



Use of Licensed Design and Construction Professionals¹

Under Florida law, most design and construction work must be performed by persons properly licensed for the work to be performed. These requirements exist for the protection of consumers. The law does not only apply to design and construction professionals – the obligation to hire licensed persons applies to consumers as well.

Generally, the work done by the following trade and professional persons requires licensure under the law specified (under Florida Statutes – see www.leg.state.fl.us):

Architects, part I, chapter 481

Building Code Administrators and Inspectors, part XII, chapter 468

***Construction Contractors**, part I, chapter 489

***Electrical and Alarm Contractors**, part II, chapter 489

Engineers, chapter 471

Interior Designers, part I, chapter 481

Landscape Architects, part II, chapter 481

**Licensure in these categories is generally state, but may be a local license*

For construction, state licensure applies to a number of categories of contractors, including general, building, residential, sheet metal, roofing, air-conditioning, mechanical, commercial pool and spa, residential pool and spa, swimming pool and spa servicing, plumbing, underground utility and excavation, solar, and pollutant storage systems. There are also some state "specialty contractor" licenses as well as a wide variety of local licenses.

There are other types of licenses required in the design and construction process (such as pesticide application, fire sprinkler installation, and more), but this fact sheet is limited to those categories listed above.

Consumer Protection – Many of these license requirements have been adopted over the years in response to consumer harm because Florida has long been a state that attracts seasonal residents, retirees, and vacation homeowners as well as a large number of new residents. In addition to general consumer protection, there are additional reasons for strong licensure,

including the need for higher standards to ensure better protection from hurricanes or other natural disasters as well as compliance with strong standards for the substantial amount of coastal construction in Florida.

Risks of Using Unlicensed Persons – Even with strong licensure standards, Florida continues to have too many problems with unlicensed activity that almost always hurts the consumer for the following reasons:

- A person operating without a required license is often an individual who cannot qualify for licensure. This is usually related to problems with knowledge, training and/or business management. This is the wrong person to entrust with design or construction of your home.
- Because unlicensed persons are not registered with any government agency, these individuals know it will be difficult for a customer to force compliance or completion of work, and this is a chronic problem. It is not uncommon for a consumer to give an unlicensed person a down payment and never again see that person.
- Disregard for licensure requirements is usually coupled with disregard for other laws, such as state and federal tax laws, workers' compensation insurance laws, and permitting laws. A violation of any of these laws by someone who works on your property is almost certain to put you at risk for payment of taxes, penalties, or any injury that may occur during the work.
- The same disregard also extends to the use of substandard or lesser materials to complete a job, and this is often very difficult for a consumer to detect before it is too late.
- Under some property or liability insurance policies, work performed by an unlicensed person or otherwise in violation of building code requirements will invalidate coverage if there is a problem and may apply even if the problem is not strictly related to the work performed.
- Because unlicensed persons are not able to qualify to obtain a permit, they often perform work without a permit or ask the property owner to obtain the permit. Under either of these scenarios, the construction or repair is still subject to inspection and approval. Failure to comply with these requirements could prevent sale of the property years later.

¹**DISCLAIMER** – This piece is intended to give the reader only general factual information current at the time of publication. This piece is **not** a substitute for professional advice and should not be used for guidance or decisions related to a specific design or construction project. This piece is not intended to reflect the opinion of any of the entities, agencies or organizations identified in the materials and, if any opinions appear, are those of the individual author and should not be relied upon in any event. Applicable to 2004 Florida Building Code.

- Consumers hurt by unlicensed persons often find it difficult to get assistance from authorities responsible for prosecuting crimes because these cases are not often considered to be a high priority.

The Consumer's Role – After reading the first part of this fact sheet, you may wonder why any consumer would risk using an unlicensed person to perform any work. The most common reason is because the price is almost always lower. This is appealing, but it is also deceiving. The problems that occur with using unlicensed persons frequently require the property owner to pay much more to correct problems or violations. In addition, if there is a dispute or a code inspection that chases off an unlicensed contractor, it is very difficult to find a legitimate contractor to finish work for liability reasons and because there is much unknown risk in stepping into a project started by an unlicensed contractor. If the consumer can find a licensed contractor to complete work, the price is likely to be higher than it would have been originally to account for mistakes and common risks in such a situation.

Criminal Penalties – In some cases involving construction work, the consumer can be held criminally liable for “aiding and abetting unlicensed activity” by using unlicensed persons to perform work.

How to Avoid Hiring an Unlicensed Person – There are several simple steps, and a few more complicated steps, that can be taken to protect yourself:

1. Look for common signs, including a bid that is considerably less than others, lack of a written proposal, request for a large down payment, no license number on a truck or business card, no listing in the telephone book, or a suggestion that you obtain the permit.

2. Ask any design or construction professional to show you his or her license (the license should be issued by the Department of Business and Professional Regulation). Make sure the license is current and the name of the individual (and any business) matches that provided to you. If the person provides you with an “occupational” license or business registration, this is NOT a license (only the registration of a business). If you are hiring a contractor for construction or repair, ask to see evidence of workers’ compensation insurance or a valid exemption (this is required by Florida law, regardless of whether licensure is required).

3. Call your local building department and ask if anyone can verify this design or construction person. If you are told “no,” this does not necessarily mean the person is not licensed or should not be hired. However, if the person is a known unlicensed person, your local office should be familiar with this person.

4. Several searches on state agency websites are available to assist you. Some of these searches can be complicated, but each is worth your time to protect yourself and your assets.

www.sunbiz.org is the starting point to verify a business entity (corporation, LLC, or other)

www.myflorida.com/dbpr is the starting point to verify a license (this search is complicated)

www.fldfs.com is the starting point to verify workers’ compensation coverage or exemption (applies to construction work)

Additional Information – For some types of work or certain monetary values, licensure is not required. If you are told that licensure is not required, you should ask for the specific exemption or exception that applies to the particular work or project. Generally, a property owner performing his or her own work is not required to be licensed to do that work, but this does not allow the property owner to use unlicensed persons to do the actual work.

Other resources for licensing OR verification of need for license or other qualification (this list is not intended to be complete – other requirements may apply):

Department of Agriculture and Consumer Services
Pesticide applicators 850-488-3314
Liquified petroleum (LP) gas 850-921-8001
Plant inspections and nurseries 352-372-3505 ext. 154
<http://www.doacs.state.fl.us>

Department of Health
Septic tank contractor 850-245-4070
Well construction 850-245-245-4241
Indoor air quality (radon) 850-245-4288
Swimming pool service technician 850-245-4240
Environmental health professionals 850-245-4273
Environmental health assessments 850-245-4249
<http://www.doh.state.fl.us/environment>

Department of Environmental Protection
Energy 850-245-8002
Coastal construction 850-488-7708
<http://www.dep.state.fl.us>

Department of Financial Services
Division of State Fire Marshal
Fire protection contractors 850-413-3100
www.fldfs.com

Department of Business and Professional Regulation
Asbestos contractors 850-487-1395
Elevators 850-487-1395
Mobile homes 850-487-1395
Geologists 850-487-1395
Surveyors and mappers 850-487-1395
www.myflorida.com/dbpr

Department of Highway Safety & Motor Vehicles
Mobile homes / manufactured homes 850-922-9000
<http://www.hsmv.state.fl.us>

Don't know where to go for an answer to a specific question?

Contact: Building A Safer Florida, Inc. 1-850-222-2772 or www.buildingasaferflorida.org

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