

## Brief Narration of Changes in the 2017 Contractors Manual.

### Chapter 1 - No Change

### Chapter 2 - Under Exemptions New one added

- As of July 1, 2016, section 489.103, F.S. is amended to add a new exemption for apartment community employees or apartment management company employees. The employees are exempted from contractor licensing requirements when they are performing minor repairs to existing electric water heaters, electric heating, ventilation and air-conditioning systems when the repair costs do not exceed \$1,000.00 and are not the functional equivalent of replacing the system. Employees are required to have one year of apartment maintenance experience and hold an apartment maintenance technician's certificate from the National Apartment Association (NAA) to qualify for the exemption. The NAA certification course must be accredited by the American National Standards Institute and consists of a 90 hour training course covering identified topics and completion of examination requirements. The exemption only applies to employees of apartment communities of 100 apartments or greater and does not prohibit local jurisdictions from creating local license requirements for the performance of such work. – CM 2-68
- Likewise, the new law amends section 489.105(3)(m), F.S., to include the provisions that the definition of plumbing contractor ". . . does not require certification or registration under this part as a category I liquefied petroleum gas dealer, LP gas installer, or specialty installer who is licensed under chapter 527. . ." – CM 2-71
- 489.1401 – Div. – II contractor now included in the recovery fund CM 2-102 and 2-103
- 489.1425 - Div. – II Contractor also has to notify the home owner
- 489.143 **Payment from Fund**
- "(2) Any claimant who meets all of the conditions prescribed in s. 489.141 may apply to the board to cause payment to be made to a claimant from the recovery fund in an amount equal to the judgment, award, or restitution order or \$25,000, whichever is less..."; "(3) ... \$50,000 Maximum payment ... \$ 15,000 maximum payment..."; "(6) ... payments for claims against any one licensee shall not exceed, in the aggregate, \$100,000 annually, up to a total aggregate of \$250,000." "...total aggregate cap of \$500,000 for each Division I licensee...cap of \$150,000.00 for each Division ii licensee."
- (3) **NEW SECTION ADDED STATES:** - "Beginning January 1, 2005, for each Division I contract entered into after July, 2004, payment from the recovery fund is subject to a \$ 50,000 maximum payment for each Division I claim. Beginning January 1, 2017, for each Division II contract entered into on or after July 1, 2016, payment from the recovery fund is subject to a \$ 15,000 maximum payment for each Division II claim.

### Board Rules 61G4-12

- *61G4-12.018 – Notification of Investigative and Prosecutorial Costs* The section is still there but the verbiage is gone
- *61G4-15.001 – Qualifications for Certification* – The amended rule just became effective 2/7/2017. The rule now states very clearly and accurately what is currently required to obtain licensure. This is an excellent way to guide students to the exact standards and expectations the board will require AFTER they have passed the exam.

- 61G4-15.010 Requirements for Applicant Seeking Administration of Oral Examination.  
The section is still there but the verbiage is gone

Following are all new sections

- 61G4-15.035 Certification of Irrigation Specialty Contractors –
- 61G4-15.038 Certification of Building Demolition Specialty Contractors
- 61G4-15.039 Certification of Industrial Facility Specialty Contractors
- 61G4-15.040 Certification of Residential Pool/Spa Servicing Specialty Contractors
- 61G4-17.001 – Changes are highlighted in Yellow

(1) The following guidelines shall be used in disciplinary cases, absent aggravating or mitigating circumstances and subject to other provisions of this chapter.

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
(a) Section 489.129(1)(a), F.S. Obtaining license through fraud or misrepresentation.  If misrepresentation  If fraud	 \$5,000 fine and probation or suspension.  \$5,000 fine and probation or suspension.	 \$10,000 fine and revocation.  \$10,000 fine and revocation.
(b) Sections 489.129(1)(b), 455.227(1)(c), F.S. Convicted or found guilty of a crime relating to contracting.	<b>\$3,500 fine</b> or probation or suspension.	\$10,000 fine and probation, suspension or revocation.
(c) Section 489.129(1)(c), F.S.: Violating any part of Chapter 455, F.S.  1. Section 455.227(1)(a), F.S.: Fraud, deceit, misleading, or untrue representations.	 \$5,000 fine and probation or suspension.	 \$10,000 fine and probation, suspension or revocation.
2. Section 455.227(1)(r), F.S.: Improperly interfering with an investigation or disciplinary action.	\$5,000 fine or probation or suspension.	\$10,000 fine and probation, suspension or revocation.
(d) Section 489.129(1)(d), F.S.: Assisting unlicensed person to evade provision of Chapter 489, F.S.	<b>\$5,000 fine and</b> probation or suspension.	\$10,000 fine and probation, suspension or revocation.
(e) Section 489.129(1)(e), F.S.: Combining and conspiring with unlicensed person or entity to evade provision of Chapter 489, F.S.	<b>\$5,000 fine and</b> probation or suspension.	\$10,000 fine and probation, suspension or revocation.
(f) Sections 489.129(1)(f), 489.119(2), F.S.: Acting under a name not on license.  FIRST OFFENSE		

<b>SECOND OFFENSE</b>	\$1,500 fine.  \$2,500 fine.	\$5,000 fine and probation or suspension.  \$5,000 fine and suspension or revocation.
(g) Section 489.129(1)(g), F.S.: Mismanagement or misconduct causing financial harm to the customer.  FIRST OFFENSE  REPEAT OFFENSE	\$1,500 fine or probation or suspension.  \$2,500 fine and probation or suspension.	\$5,000 fine and probation or suspension.  \$10,000 fine and revocation.
(h) Section 489.129(1)(h), F.S.: Local disciplinary action.	Use penalty herein listed for the violation most closely resembling the act underlying the local discipline;	Use penalty herein listed for the violation most closely resembling the act underlying the local discipline;
(i) Section 489.129(1)(i), F.S.: Failing in any material respect to comply with the provisions of Part I of Chapter 489, F.S.	Use penalty herein listed for the violation most closely resembling the act underlying the local discipline;	Use penalty herein listed for the violation most closely resembling the act underlying the local discipline;
1. Section 489.1195(2)(e), F.S.: Failure to supervise construction activities.  FIRST OFFENSE  REPEAT OFFENSE	\$2,500 fine and probation or suspension.  \$5,000 fine and probation or suspension.	\$5,000 fine and probation or suspension.  \$10,000 fine and revocation.
2. Sections 489.113, 489.117, F.S.: Contracting beyond scope of practice allowed by license, no safety hazard.  FIRST OFFENSE  REPEAT OFFENSE	\$1,000 fine or probation or suspension.	\$3,000 fine and probation or suspension.

	\$5,000 fine and probation or suspension.	\$10,000 fine and revocation.
<p>3. Sections 489.113, 489.117, F.S.: Contracting beyond scope of license, safety hazard is created.</p> <p>FIRST OFFENSE</p> <p>REPEAT OFFENSE</p>	<p>\$4,000 fine and probation or suspension.</p> <p>\$5,000 fine and probation or suspension.</p>	<p>\$8,000 fine and probation, suspension or revocation.</p> <p>\$10,000 fine and revocation.</p>
<p>4. Section 489.1425, F.S.: Failure to notify residential property owner of recovery fund.</p> <p>FIRST OFFENSE</p> <p>REPEAT OFFENSE</p>	<p>\$250 fine.</p> <p>\$1,000 fine.</p>	<p>\$500 fine.</p> <p>\$1,000 fine.</p>
<p>5. Section 489.116, F.S.: Contracting with a delinquent license.</p> <p>FIRST OFFENSE</p> <p>REPEAT OFFENSE</p>	<p>\$1,500 fine, respondent must pay all fees and costs required to place license in current and active status, or probation or suspension.</p> <p>\$2,500 fine, respondent must pay all fees and costs required to place license in current and active status, and probation or suspension.</p>	<p>\$2,500 fine, respondent must pay all fees and costs required to place license in current and active status, and probation or suspension.</p> <p>\$5,000 fine and suspension or revocation, respondent must pay all fees and costs required to place license in current and active status, and probation or suspension.</p>
<p>6. Section 489.116, F.S.: Contracting with an inactive license.</p>	<p>\$5,000 fine and probation or suspension.</p>	<p>\$10,000 fine and revocation.</p>

<p>7. Section 489.117, F.S.: Contracting in a city or county where the contractor is not licensed.</p> <p>First violation, where the jurisdiction is not adjacent to one where contractor is properly licensed, or practice outside the geographical scope of the license was willful.</p>	<p>\$1,000 fine or probation or suspension.</p>	<p>\$2,500 fine and probation or suspension.</p>
<p>8. Section 489.119, F.S.: Failure to qualify a business organization.</p> <p>FIRST OFFENSE</p> <p>REPEAT OFFENSE</p>	<p>\$2,500 fine.</p> <p>\$5,000 fine.</p>	<p>\$5,000 fine and probation or suspension.</p> <p>\$10,000 fine and probation, suspension or revocation.</p>
<p>9. Section 489.119(5)(b), F.S.: License number not appearing in advertisement.</p> <p>FIRST OFFENSE</p> <p>REPEAT OFFENSE</p>	<p>\$250 fine.</p> <p>\$500 fine.</p>	<p>\$1,000 fine.</p> <p>\$2,500 fine and probation.</p>
<p>10. Section 489.124, F.S.: Failure to keep business and financial records as required.</p>	<p>\$1,000 fine.</p>	<p>\$5,000 fine and revocation.</p>
<p>11. Section 489.126(2), F.S.: Failure to apply for all necessary permits within 30 days of entering contract or failure to start within 90 days after issuance of all necessary permits when the contractor receives an initial payment of more than 10 percent of the contract price for repair, restoration, improvement or construction to residential real property.</p> <p>FIRST OFFENSE</p> <p>REPEAT OFFENSE</p>	<p>\$2,500 fine or probation or suspension.</p> <p>\$5,000 fine and probation or suspension.</p>	<p>\$5,000 fine and probation or suspension.</p> <p>\$10,000 fine and probation, suspension or revocation.</p>

<p>(j) Section 489.129(1)(j), F.S.: Abandonment.</p> <p>FIRST OFFENSE</p> <p>REPEAT OFFENSE</p>	<p>\$2,500 fine and probation or suspension.</p> <p>\$5,000 fine and probation or suspension.</p>	<p>\$7,500 fine and probation or suspension.</p> <p>\$10,000 fine and revocation.</p>
<p>(k) Section 489.129(1)(k), F.S.: False payment statements, false statement of insurance coverage.</p>		
<p>1. False payment statement.</p> <p>FIRST OFFENSE</p> <p>REPEAT OFFENSE</p>	<p>\$2,500 fine.</p> <p>\$5,000 fine and/or probation or suspension.</p>	<p>\$7,500 fine and probation or suspension.</p> <p>\$10,000 fine and revocation.</p>
<p>2. False statement of insurance coverage.</p> <p>FIRST OFFENSE</p> <p>REPEAT OFFENSE</p>	<p>\$1,000 fine and probation or suspension.</p> <p>\$5,000 fine and probation or suspension.</p>	<p>\$5,000 fine and probation or suspension.</p> <p>\$10,000 fine and probation, suspension or revocation.</p>
<p>(l) Section 489.129(1)(l), F.S.: Committing fraud or deceit in the practice of contracting.</p>		
<p>1. Causing no monetary or other harm to licensee's customer.</p>	<p>\$2,500 fine and probation or suspension.</p>	<p>\$10,000 fine and revocation.</p>
<p>2. Causing monetary or other harm to licensee's customer.</p>	<p>\$5,000 fine and probation or suspension.</p>	<p>\$10,000 fine and revocation.</p>
<p>(m) Section 489.129(1)(m), F.S.; Misconduct or incompetency in the practice of contracting, shall include, but is not limited to:</p> <p>1. Failure to honor a warranty.</p> <p>FIRST OFFENSE</p>		<p>\$5,000 fine and probation or suspension.</p>

REPEAT OFFENSE	\$1,000 fine or probation or suspension.  \$2,500 fine and probation or suspension.	\$10,000 fine and revocation.
2. Violation of any provision of Title 61G4, F.A.C., or Chapter 489, Part I, F.S.  FIRST OFFENSE  REPEAT OFFENSE	  \$1,000 fine or probation or suspension.  \$5,000 fine and probation or suspension.	  \$2,500 fine and probation or suspension.  \$10,000 fine and suspension or revocation.
3. Failure to abide by the terms of a mediation agreement or another offense under this part.  FIRST OFFENSE  REPEAT OFFENSE	  \$2,500 fine.  \$5,000 fine and probation or suspension.	  \$5,000 fine and probation.  \$10,000 fine and suspension or revocation.
(n) Section 489.129(1)(n), F.S.: Committing gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property.  FIRST OFFENSE  REPEAT OFFENSE	  \$3,000 fine and probation or suspension.  \$10,000 fine and suspension.	  \$10,000 fine and probation, suspension or revocation.  \$10,000 fine and revocation.
(o) Section 489.129(1)(o), F.S.: Proceeding on any job without obtaining applicable local building department permits and/or inspections.		
1. Late permits. Contractor pulls permit after starting job but prior to completion of same and does not miss any inspections.	\$250 fine.	\$3,000 fine and probation.
2. Failure to obtain inspections.  FIRST OFFENSE	  \$500 fine.	  \$2,500 fine and probation or suspension.

REPEAT OFFENSE	\$2,500 fine and probation or suspension.	\$5,000 fine revocation.
<p>3. Job finished without a permit having been pulled, or no permit until caught after job, or late permit during the job resulting in missed inspection or inspections.</p> <p>FIRST OFFENSE</p> <p>REPEAT OFFENSE</p>	<p>\$1,000 fine.</p> <p>\$5,000 fine.</p>	<p>\$5,000 fine and probation.</p> <p>\$10,000 fine and suspension or revocation.</p>
<p>(p) Section 489.129(1)(p), F.S.: Intimidating, threatening, coercing, or otherwise discouraging the service of a notice to owner under Part I of Chapter 713, F.S., or a notice to contractor under Chapter 255 or Part I of Chapter 713, F.S.</p> <p>FIRST OFFENSE</p> <p>REPEAT OFFENSE</p>	<p>\$2,500 fine and probation or suspension.</p> <p>\$5,000 fine and probation or suspension.</p>	<p>\$5,000 fine and suspension or revocation.</p> <p>\$10,000 fine and revocation.</p>
<p>(q) Section 489.129(1)(q), F.S.: Failure to satisfy a civil judgment obtained against the licensee or the business organization qualified by the licensee within a reasonable time.</p> <p>For purposes of this section “reasonable time” means sixty (60) days following the entry of a civil judgment that is not appealed. The Board will consider a mutually agreed upon payment plan as satisfaction of such judgment, so long as the payments are current.</p> <p>FIRST OFFENSE</p>		



REPEAT OFFENSE	\$500 fine or proof of satisfaction of civil Judgment.	\$5,000 fine or proof of satisfaction of civil Judgment.
	<b>\$5,000 fine or proof of</b> satisfaction of civil judgment.	\$10,000 fine or proof of satisfaction of civil judgment, and suspension or revocation.

**61G4-21.003 Filing Claims. “The address is changed from 1940 Monroe to 2601 Blair Stone Road, Tallahassee, FL 32399-1039**

### Chapter – 3

- 3-36- *Expensing of Equipment in the year of Purchase – Totally Revamped- A and B sections.*
- 3-55 FUTA: 0.6% changed from 0.8% - I would like to draw your attention that In Florida, the maximum FUTA you pay is 0.6%
- 3-58 *Recent Developments – Change in Verbiage Removed some old stuff*
- 3-149 NEW *Circular E – 2016 – Good News it has the chapter page numbers unlike previous.*  
*Bad News is that the Income Tax Withholding Tables, FICA, SUTA & FUTA amounts have all changed meaning we will have to update all of our slides, exams, etc. Be aware!!*
- 3-149 – 150 what is new: Several things added. Please review Household workers amount increased from \$1,800 to \$2,000; FUTA tax removed. The deadline for W-2, W-3 added, One Withholding allowance amount specified for the year \$ 4,050.00; several things added so please read and review.
- 3-150 Reminders: - Almost one page added. Same Sex Marriage Added, Additional Medicare Tax withholding for wages above \$ 200,000; Severance payments subject to taxes
- **3-154 Change of Business Name; New Section Added**
- 3-154: Change of Address or **Responsible Party, added “Responsible Party”**
- 3-155 **Dishonored Payments: “New Section”;** \$25.00 or 2% whichever is more. If Penalty \$ 24.99 or less than whatever is the amount of penalty.
- 3-159 **H-2A agricultural workers. – “New Section”**
- 3-159 Husband-Wife Business; Changed to “Business Owned and Operated by Spouses
- 3-171: *The Social security wage base limit increased from \$110,100 to \$118,500*
- 3-171 *Additional Medicare Tax Withholding: New Section Added – Please see the 0.9% Additional Withholding for more than \$ 200,000*
- 3-189: *Third Party Payer Arrangements: “BRAND NEW SECTION” Read it*
- 3-191 thru 3-213 – *All Tables Revised*
- 3-213 thru 3-215- *New Section added including moving the “The Tax Payer Advocate Service” from front pages to the last page. Added new Section “How to Get Tax Help”*

## Chapter – 4

### Minor changes

- 4-16 – **Principle of Indemnity removed**
- 4-21 thru 4-60 – Forms: They have moved stuff around. They have removed the list of websites etc. at the end of the chapter.

## Chapter -5

- 5-61 FLSA is the revised version in 2011 instead of 2004
- The change is in the format- Now it is single column instead of two column format. Also they have revised the section numbers. For example, “Sec. 3 is now Sec.203”. They have also given titles to the sub sections which were not there in the previous version.
- 5-72 Sec 206 Minimum Wage
- 5-111 Sec 216(e) (1) Penalties. They have added a few subsections related to Child Labor Violations. Please review them.
- Certain Sections from this part have been deleted. Old CM 5-96 thru 5-109 have been removed.
- 5-116 **Pertinent Provisions Affecting the FLSA from the Portal -To- Portal Act of 1947** the subsection headings have been changed, two columns have been removed and all is one column. **Great PLUS**
- 5-139 thru 5-142: They have duplicated the Department of Labor Federal Register with updates of 2016; *Please take a note of Changes and the duplicated information. This is mainly because, the exemption for FLSA limits were raised in 2016, however there is court stay. The court has given a deadline until May of 2017 for the department to file their response. The weekly salary limit of \$ 455 has been there since 1972. The department wants to raise this limit to \$ 913*

2012 Florida Unemployment Hand Book. Following are some of the replacements. Mainly Unemployment – replaced by Reemployment.

- 5-277 Florida Reemployment Assistance Program Law

**UCT-6 is now RT-6; UCT-20 is now RTS-1S, and Similar forms name change. These are all over this section**

- 5-283 Employer Guide to Reemployment Tax
- 5-301 Employer Guide to Reemployment Assistance Benefits

## Chapter – 6

- 6-10 The Department of Labor and Employment Security – replaced by – **The Florida Division of Workers’ Compensation**
- 6-11 The Maximum Weekly Benefit Raised from \$ 803 to **\$ 863**
- 6-15 The Roofers example has been changed. The rate has been reduced from \$ 28.05 to **\$18.60. Please review the respective changes in examples on the next page.**
- 6-17 Exemption Information: The outlook has changed. They have translated the online screen shot.

- 6-19 thru – 6-22. Outline has changed. Major information remains the same.
- 6-19 Extraterritorial Reciprocity has **been Added**
- 6- 23 Frequently Asked Questions – Employer - *Major Changes in Frequently Asked Questions. Too many to list here. But have made it more informative for Construction industry.*
- 6-31 Frequently Asked Questions – Employee- Injured Worker- No Major Changes found.
- 6-37 Employer Facts- Flyer Added – NEW – Similar Information- Review
- 6-39 Employee Facts- No change observed.
- 6-41 Coverage Requirements: *More Simplified, Better Information, have added the screen shot of online database verification.*
- 6-43 Employer Exemption Information- *This was moved from 6-17 to this page, along with all the screen shots when you file it online.*
- 6-56 Enforcement: *Penalty increased from 1.5 to 2.0*
- 6-57 Fatality reporting *Phone numbers changed.*
- **6-58** The Letter from CFO stating the revised maximum benefits.
- **6-59** added the form for First Report of Injuries or Illness.
- 6-61 thru 6-63 The DBPR information added along with explanation and the anticipated changes due to the Attorney Fees Ruling.
- 6-66 FS 440 – No Changes Observed.

## Chapter – 7

- 7-31 OSHA Civil Penalties – **MAJOR CHANGES**
- Maximum \$ 124,471, Repeat violation \$ 12,741, Other than serious Violation \$ 12,741, Violation of posting requirements \$12,741.
- 7-32 Serious Violations Range \$ 4,989 to \$ 11,224 ..... up to \$ 12,471
- 7-32 Severity Probability Changed – \$ 12,471 thru \$5,345
- 7-32 OSHA record keeping violations maximum changed to \$ 12,471.00
- 7-32 Willful Violations Penalties changed – between \$ 4,988 and \$ 124,709. The minimum Willful Serious penalty is \$ 49,884
- 7-33 Failure to Abate; Director has authority to reduce the penalty by 20% to 40%
- 7-34 and 7-35 – The % reduction is the same the \$ amounts have changed.

## Chapter – 8

- 8-5 defined the term Implied by giving an example.
- 8-6 Reference to the *Uniform Commercial Code found in Chapter 672 Florida Statutes.*
- 8-8 “A qualification sometimes added to the cost-plus contract is that the parties agree to a guaranteed maximum price...” This is the twist in the definition of the GMP
- 8-9 Added under IPD – “..... This concept only works with fiscally strong players who have excellent integrity”
- 8-9 Contract Terms Redefined to add the “A condition in a contract is a provision that says that something else is predicated on the occurrence of the condition. For example, if the condition is not performed or waived, then the other party is not entitled to the performance thereafter.”
- 8-9 Added under implied terms “If you wish to vary the implied terms of a contract (except to violate the law or to avoid the condominium warranties) you should do so in express terms.”

- 8-15 Added under Incorporation by reference “d) A set of master terms and conditions for use in an abbreviated subcontract form. E) Terms from a website.”
- 8-16 added under incorporation by reference – last sentence; “Otherwise court has rules of contract interpretation it will use to resolve such conflicts. Note that when a website is incorporated by reference it is wise to print a copy of the site since a site may be changed.”
- 8-25 Added: “Punitive Damages **“This was there but as part of Consequential Damages.**
- 8-25 Added *Other Legal Remedies: Note that breach of contract may not be an exclusive remedy. READ THE PARAGRAPH*

## Chapter – 9

- 9-5 The have cut down the introduction.
- 9-7 Under “What is Construction Lien” at the bottom they have shuffled the sentences and added at the end “If he lienor is a contractor, the contractor must give the owner a contractor’s final affidavit”
- 9-9 Lease Hold property: The paragraphs shuffled the following moved from end to the middle of the section - “The Florida Construction lien law allows the potential lienor to request from the landlord a verified copy of any lease provision for the parcel being improved... The request for a copy of the lease may not be in the notice to owner, but must be separate document”
- 9-11 Duty to record and post notice of commencement: Last sentence modified to “*Note that the owner is to sign the notice of commencement and not the contractor, unless owner has specifically delegated the authority to the contractor to sign the notice of commencement as the owner’s agent*” The removal is ~~There is no requirement for the lender to post the copy..... and That is the owner’s duty regardless of who records it.~~ PLEASE READ THE PARAGRAPH.
- 9-12 Information about payment bond: Sentence added at the end “If the bond meets the requirements of FS 713.23 it is simple matter for the lien to be transferred by owner to the existing FS 713.23 payment bond.”
- 9-15 Amendment of Notice of Commencement: *At the end added “..... That would require a new notice of commencement for the contract with a new contractor.”*
- 9-39 Enforcement/ Foreclosure: Added *is “A Judgement recognizing a claim of lien may be a personal money judgement against the persons contracting for the work as well.”*
- 9-55 FS 337.18 Bonds: Sections added; *Bond Claimants; Demand for Sworn Statement: “... Within 60 days...” PLEASE READ THESE TWO NEW SECTIONS. Release of payments made Removed. Old CM 9-56 They also removed under section Suit on bond the lengthy explanation on page 9-57.*
- 9-68 Chapter 713 Fla. Stat. Part 1 (2016) – *THIS IS THE LATEST* The only modification that could be notices is that they have added the history to the foot notes after each section.

## Chapter – 10

- No obvious changes found