he or she may contract for, except as otherwise expressly provided in s. 489.113.
- ▶ Building contractor: commercial buildings, single and multi-family residential buildings not exceeding three stories, may perform non-structural work on any building.
- ▶ Residential contractor: Limited to one, two and three family residential not exceeding two stories or over uninhabitable story plus accessory use structures.



CILB: DIVISION I



CILB: DIVISION II

- ▶ Commercial pool/spa contractor
- ▶ Residential pool/spa contractor
- ▶ Swimming pool/spa servicing contractor
- ▶ Roofing contractor
- ▶ Mechanical contractor
- ▶ Plumbing contractor
- ▶ Underground utility and excavation contractor
- ▶ Solar contractor
- ▶ Pollutant storage systems contractor
- ▶ Class A air-conditioning contractor
- ▶ Class B air-conditioning contractor
- ▶ Class C air-conditioning contractor
- ▶ Sheet metal contractor



CILB: DIVISION II



CILB SPECIALTY LICENSES

Specialty licenses adopted by CILB rule:

- Specialty Structure Contractors
- Gypsum Drywall Specialty Contractors
- Glass and Glazing Specialty Contractors
- Irrigation Contractors
- Gas Line Specialty Contractors
- Pollutant Storage System Specialty Contractors
- Swimming Pool Specialty Contractors
- Marine Specialty Contractors
- Tower Specialty Contractors



Exemptions to Florida Construction Licensure



BIG BOY EXEMPTION 489.119(8), F.S.

Exemption from licensure for any entities that employ a licensed contractor for any construction improvements on their own property and have a net worth of \$20 million. This exemption is typically for theme parks, like Disney or Universal.

Put your big boy
pants on...



OWNER BUILDER EXEMPTION

493.103(7), F.S.

- ▶ Owners of property when acting as their own contractor and providing direct, onsite supervision themselves of all work not performed by licensed contractors
- ▶ Only farm outbuildings, one-family or two-family residences, or commercial improvements of less than \$75,000
- ▶ May not be sold or leased within 1 year
- ▶ Owner must actually employ unlicensed trades and withhold taxes, FICA, and social security



OWNER BUILDER EXEMPTION 493.103(7), F.S.



DEMOLITION EXEMPTION

Pursuant to s. 489.105(3), F.S., the term demolition, as set forth in the contractor definition, does not include:

- demolition of steel tanks 50 feet or less in height
- towers 50 feet or less in height; or
- other structures 50 feet or less in height



DEVELOPER EXEMPTION 489.105(6), F.S.

- ▶ “Contracting” shall not extend to an individual, partnership, corporation, trust, or other legal entity that offers to sell or sells completed residences on property on which the individual or business entity has any legal or equitable interest.
- ▶ A certified or registered contractor must construct the residence.
(CGC, CBC, CRC)



MANUFACTURED BUILDING EXEMPTION

489.105(6), F.S.

- ▶ Similar to developer exemption
- ▶ May sell manufactured or factory-built buildings including final construction
- ▶ Property on which either party to a contract has any legal or equitable interest
- ▶ Licensed contractor must still complete the residence



UNLICENSED CONTRACTING

There are at least eight possible legal consequences that can result from construction activities by an unlicensed contracting entity:

- 1) Loss of contractor's contract rights (F.S. §489.128 and 489.532)
- 2) Loss of lien and bond rights (F.S. §713.02(7))
- 3) Treble damages (F.S. §768.0425)
- 4) Damages for violation of building code (F.S. §553.84)
- 5) Administrative sanctions (F.S. §§455.228 and 489.13)
- 6) Criminal penalties (F.S. §489.127(2)(c))
- 7) Possible action for “disgorgement” (per case law)
- 8) Cause of action for “unfair trade practice” (F.S. §501.204)



UNLICENSED CONTRACTING

This is for conducting contracting without a license OR,

PERFORMING WORK THAT IS *OUTSIDE*
THE SCOPE OF YOUR CURRENT LICENSE!!



CILB JOINT VENTURE

Requirements for Joint Ventures:

- Separate Business Entity
- JV Agreement
- Authorization from CILB – prior to bidding.
- Must be Qualified by License Holder.
- All members of JV must sign authorization allowing license holder permission to contract.
- JV must be qualified within 90 days from being awarded the bid.



CILB DEATH OF QUALIFIER

A qualified business organization whose qualifier has passed away may request an emergency registration for the purpose of completing current contracts.

The registrant must notify the Board within thirty (30) days and submit a list of all pending contracts along with a letter outlining the registrant's knowledge of the contracts and the ability to complete those contracts.

Once approved, the registrant may complete the pending claims. There is no limit on the amount of time that the registrant may take to complete the contracts.



CILB TERMINATION OF QUALIFIER

The business shall have sixty (60) days from the termination of the qualifying agent's affiliation to employ a new qualifier.

The business organization may not engage in contracting until a qualifying agent is employed, unless the executive director or chair of the Board has granted a temporary nonrenewable certificate.

This temporary certificate or registration allows the business to proceed on incomplete contracts only during the sixty-day time frame. The business cannot enter any new contracts until they retain a new qualifying agent.



CILB ADDITIONAL BUSINESS

Requirements for Additional Business Entity:

- 20% or more ownership
- W2 Employee
- Other Evidence to ensure control over the construction
- Have business issues addressed and ready PRIOR to application/appearance with the CILB
- No payments from new business can be 1099. That is renting the license and is illegal



CILB ADDITIONAL BUSINESS

Definition of Employee:

“Employee” is defined as a person who receives compensation from and is under the supervision and control of an employer who regularly deducts the F.I.C.A. and withholding tax and provides workers’ compensation, all as prescribed by law.

498.103(2), Florida Statutes



CILB DECLARATORY STATEMENT

Binding Interpretation or Opinion from CILB:

- Caption – “Petition for Declaratory Statement”
- Name, Email and Address of Petitioner
- Name, Email and Address of Petitioner’s Attorney
- Statutory Provision at Issue
- Description of how statute substantially affects the petitioner
- Signature
- Date



CILB DECLARATORY STATEMENT

Binding Interpretation or Opinion from CILB:

- Standing – CILB Vote. No Standing, No statement
- Vague or Answer in Statute/Rule
- Pending Litigation
- Conduct has already occurred – must be future action
- CILB has 90 days to answer or deny the Petition
- Notice of Disposition – maintain statement on department website – dating back to 1994



CILB DISCIPLINE

Complaint alleging Discipline:

- Owner files a Complaint
- Department Investigates
- Probable Cause Panel
- Formal Administrative Complaint
- Election of Rights
- Not dispute/waiver – Informal Hearing
- Dispute Facts – Dept. of Admin Hearings (DOAH)
- Board Action – Discipline/Settlement Stipulation
- Revocation, Suspension, Probation, Fines, Restitution, Administrative Costs, Reprimand, Letter of Guidance, Dismissal
- Appeals of Notice of Intent and Discipline



NEW CILB LEGISLATION

SENATE BILL 184

Military Experience:

- Adds Section 489.1131
- Must have received Honorable Discharge
- DBPR will accept up to 3 years of Active Duty in lieu of Education or Experience
- At least 1 year additional year as Foreman in the Trade.
- CILB must report to DBPR begin October 1, 2017 on Military Applications



NEW CILB LEGISLATION

HOUSE BILL 535

Minor Apartment Repairs:

- Adds New Exemption Section 489.103(23)
- Minor Repairs to existing electric water heaters or electric heating and HVAC systems
- W-2 Employment by Apartment
- Only for Apartment Complex of more than 100 units
- One year of maintenance experience with 90 hour course and test
- No replacement or major work. Solar and gas units – need licensed contractor



NEW CILB LEGISLATION

DIVISION II ON RECOVER FUND

Construction Industry Recovery Fund:

- Adds Division II contractors to Recovery Fund
- July 1, 2016 – Must contain Recovery Fund Warning for residential construction contracts
- \$15,000 per claim / \$150,000 aggregate per license
- Division II claims commence after January 1, 2017
- CILB paid out on a FHCRF claim, then license is suspended until the claim is paid back by the license holder.



NEW CILB LEGISLATION DIVISION II ON RECOVER FUND

FLORIDA HOMEOWNER'S CONSTRUCTION RECOVERY FUND

PAYMENT, UP TO A LIMITED AMOUNT, MAY BE AVAILABLE FROM THE FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND IF YOU LOSE MONEY ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A LICENSED CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS:

Construction Industry Licensing Board
2601 Blairstone Road
Tallahassee, Florida 32399-1039
(850) 487-1395



QUALIFICATION FOR LICENSURE

Construction Industry Recovery Fund:

- Adds Division II contractors to Recovery Fund
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QUALIFICATION FOR LICENSURE

61G4-15.001 Florida Administrative Code:

- No longer submit affidavit of contractor to verify experience.
- CGC / CBC – “active and proven” experience in commercial construction with any use and occupancy classification except storage, utility and misc. structures of an accessory character – remainder listed in rule.
- Debate over Habitable vs. Use and Occupancy.



NEWS ISSUES IN CONTRACTING

Solar Roof Panels



NEWS ISSUES IN CONTRACTING

GAF DecoTech Roof-Integrated Solar



NEWS ISSUES IN CONTRACTING

TESLA SolarCity



- Released in California in this month.
- Blends Roofing, Electric and Solar.
- CILB workshop in July

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