

ORDINANCE NO. 09-02

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF HOLMES COUNTY, FLORIDA, REGULATING LICENSING OF LOCAL BUILDING CONTRACTORS; PROVIDING DEFINITIONS, PURPOSE, ESTABLISHING PROHIBITIONS, ESTABLISHING A LICENSING BOARD, PROVIDING EXEMPTIONS, ESTABLISHING DISCIPLINARY PROCEDURES AND PENALTIES; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE;

WHEREAS, Holmes County, Florida, Board of County Commissioners are charged with protecting the public health and welfare, and

WHEREAS, Contactor licensing provides a means to assure contractors are competent through testing, review of qualifications, and provision of disciplinary procedures.

NOW THEREFORE, be it ordained by the Board of County Commissioners, Holmes County, Florida, that:

DIVISION 1. GENERALLY

Sec. 1-1. Definitions.

Except when otherwise defined in this section, the definitions in F.S. § 489.105 and F.S. § 489.505 apply to this article. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Contracting means, except as exempted in this article, engaging in business as a contractor.

Board means the county construction industry licensing board.

Certificate means a certificate of competency issued by the board as provided in this article.

Certification means the act of obtaining or holding a certificate of competency from the board.

Sec. 1-2. Purpose.

It is declared to be the public policy of this county that, in order to safeguard the life, health, property and public welfare of its citizens, the business of construction and home improvements is a matter affecting the public interest, and any person engaging in the business of construction and home improvements shall be required to establish his competency and qualifications to be certified as provided in division 2 of this article.

(Ord. No. 85-5, § 1, 11-19-1985)

Sec. 1-3. Exemption.

Persons exempted from F.S. ch. 489, pt. I or II (F.S. §§ 489.101 et seq., 489.501 et seq.) by F.S. § 489.105 or F.S. § 489.505 are exempt from the provisions of this article.

Sec. 1-4. Construction industry licensing board.

- (a) The county construction industry licensing board is created, consisting of five members, three who are familiar with the building trade and two who shall be laypersons.
- (b) Members of the board shall be appointed by the board of county commissioners for terms of two years. Vacancies in the membership of the board, for any cause, shall be filled by appointment of the board of county commissioners for the balance of the unexpired term.
- (c) The board shall meet regularly as the need presents itself. As soon as practicable after the effective date of the ordinance from which this article is derived, the board shall meet annually to elect officers from its membership. Special meetings of the board may be held as the board provides in its rules and regulations. Three members of the board shall constitute a quorum.
- (d) The board is authorized to adopt rules and regulations to carry out the provisions of this article.
- (e) Any member of the board or duly appointed hearing officer designated by the board may administer oaths and take testimony about all matters within the jurisdiction of the board.
- (f) The members of the board shall serve without compensation, per diem, or mileage, but shall have the right to sue and to be sued.
- (g) The board may adopt a seal for its use containing the words . . . "Holmes County, Florida, Construction Industry Licensing Board."
- (h) All moneys collected by the board shall be received, deposited, expended and accounted for pursuant to law.

Sec. 1-5. Prohibitions.

No person shall:

- (1) Falsely hold himself out as a licensee;
- (2) Falsely impersonate a licensee;
- (3) Present as his own the certificate or registration of another;
- (4) Give false or forged evidence to the county construction industry licensing board or a member thereof for the purpose of obtaining a certificate or registration; or
- (5) Engage in the business or act in the capacity of a contractor without being duly registered or certified.

State law references: Similar provisions, F.S. §§ 489.127(1), 489.531(1).

DIVISION 2. CERTIFICATION

Sec. 2-1. Generally.

- (a) All persons contracting in the county in any of the contractor categories as defined in this division that hold an occupational license in another county or municipality shall obtain a certificate from the county construction industry licensing board. All persons contracting in the county in any of the contractor categories as defined in this division that have a business address in the unincorporated areas of the county shall obtain an occupational license from the building department office. This license shall be issued only after obtaining certification from the board.
- (b) To obtain a certificate, an applicant shall submit an application, in writing, to the board containing the statement that the applicant desires the issuance of a certificate and the class of certificate desired on a form containing the information prescribed by the board and shall be accompanied by the fee fixed by resolution.

- (c) Examinations for each trade shall be given and proctored by (see Attachment A). Examination shall not be required for specialty contractors. A passing grade on the examination is 75 percent.
- (d) Following receipt of the fee and application, and successful completion of the examination, the board shall investigate the financial responsibility, credit and business reputation of the applicant and of any business organization on behalf of which he proposes to engage in contracting, as well as the education and experience of the applicant. Within 60 days from the date of the examination, the board shall inform the applicant, in writing, whether he has qualified or not, and if the applicant has qualified, that the board is ready to issue a certificate in the category for which application was made, subject to compliance with the requirements of subsection (f) of this section.
- (e) A person who holds a certificate of competency from the state county construction industry licensing board to engage in the business of a contractor shall not be required to take an examination to be certified, but may obtain a certificate upon exhibition of a state license and required insurance. State certified contractors who carry an occupational license in their home county F.S. 489-113(4)(a).
- (f) As a prerequisite to issuance of a certificate, the board shall require the applicant to submit satisfactory evidence that he has obtained public liability and property damage insurance in amounts determined by the state, whereupon, the certificate shall be issued. This subsection does not apply to inactive certificates.
- (g) If an applicant for an original certificate, after having been notified to do so, does not appear for examination within one year from the date of filing his application, the fee paid by him shall be credited to the board as an earned fee. New application for a certificate shall be accompanied by another application fee fixed by resolution. Forfeiture of such fee may be waived by the board for good cause.
- (h) The certificate shall not be transferable.
- (i) There shall be reciprocity with other counties in the state upon approval by the board

Sec. 2-2. Business organizations.

- (a) When an individual proposes to do business in his own name, certification, when granted, shall be issued only to that individual.
- (b) If the applicant proposing to engage in contracting is a partnership, corporation, business trust or other legal entity, the application shall state the name of the partnership and its partners, or the name of the corporation and its officers and directors, or the name of the business trust and its trustees, or the name of such other legal entity and its members, and furnish evidence of statutory compliance if a fictitious name is used. Such application shall also show that the person applying for the examination is legally qualified to act for the business organization in all matters connected with its contracting business; and that he has authority to supervise construction undertaken by such business organization. The certification, when issued upon application of a business organization, shall be in the name of such business organization and the name of the qualifying individual shall be noted.
- (c) (1) At least one member or supervising employee of the business organization shall be qualified under this law in order for the business organization to hold a current certificate in the category of the business conducted for which the member or supervising employee is qualified. If any individual so qualified on behalf of such business organization ceases to be affiliated with such business organization, he shall inform the board. In addition, if such individual is the only

qualified individual affiliated with the business organization, the business organization shall notify the board of the individual's termination and shall have a period of 90 days from the termination of the individual's affiliation with the business organization in which to qualify another person under the provisions of this article, failing which, the certificate of the business organization shall be subject to revocation by the board.

(2) The individual shall also inform the board, in writing, when he proposes to engage in contracting in his own name or in affiliation with another business organization; and he or such new business organization shall supply the same information to the board as required for applicants under this article.

(3) After an investigation of the financial responsibility, credit and business reputation of the individual or the new business organization, upon a favorable determination, the board shall issue, without an examination, a new certificate in the individual's name, or in the name of the new business organization, as provided in subsection (c)(2) of this section.

State law references: Required insurance, F.S. §§ 489.115(5), 489.515(3).

Sec. 2-3. Renewal and restoration.

Certificates shall expire annually at 12:00 midnight on August 31. If the certificate is not renewed, the following shall occur:

(1) Failure to renew the certificate during August shall cause the certificate to become inoperative, and it is unlawful thereafter for any person to engage or offer to engage or hold himself out as engaging in contracting under the certificate unless the certificate is restored or reissued.

(2) A certificate which is inoperative because of failure to renew shall be restored on payment of the proper renewal fee, if the application for restoration is made within 30 days after August 31.

(3) A person who holds a valid certificate from the county construction industry licensing board may go on inactive status during which time he shall not engage in contracting but may retain his certificate on an inactive basis on payment of an annual renewal fee during the inactive period of \$20.00 per year.

Sec. 2-4. Fees; exemption.

(a) The fee for initial certification and renewal shall be set by resolution of the board of county commissioners.

(b) At such time that the County establishes an occupational license fee, contractors who possess a county occupational license shall be exempt from certification and renewal fees.

Sec. 2-5. Records.

(a) All information required by the county construction industry licensing board of any applicant for certification shall be a public record, except financial information and examination grades which are confidential and shall not be discussed with anyone except members of the board and its staff, but the applicant is entitled to see his examination papers and grades.

(b) If a certificate holder changes his name style, address or employment from that which appears on his current certificate, he shall notify the board of the change within 30 days after such change occurs.

Sec. 2-6. Disciplinary proceedings.

(a) The county construction industry licensing board may on its own motion or the certified written complaint of any person and after investigation and hearing, revoke, suspend or deny the issuance or renewal of the certificate or registration of a contractor, impose an administrative fine or penalty not to exceed \$5,000.00, place a contractor on probation, or reprimand or censure a contractor if the contractor, or if the business entity or any general partner, officer, director, trustee or member of a business entity for which the contractor is a qualifying agent, is found guilty of any of the following acts:

(1) Those specified in F.S. § 489.129 or F.S. § 489.533.

(2) Willful or deliberate disregard and violation of the applicable building codes or laws of the state or of any municipalities.

(b) After suspension of the certificate on any grounds set forth in subsections (a)(1) and (2) of this section, the board may remove the suspension on proof of compliance by the contractor with all conditions prescribed by the board for removal of suspension; or, in the absence of such conditions, as in the sound discretion of the board.

(c) After revocation of a certificate, the certificate shall not be renewed or reissued for at least one year after revocation and then only on a showing of rehabilitation of the contractor.

(d) The lapse or suspension of a certificate by operation of law or by order of the board or a court, or its voluntary surrender by a certificate holder does not deprive the board of jurisdiction to investigate or act in disciplinary proceedings against the holder.

(e) The filing of a petition in bankruptcy, either voluntarily or involuntarily, or the making of a composition of creditors or the appointment of a receiver for the business of the certificate holder may be considered by the board as just cause for suspension of a certificate.

Sec 3. Severability.

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part

Sec 4. Effective Date. This Ordinance shall take effect immediately upon adoption.

PASSED AND DULY ADOPTED, with a quorum present and voting, by the Board of County Commissioners of Holmes County, Florida, this 9th day of June 2009.

ATTEST:


HONORABLE CODY TAYLOR,
Clerk of Holmes County Court

BOARD OF COUNTY COMMISSIONERS
OF HOLMES COUNTY, FLORIDA

By: 
HONORABLE Monty Merchant, Chairman