



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.7.

10/25/2022

Subject:

Legislative Intent and Permission to Advertise Amendments to Chapter 22, Brevard County Code of Ordinances
RE: Contractor Licensing

Fiscal Impact:

Revenue reduction of approximately \$21,234, based on FY 2021 fees collected for licenses

Dept/Office:

Planning and Development

Requested Action:

Board approval of legislative intent and permission to advertise amendments to Chapter 22, Brevard County Code of Ordinances, in order to comply with revised statutory requirements regarding local occupational licensing pursuant to the passage of HB 735 (2021).

Summary Explanation and Background:

During its 2021 legislative session the Florida Legislature passed, and the Governor signed into law, House Bill 735. This bill imposes several requirements regarding local licensing. Most crucially, it states that:

“A local government, as defined in s. 163.211, may not require a person to obtain a license for a job scope which does not substantially correspond to the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o) and (q) or authorized in s. 489.1455(1). For purposes of this section, job scopes for which a local government may not require a license include, but are not limited to, painting; flooring; cabinetry; interior remodeling; driveway or tennis court installation; handyman services; decorative stone, tile, marble, granite, or terrazzo installation; plastering; stuccoing; caulking; and canvas awning and ornamental iron installation.”

These provisions will take full effect on July 1, 2023. While Brevard County, at the direction of the Board of County Commissioners, has already deregulated several trades that it previously licensed, there remains some inconsistency with HB 735. For instance, as the bill specifically preempts the regulation of stuccoing, the Code must be amended to remove the stucco contractor license. In most cases, however, trades that the County currently regulates can continue to be regulated with amendments to associated definitions to ensure they “substantially correspond to the job scope” of one of the listed categories regulated by the State. For a list of trades the County regulates and potential amendments to each, see “Attachment A”.

Furthermore, it appears that HB 735 may preempt the County’s regulation of the electrical trades, except for journeyman licenses. Planning and Development staff, working in conjunction with the County Attorney’s

Office, continues to research this aspect of the bill.

Staff is requesting legislative intent and permission to advertise amendments to Chapter 22, Brevard County Code of Ordinances, in order to comply with the requirements, set forth in HB 735 before its preemption clauses take full effect on July 1, 2023. Staff would draft such amendments in a manner to limit the impact to local license-holders, to the extent permitted under law. Additionally, such amendments will be crafted to ensure that no activity currently unregulated will be impacted by these adjustments.

Clerk to the Board Instructions:

N/A



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October 26, 2022

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item F.7., Legislative Intent and Permission to Advertise Amendments to Chapter 22, Brevard County Code of Ordinances for Contractor Licensing

The Board of County Commissioners, in regular session on October 25, 2022, granted legislative intent and permission to advertise amendments to Chapter 22, Brevard County Code of Ordinances, in order to comply with revised statutory requirements regarding local occupational licensing pursuant to passage of House Bill (HB) 735 (2021).

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

for: Donna Scott
Kimberly Powell, Clerk to the Board

/tr

cc: Finance
Budget

Current Trade	# of Active Licenses	# of Inactive Licenses	*Reclassified Trade	Substantially Corresponding Trade	Required for Permitting Privileges?	Est. Annual Revenue Impact of Deregulation
Alarm System Contractor 1	0	0	0 None	None (No corresponding trade found)	Yes	\$770
Alarm System Contractor 2	0	0	0 None	None (No corresponding trade found)	Yes	\$889
Building Contractor	14	0	0 Building Contractor	Building Contractor (489.105(b))	Yes	\$4,342
Demolition	23	1	1 Demolition Specialty Contractor	Demolition Specialty Contractor (61G4-15.038) Gypsum Drywall Specialty Contractor (61G4-15.017)	Yes	\$6,271
Drywall Contractor	15	1	1 Gypsum Drywall Specialty Contractor		Yes	\$6,337
Electrical Contractor	76	7	7 None	None (No corresponding trade found)	Yes	\$9,103
Electrical Sign Contractor	2	0	0 None	None (No corresponding trade found)	Yes	\$874
Excavating Contractor	46	2	2 Excavation Contractor	Underground Utility and Excavation Contractor (489.105(n))	No	\$8,535
Fencing Contractor	56	2	2 Contractor	Underground Utility and Excavation Contractor (489.105(n)) Specialty Structure Contractor (489.105(q), as defined by 61G4-15.015, F.A.C.)	Yes	\$16,411
Garage Door Contractor	23	0	0 Garage Door Specialty Contractor	Specialty Structure Contractor (489.105(q), as defined by 61G4-15.015, F.A.C.)	Yes	\$4,705
General Contractor	8	1	1 General Contractor	General Contractor (489.105(a))	Yes	\$5,191
Class A H.A.R.V. Contractor	0	0	0 Class A Air-conditioning Contractor	Class A Air-conditioning Contractor (489.105(f))	Yes	\$0
Class B H.A.R.V. Contractor	13	1	1 Class B Air-conditioning Contractor	Class B Air-conditioning Contractor (489.105(g))	Yes	\$12,819
Irrigation Contractor	76	0	0 Irrigation Specialty Contractor	Irrigation Specialty Contractor (61G4-15.035)	No	\$17,042
Limited Contractor	0	0	0 None (already discontinued except for 0 preexisting licenses)	None	Yes	\$0
Limited Energy Systems Contractor	2	0	0 None	None (No corresponding trade found)	Yes	\$745
Marine Contractor I	13	3	3 Marine Specialty Contractor	Marine Specialty Contractor (61G4-15.033)	Yes	\$6,730
Marine Contractor II	0	0	0 Marine Specialty Contractor	Marine Specialty Contractor (61G4-15.033)	Yes	\$329
Mechanical Contractor	0	0	0 Mechanical Contractor	Mechanical Contractor (489.105(i))	Yes	\$0
Plumbing Contractor	33	3	3 Plumbing Contractor	Plumbing Contractor (489.105(m))	Yes	\$5,187
Residential Contractor	26	1	1 Residential Contractor	Residential Contractor (489.105(c))	Yes	\$4,966
Roofing Contractor	33	1	1 Roofing Contractor	Roofing Contractor (489.105(e))	Yes	\$26,447
Sheet Metal Contractor	0	0	0 Sheet Metal Contractor	Sheet Metal Contractor (489.105(d))	Yes	\$250
Solar Water Heating Contractor	1	0	0 Solar Contractor	Solar Contractor (489.105(o))	Yes	\$715
Specialty Structure Contractor	42	1	1 Specialty Structure Contractor	Specialty Structure Contractor (61G4-15.015)	Yes	\$11,502
Storm Shelter Contractor	21	1	1 Storm Shelter Specialty Contractor	Specialty Structure Contractor (489.105(q), as defined by 61G4-15.015, F.A.C.)	Yes	\$7,856
Stucco Contractor	30	0	0 None	Expressly Preempted by HB 735	Yes	\$8,953
Swimming Pool Contractor	18	0	0 Commercial Pool/Spa Contractor	Commercial Pool/Spa Contractor (489.105(j))	Yes	\$4,111
Swimming Pool Service Contractor	26	0	0 Residential Pool/Spa Contractor	Residential Pool/Spa Contractor (489.105(k))	Yes	\$5,943
Swimming Pool Finishing Contractor	2	0	0 Swimming Pool/Spa Servicing Contractor	Swimming Pool/Spa Servicing Contractor (489.105(l))	Yes	\$1,218
Underground Utilities Contractor	1	1	1 Swimming Pool Finishes Specialty Contractor - A specified subspecialty of Swimming Pool Specialty (61G4-15.032)	Swimming Pool Finishes Specialty Contractor (489.105(l))	N/A	\$412
Window and Door Contractor	77	4	4 Glass and Glazing Specialty Contractor	Glass and Glazing Specialty Contractor (489.105(q), as defined by 61G4-15.018, F.A.C.)	Yes	\$19,014
Master Electrician	55	19	19 Master Electrician	N/A (489.5335(1))	N/A	\$7,269
Master Plumber Including Gas	14	4	4 Master Plumber Including Gas	N/A (489.1455(1))	N/A	\$1,904
Journeyman Electrician	246	47	47 Journeyman Electrician	N/A (489.5335(1))	N/A	\$16,120
Journeyman H.A.R.V. Mechanic	29	5	5 Journeyman H.A.R.V. Mechanic	N/A (489.1455(1))	N/A	\$2,006
Journeyman Plumber	42	9	9 Journeyman Plumber	N/A (489.1455(1))	N/A	\$2,923
Journeyman Roofer	0	0	0 Journeyman Roofer	N/A (489.1455(1))	N/A	\$0
Sheetmetal Journeyman	21	0	0 Sheetmetal Journeyman	N/A (489.1455(1))	N/A	\$1,487

114

1084

*NOTE: The reclassified trades are presented for illustrative purposes. Final trades and definitions contained in a potential ordinance amendment may change as more research is completed.

ENROLLED

HB 735

2021 Legislature

An act relating to preemption of local occupational licensing; creating s. 163.211, F.S.; providing definitions; preempting licensing of occupations to the state; providing exceptions; prohibiting local governments from imposing additional licensing requirements or modifying licensing unless specified conditions are met; specifying that certain local licensing that does not meet specified criteria does not apply and may not be enforced; amending s. 489.117, F.S.; specifying that certain specialty contractors are not required to register with the Construction Industry Licensing Board; prohibiting local governments from requiring certain specialty contractors to obtain a license under specified circumstances; specifying job scopes for which a local government may not require a license; amending ss. 489.1455 and 489.5335, F.S.; authorizing counties and municipalities to issue certain journeyman licenses; providing an effective date.

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

Section 1. Section 163.211, Florida Statutes, is created to read:

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2021 Legislature

163.211 Licensing of occupations preempted to state.-

(1) DEFINITIONS.-As used in this section:

(a) "Licensing" means any training, education, test, certification, registration, or license that is required for a person to perform an occupation in addition to any associated fee.

(b) "Local government" means a county, municipality, special district, or political subdivision of the state.

(c) "Occupation" means a paid job, profession, work, line of work, trade, employment, position, post, career, field, vocation, or craft.

(2) PREEMPTION OF OCCUPATIONAL LICENSING TO THE STATE.-The licensing of occupations is expressly preempted to the state and this section supersedes any local government licensing requirement of occupations with the exception of the following:

(a) Any local government that imposed licenses on occupations before January 1, 2021. However, any such local government licensing of occupations expires on July 1, 2023.

(b) Any local government licensing of occupations authorized by general law.

(3) EXISTING LICENSING LIMIT.-A local government that licenses occupations and retains such licensing as set forth in paragraph (2) (a) may not impose additional licensing requirements on that occupation or modify such licensing.

(4) LOCAL LICENSING NOT AUTHORIZED.-Local licensing of an

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2021 Legislature

51 occupation that is not authorized under this section or
52 otherwise authorized by general law does not apply and may not
53 be enforced.

54 Section 2. Paragraph (a) of subsection (4) of section
55 489.117, Florida Statutes, is amended to read:

56 489.117 Registration; specialty contractors.—

57 (4) (a) A person ~~holding a local license~~ whose job scope
58 does not substantially correspond to either the job scope of one
59 of the contractor categories defined in s. 489.105(3)(a)-(o), or
60 the job scope of one of the certified specialty contractor
61 categories established by board rule, is not required to
62 register with the board ~~to perform contracting activities within~~
63 ~~the scope of such specialty license.~~ A local government, as
64 defined in s. 163.211, may not require a person to obtain a
65 license for a job scope which does not substantially correspond
66 to the job scope of one of the contractor categories defined in
67 s. 489.105(3)(a)-(o) and (q) or authorized in s. 489.1455(1).
68 For purposes of this section, job scopes for which a local
69 government may not require a license include, but are not
70 limited to, painting; flooring; cabinetry; interior remodeling;
71 driveway or tennis court installation; handyman services;
72 decorative stone, tile, marble, granite, or terrazzo
73 installation; plastering; stuccoing; caulking; and canvas awning
74 and ornamental iron installation.

75 Section 3. Section 489.1455, Florida Statutes, is amended

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to read:

489.1455 Journeyman; reciprocity; standards.—

(1) Counties and municipalities are authorized to issue journeyman licenses in the plumbing, pipe fitting, mechanical, or HVAC trades.

(2)~~(1)~~ An individual who holds a valid, active journeyman license in the plumbing, pipe fitting ~~plumbing/pipe fitting~~, mechanical, or HVAC trades issued by any county or municipality in this state may work as a journeyman in the trade in which he or she is licensed in any county or municipality of this state without taking an additional examination or paying an additional license fee, if he or she:

(a) Has scored at least 70 percent, or after October 1, 1997, at least 75 percent, on a proctored journeyman Block and Associates examination or other proctored examination approved by the board for the trade in which he or she is licensed;

(b) Has completed an apprenticeship program registered with a registration agency defined in 29 C.F.R. s. 29.2 and demonstrates 4 years' verifiable practical experience in the trade for which he or she is licensed, or demonstrates 6 years' verifiable practical experience in the trade for which he or she is licensed;

(c) Has satisfactorily completed specialized and advanced module coursework approved by the Florida Building Commission, as part of the building code training program established in s.

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HB 735

2021 Legislature

101 553.841, specific to the discipline or, pursuant to
102 authorization by the certifying authority, provides proof of
103 completion of such coursework within 6 months after such
104 certification; and

105 (d) Has not had a license suspended or revoked within the
106 last 5 years.

107 (3)~~(2)~~ A local government may charge a registration fee
108 for reciprocity, not to exceed \$25.

109 Section 4. Section 489.5335, Florida Statutes, is amended
110 to read:

111 489.5335 Journeyman; reciprocity; standards.—

112 (1) Counties and municipalities are authorized to issue
113 journeyman licenses in the electrical and alarm system trades.

114 (2)~~(1)~~ An individual who holds a valid, active journeyman
115 license in the electrical or alarm system trade issued by any
116 county or municipality in this state may work as a journeyman in
117 the trade in which he or she is licensed in any other county or
118 municipality of this state without taking an additional
119 examination or paying an additional license fee, if he or she:

120 (a) Has scored at least 70 percent, or after October 1,
121 1997, at least 75 percent, on a proctored journeyman Block and
122 Associates examination or other proctored examination approved
123 by the board for the ~~electrical~~ trade in which he or she is
124 licensed;

125 (b) Has completed an apprenticeship program registered

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HB 735

2021 Legislature

126 with a registration agency defined in 29 C.F.R. s. 29.2 and
 127 demonstrates 4 years' verifiable practical experience in the
 128 ~~electrical~~ trade for which he or she is licensed, or
 129 demonstrates 6 years' verifiable practical experience in the
 130 ~~electrical~~ trade for which he or she is licensed;

131 (c) Has satisfactorily completed specialized and advanced
 132 module coursework approved by the Florida Building Commission,
 133 as part of the building code training program established in s.
 134 553.841, specific to the discipline, or, pursuant to
 135 authorization by the certifying authority, provides proof of
 136 completion of such curriculum or coursework within 6 months
 137 after such certification; and

138 (d) Has not had a license suspended or revoked within the
 139 last 5 years.

140 (3)~~(2)~~ A local government may charge a registration fee
 141 for reciprocity, not to exceed \$25.

142 Section 5. This act shall take effect July 1, 2021.