

REVENUE ESTIMATING CONFERENCE

Tax: Local Taxes and Fees

Issue: Additional Local Government Fees Associated with Construction Contractors

Bill Number(s): CS/CS/CS/HB 535 (codified as Chapter 2016-129, L.O.F.)

Entire Bill

Partial Bill: Section 21 of the bill only

Sponsor(s): Representative Eagle

Month/Year Impact Begins: July 1, 2016

Date of Analysis: May 10, 2016

Section 1: Narrative

- a. **Current Law:** Part I of Chapter 489, F.S., regulates licensed construction contractors and provides that it is necessary in the interest of the public health, safety, and welfare to regulate the construction industry. Section 489.113(1), F.S., provides for individuals to become certified as a contractor in order to provide contracting services statewide after the applicant meets licensure requirements and pays a fee. Likewise, section 489.117(1), F.S., provides that those seeking to engage in contracting on other than a statewide basis may be registered, rather than certified, but must first submit a fee and file evidence of successful compliance with the local examination and licensure requirements for the geographical area for which the person wishes to be registered.

Part IV of Chapter 553, F.S., is the Florida Building Code. Section 553.80(1), F.S., provides that, except for construction regarding correctional and mental health facilities, elevators, storage facilities, educational institutions, and toll collection facilities, each local government and each legally constituted enforcement district with statutory authority shall regulate building construction. Section 553.80(7), F.S., authorizes county and municipal governments pursuant to the authority granted by sections 125.56 and 166.222, F.S., respectively, to provide a schedule of reasonable fees to be used solely for carrying out the local government's responsibilities in **enforcing the Florida Building Code**. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to such fees, may not exceed the total estimated annual costs of allowable activities. The basis for the fee structure must relate to the level of service provided by the local government, and charged fees must be consistently applied.

Pursuant to s. 553.80(7)(a), F.S., the phrase **enforcing the Florida Building Code** includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, re-inspections, and building permit processing; building code enforcement; and fire inspections associated with new construction. The phrase may also include training costs associated with the enforcement of the Florida Building Code and enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.

Pursuant to s. 553.80(7)(b), F.S., the following activities may not be funded with fees adopted for **enforcing the Florida Building Code**:

1. Planning and zoning or other general government activities.
2. Inspections of public buildings for a reduced fee or no fee.
3. Public information requests, community functions, boards, and any program not directly related to enforcement of the Florida Building Code.
4. Enforcement and implementation of any other local ordinance, excluding validly adopted local amendments to the Florida Building Code and excluding any local ordinance directly related to enforcing the Florida Building Code as defined in s. 553.80(7)(a), F.S.

Pursuant to s. 553.80(7)(c), F.S., a local government shall use recognized management, accounting, and oversight practices to ensure that fees, fines, and investment earnings generated under this subsection are maintained and allocated or used solely for the purposes described in s. 553.80(7)(a), F.S.

The Florida Department of Business and Professional Regulation's Construction Industry Licensing Board (hereinafter, the CILB) is responsible for licensing and regulating the construction industry. In general, the term **contractor** means the person who is qualified for, and shall only be responsible for, the project contracted for and means 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.

REVENUE ESTIMATING CONFERENCE

Tax: Local Taxes and Fees

Issue: Additional Local Government Fees Associated with Construction Contractors

Bill Number(s): CS/CS/CS/HB 535 (codified as Chapter 2016-129, L.O.F.)

The CILB defines **certified contractor** to mean any contractor who possesses a certificate of competency issued by the Department and **who shall be allowed to contract in any jurisdiction in the state without being required to fulfill the competency requirements of that jurisdiction**. Certified contractors are designated by an occupation code, which begins with the letter "C".

The CILB defines **registered contractor** to mean any contractor who has registered with the Department pursuant to fulfilling the competency requirements in the jurisdiction for which the registration is issued. **Registered contractors may contract only in such jurisdictions**. Registered contractors are designated by an occupation code, which begins with the letter "R".

- b. Proposed Change:** The bill creates s. 553.80(7)(d), F.S., to prohibit local governments from requiring the payment of any additional fees, charges, or expenses associated with (1) providing proof of licensure pursuant to Chapter 489, F.S.; (2) recording or filing a license pursuant to Chapter 553, F.S.; or (3) providing, recording, or filing evidence of workers' compensation insurance coverage as required by Chapter 440, F.S.

Section 2: Description of Data and Sources

Staff contacted representatives of the Pasco County Central Permitting Department, the Building Officials Association of Florida, the Florida Association of Counties, the Florida League of Cities, and the Florida Department of Business and Professional Regulation, seeking further information.

Data from the CILB:

Total # of CILB Licenses in FY 2015-16

Florida:	84,938
Pasco County:	2,782

Total # of CILB Licenses Issued in the Past 5 Fiscal Years

<u>Fiscal Year</u>	<u>Florida</u>	<u>Pasco County</u>
2015-16	2,915	98
2014-15	3,064	80
2013-14	2,609	85
2012-13	2,737	90
2011-12	2,578	69

According to the CILB, licenses are renewed on a two-year cycle.

Section 3: Methodology (Include Assumptions and Attach Details)

According to House Regulatory Affairs Committee staff, Section 21 of the bill was added specifically to address an additional recording fee of \$50 imposed on **state certified contractors** by Pasco County. A copy of Pasco County's Recording of State Certified Contractor's License document is attached. According to the county's Contractor Licensing Specialist, a certified contractor pays the recording fee when his or her state license is renewed, which is every two years.

Representatives of the Pasco County Central Permitting Department, the Building Officials Association of Florida, and the Florida Association of Counties did not respond to EDR staff's requests for further information regarding the potential fiscal impact of this provision. However, a Florida League of Cities' (FLC) legislative advocate indicated that this provision did not generate any inquiries from the FLC's membership during the legislative session, and the advocate is not aware of any municipal governments that impose such a fee and would be impacted by this law change. Additionally, the CILB staff could not identify any other county or municipal governments that currently impose such a fee. Consequently, it is unknown if similar charges or fees, which would be preempted by Section 21, are currently imposed by any county or municipal governments in Florida, other than Pasco County.

Assuming the \$50 recording fee imposed by Pasco County government would be similar to a charge or fee amount that might be imposed by any other county or municipal government in Florida, a local revenue loss associated with more than 1,000 recordings statewide would be needed to exceed the insignificance threshold of \$50,000. Assuming half of Pasco County's FY 2015-16 number

REVENUE ESTIMATING CONFERENCE

Tax: Local Taxes and Fees

Issue: Additional Local Government Fees Associated with Construction Contractors

Bill Number(s): CS/CS/CS/HB 535 (codified as Chapter 2016-129, L.O.F.)

of CILB licenses (i.e., 2,782) are renewed annually, the estimated revenue loss to Pasco County alone would be \$69,550 (i.e., $2,782/2 = 1,391 * \$50 = \$69,550$). This estimated revenue loss exceeds the statewide insignificance threshold of \$50,000.

Given the uncertainty of not knowing if additional county or municipal governments impose a similar charge or fee, and the amount of such charge or fee (if any), the EDR staff is recommending a fiscal impact of negative indeterminate during the forecast period.

Section 4: Proposed Fiscal Impact

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17			(**)	(**)		
2017-18			(**)	(**)		
2018-19			(**)	(**)		
2019-20			(**)	(**)		
2020-21			(**)	(**)		

List of Affected Trust Funds: Local funds.

Section 5: Consensus Estimate (Adopted: 05/10/2016): The Conference adopted (\$.1m) impact.

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	0.0	0.0	0.0	0.0	(0.1)	(0.1)	(0.1)	(0.1)
2017-18	0.0	0.0	0.0	0.0	(0.1)	(0.1)	(0.1)	(0.1)
2018-19	0.0	0.0	0.0	0.0	(0.1)	(0.1)	(0.1)	(0.1)
2019-20	0.0	0.0	0.0	0.0	(0.1)	(0.1)	(0.1)	(0.1)
2020-21	0.0	0.0	0.0	0.0	(0.1)	(0.1)	(0.1)	(0.1)