



CUA-PP-1: LOCAL OCCUPATIONAL LICENSING

STAFF RECOMMENDATION: ADOPT

PROPOSED POLICY: SUPPORT legislation repealing Chapter 2021-214, Laws of Florida, including all the created or amended statutory provisions presently in effect, such as [s. 163.211, F.S.](#), to allow counties to retain the authority to operate programs requiring the licensure, certification, or registration of local general contractors and specialty contractors, and other occupations as determined by each county's governing body by ordinance or resolution. In the alternative,

SUPPORT legislation amending [s. 163.211\(2\)\(a\), F.S.](#), to remove the expiration date of local government occupational licensing requirements and programs existing on or before the effective date of Chapter 2021-214, Laws of Florida, including the job scopes identified in [s. 489.117\(4\)\(a\), F.S.](#), and others that were locally licensed prior to the effective date Chapter 2021-214, Laws of Florida, to ensure the health, safety and welfare of county residents and businesses.

SUPPORT legislation amending [s. 489.117\(4\)\(a\)2., F.S.](#), to clarify the exemption provided to counties in areas of critical state concern.

BACKGROUND: In 2021, Chapter 2021-214, Laws of Florida (a/k/a HB 735) preempted counties from having local occupational licensing programs with the exception of any licensing of occupations authorized by general law. The bill specifically prohibited county governments from requiring a license for a person whose job scope did not substantially correspond to that of a contractor or journeyman licensed by the Construction Industry Licensing Board (CILB), and specifically precluded local governments from requiring a license for: painting, flooring, cabinetry, interior remodeling, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

In 2023, Chapter 2023-271, Laws of Florida (a/k/a HB 1383) revised some aspects of HB 735. HB 1383 extended the expiration date for local government licenses, required the CILB to establish certain voluntary specialty contractor licenses, prohibited local governments from requiring a license to obtain a permit for certain job scopes, and prohibited local governments from requiring a license as a prerequisite to submit a bid for public works projects. HB 1383 also authorized local governments to continue offering licenses for veneer, including aluminum or vinyl gutters, siding, soffit, or fascia; rooftop painting, coating, and cleaning above three stories in height; or fence installation and erection if the local government imposed such a licensing requirement before January 1, 2021. HB 1383 also authorized counties that include an area of critical state concern to continue licensing the local occupations for which the county required a license before January 1, 2021.

In 2024, SB 1142 revised additional provisions of the registration of specialty contractors. While the bill was originally limited in scope, language was added to provide an extension of the expiration date for local licensing without general law authority to July 1, 2025. This includes the



rulemaking deadline for the CILB to establish certified specialty contractor categories for voluntary licensure.

There remain unintended consequences of HB 735. The preemption to the state for licensing local occupations will continue to affect local small business owners in many counties, especially construction trade businesses, will have negative impacts to such businesses' operations and profits.

ANALYSIS: Local governments have an interest in protecting consumers by requiring contractors to be appropriately licensed and insured in order to obtain a permit and to conduct contracting work within their jurisdiction. Local governments also have an interest in ensuring that work done in their jurisdiction conforms to applicable federal, state, and local regulations. A professional license gives consumers the confidence their hired contractor has the necessary experience and professional responsibility. Part of this confidence comes from the knowledge that a professional license is subject to oversight and discipline. In most counties that regulate local occupations, including in construction related occupations, local contractor licenses require demonstrated experience, testing, and proof of insurance. Many of these counties have examining and licensing boards that oversee local licenses and certificates of competency, including reviewing violations and imposing fines. Local enforcement boards will have no power to discipline unlicensed contractors, so consumers will lose this important level of protection. They will no longer be able to trust that the work done to their property will be safe, legal, and professional.

At the state level, unlicensed contractors can be prosecuted under [s. 489.127, F.S.](#) Those doing work that now doesn't require a license would be given a free pass from potential criminal charges. This is yet another level of protection that consumers will no longer be able to rely on.

Section [489.117\(4\)\(a\)2., F.S.](#) currently reads: "A county that includes an area designated as an area of critical state concern under [s. 380.05., F.S.](#), may offer a license for any job scope which requires a contractor license under this part if the county imposed such a licensing requirement before January 1, 2021." It's unclear if this language intended to be a complete exemption for qualifying counties. Therefore, the following language is recommended as a clarification:

Proposed alternative: "A county that includes an area designated as an area of critical state concern under [s. 380.05., F.S.](#) is exempt from subsection (4)(a)(1)."

Proposed alternative: "A county that includes an area designated as an area of critical state concern under [s. 380.05., F.S.](#) may continue to require a license for any job scope if the county imposed such a licensing requirement before January 1, 2021."

FISCAL IMPACT: The fiscal impact for government is indeterminate. However, the impact is potentially significant for members of the construction industry and, ultimately, consumers. Likewise, unlicensed construction activity has implications for insurance underwriting, as more claims potentially arise from substandard or unregulated work. This could ultimately raise insurance rates for contractors and consumers downstream.



FAC STAFF NOTES:

- **Bills**

- [CS/SB 1142](#) (2024) by Hopper
 - Amends [S.489.117 F.S.](#), relating to the registration of specialty contractors, to authorized registered contractors in good standing who have been registered with a local jurisdiction during calendar years 2021, 2022, or 2023, to apply for a license to be issued by the Florida Construction Industry Licensing Board (CILB), when a local jurisdiction has determined not to continue issuing local licenses or exercising disciplinary oversight over such licensees.
 - This bill extends the expiration date for local licensing without general law authority to July 1, 2025.
 - Requires the CILB, by July 1, 2025 to, by rule, establish certified specialty contractor categories for voluntary licensure.
 - The bill requires the CILB to issue licenses in the circumstances specified in the bill to eligible applicants who have provided:
 - Evidence of the prior local registration during 2021, 2022, or 2023;
 - Evidence that the local jurisdiction does not have a license type available for the category of work for which the applicant was issued a certificate of registration or local license during 2021, 2022, or 2023, which may include a notification on the website of the local jurisdiction or an e-mail or letter from the local building department;
 - The required application fee; and
 - Evidence of compliance with the insurance and financial responsibility requirements for contractors required by current law.
- Chapter 2023-271, Laws of Florida (HB 1383)
 - This act extends the expiration date for local licensing without general law authority to July 1, 2024.
 - Requires the CILB, by July 1, 2024 to, by rule, establish certified specialty contractor categories for voluntary licensure.
 - Provides that a local government may not require a license issued by the local government or CILB to perform a job scope which does not substantially correspond to one of the state contractor or specialty contractor categories.
 - Prohibits local governments from requiring a license to obtain a permit for a job scope outside of the practice of the contracting.
 - Allows a county in an area designated as an area of critical state concern to continue to offer a license for any job scope which requires statewide contractor license.
 - Allows a local government to continue to offer a license for veneer work, including gutters, siding, soffit, or fascia: rooftop paintings, coating, and cleaning above three stores: and fence installation and erection, if such a licensing requirement exist before January 1, 2021.
 - Provides that a local government may not require a license as a prerequisite to submit a bid for public works projects if the work to be performed does not require a license under general law.



- **Previous FAC Statements:**
 - SUPPORT legislation repealing Chapter 2021-214, Laws of Florida, including all the created or amended statutory provisions presently in effect, such as [s. 163.211, F.S.](#), to allow counties to retain the authority to operate programs requiring the licensure, certification, or registration of local general contractors and specialty contractors, and other occupations as determined by each county's governing body by ordinance or resolution. In the alternative, SUPPORT legislation amending s. [163.211\(2\)\(a\), F.S.](#), to remove the expiration date of local government occupational licensing requirements and programs existing on or before the effective date of Chapter 2021-214, Laws of Florida, including the job scopes identified in [s. 489.117\(4\)\(a\), F.S.](#), and others that were locally licensed prior to the effective date Chapter 2021-214, Laws of Florida, to ensure the health, safety and welfare of county residents and businesses.
- **Miscellaneous:**
 - As required by Chapter 2023-271, the CILB is currently undergoing administrative rulemaking to establish voluntary licensure for the following certified specialty contractor categories:
 - Structural aluminum or screen enclosures
 - Marine seawall work
 - Marine bulkhead work
 - Marine pile driving
 - Structural masonry
 - Structural Prestressed, precast concrete work
 - Rooftop solar heating installation
 - Structural steel
 - Window and door installation, including garage door installation and hurricane windstorm protection
 - Plaster and lath
 - Structural carpentry
 - Provides that a local government may not require a license issued by the local government of CILB to perform a job scope which does not substantially correspond to one of the state contractor or specialty contractor categories
 - State preemption precludes a local government from exercising authority in a particular area and requires consistency with the state constitution or state statute. A local government enactment may be found inconsistent with state law if (1) the Legislature has preempted a particular subject area to the state or (2) the local regulation conflicts with a state statute.
 - Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred. Express preemption of a field by the Legislature must be accomplished by clear language stating that intent. When local ordinances have been enacted in the face of state preemption, the effect has been to find such ordinances null and void.
 - Implied preemption is a legal doctrine that addresses situations in which the legislature has not expressly preempted an area but, for all intents and purposes, the area is dominated by the state. Findings of implied preemption are for a very narrow class of areas in which the state has legislated pervasively.
 - Relevant Statutes: Part I and Part II of Chapter 489, Florida Statutes *Contracting*, and Part I of Chapter 163 *Intergovernmental Programs*

- [Chapter 489, F.S.](#), *Contracting*. Part I addressing the licensure and regulation of construction contracting, and Part II addressing the licensure and regulation of electrical and alarm system contracting. Construction contractors are either certified or registered by the Construction Industry Licensing Board (CILB) housed within Department of Business and Professional Regulation (DBPR). The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate. The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline. See [s. 489.107, F.S.](#), *Construction Industry Licensing Board*.
- [s. 489.105, F.S.](#) *Definitions*. "Certified contractors" are individuals who pass the state competency examination and obtain a certificate of competency issued by DBPR. Certified contractors are able to obtain a certificate of competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state. See s. 489.105, F.S.
- [s. 489.103, F.S.](#) *Exemptions*. "Certified specialty contractors" are contractors whose scope of work is limited to a particular phase of construction, such as drywall or demolition. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.
- "Registered contractors" are individuals that have taken and passed a local competency examination and can practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued. See [s. 489.105\(3\)\(a\)-\(o\) and \(g\)](#); Rule 61G4-15.015-040, F.A.C.
- [s. 489.117, F.S.](#), *Registration; specialty contractors*. Current law provides that local jurisdictions may approve or deny applications for licensure as a registered contractor, review disciplinary cases, and conduct informal hearings relating to discipline of registered contractors licensed in their jurisdiction. See [s. 489.117, F.S.](#), and s. 487.131, F.S. Local governments may only collect licensing fees that cover the cost of regulation. Locally registered contractors that are required to hold a contracting license to practice their profession in accordance with state law must register with DBPR after obtaining a local license, except that registration is not required by a person holding a local construction license whose job scope does not substantially correspond to the job scope of a certified contractor or certified specialty contractor. See [s. 489.105, F.S.](#), and [489.117\(4\), F.S.](#)
- [s. 489.505, F.S.](#) *Definitions*. Electrical contractors, alarm system contractors, and electrical specialty contractors are certified or registered under the Electrical Contractors' Licensing Board (ECLB). Certified contractors can practice statewide and are licensed and regulated by the ECLB. Registered contractors are licensed and regulated by a local jurisdiction and may only practice within that locality. See generally, [s. 489.505, F.S.](#)
- Electrical contractors are contractors who have the ability to work on electrical wiring, fixtures, appliances, apparatus, raceways, and conduits which generate, transmit, transform, or utilize electrical energy in any form. The scope of an electrical contractor's license includes alarm system work. See [s. 489.505\(12\), F.S.](#)
- Alarm system contractors are contractors who are able to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems. An "alarm system" is defined as "any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency." See [s. 489.505\(1\)-\(2\), F.S.](#)

- Electrical certified specialty contractors are contractors whose scope of work is limited to a particular phase of electrical contracting, such as electrical signs. The ECLB creates electrical certified specialty contractor licenses through rulemaking. Certified electrical specialty contractors can practice statewide. The ECLB has created the following certified specialty contractor licenses, including lighting maintenance specialty contractor; sign specialty electrical contractor; residential electrical contractor; limited energy systems specialty contractor; and utility line electrical contractor. See [s. 489.505\(19\), F.S.](#), and [s. 489.511\(4\), F.S.](#); Rule 61G6-7.001, F.A.C.
- [Section 163.211, F.S.](#), *Licensing of occupations preempted to the state*. This section defines the following terms:
- “Local government” means a county, municipality, special district, or political subdivision of the state.
- “Occupation” means a paid job, profession, work, line of work, trade, employment, position, post, career, field, vocation, or craft.
- “Licensing” means any training, education, test, certification, registration, or license that is required for a person to perform an occupation along with any associated fee.
- The statute expressly preempts occupational licensing to the state. This preemption supersedes any local government licensing requirement of occupations unless the licensing of occupations by local governments is authorized by general law, or the local licensing scheme for an occupation was imposed before January 1, 2021. However, any such local licensing scheme now expires on July 1, 2024. See [s. 163.211\(2\), F.S.](#)
- A local government that licenses an occupation locally is prohibited from imposing additional licensing requirements on that occupation and from modifying such licensing. In addition, any local licensing of an occupation not authorized under the provisions or otherwise authorized by general law does not apply and may not be enforced. [See s. 163.211\(3\)-\(4\), F.S.](#)
- [Section 489.117\(4\)\(a\), F.S.](#), prohibits a county or municipality from requiring a person to obtain a license if the job scope does not substantially correspond to a contractor category licensed by the CILB, specified journeyman license authorized by general law and the voluntary specialty contractor licenses mentioned above. This section precludes counties and municipalities from requiring a license for certain job scopes, including, but not limited to, painting, flooring, cabinetry, interior remodeling when the scope of the project does not involve a task for which a state license is required, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, pressure washing, stuccoing, caulking, canvas awning installation, and ornamental iron installation. Additionally, as amended by Chapter 2023-271, this section: 1) prohibits a county or municipality from requiring that a person have a license to obtain a permit for work under such job scopes; 2) allows a county or municipality to license veneer work, including gutters, siding, soffit, or fascia: rooftop paintings, coating, and cleaning above three stores: and fence installation and erection, if such a licensing requirement existed before January 1, 2021; and 3) prohibits a county or municipality from requiring a license as a prerequisite to submit a bid for public works projects if the work to be performed does not require a license under general law.

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ASSIGNED COMMITTEE: CUA

BOARD SUPPORT: N/A

UNFUNDED MANDATE: No

PROTECTIVE OF HOME RULE: Yes