

Pulling Permits for Others – Putting your License on the Line

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Being paid to use your contractor's license to pull a permit for others may sound like a profitable proposition. However, using your license to obtain a permit for work to be completed by others is a transaction fraught with risk. You should proceed with extreme caution and be sure that the rules of Florida Statute Section 489 are followed precisely, since your license is on the line.

The Florida Legislature enacted Section 489 to protect the public health, safety and welfare by requiring that significant construction work must be performed by licensed contractors. To ensure that work is completed by licensed contractors, Section 489 provides that certain acts, such as "renting your license," may be prosecuted as crimes and the Construction Industry Licensing Board has multiple sanctions at its disposal. You, the licensed contractor, must have a contract to perform the work specified in the permit you pull; otherwise you are "renting your license."

The risk associated with renting your license is immense. According to Florida Statute Section 489.127(4), pulling a permit for construction work performed by others is punishable as a misdemeanor. A second violation of this rule is punishable as a felony. Also, you will be subject to penalties by the Construction Industry Licensing Board. These penalties can be quite severe such as license revocation; restitution to the owner for harm incurred; and fines up to \$10,000. Furthermore, a contract for "pulling a permit" may be illegal and unenforceable, preventing recovery for payment on the contract.

A licensed contractor may "qualify" the business that has the contract to perform the work. To become the "qualifying agent" a licensed contractor must follow the procedures provided in Fla. Stat. Section 489.119(2), which includes, among other things, being employed by the business and submitting an application for approval by the Licensing Board. The mere act of pulling a permit is not enough to make a licensed contractor the qualifying agent for the construction company that performs the work.

This privilege of qualifying a business brings with it a duty to supervise. The qualifying agent has a statutory duty to supervise the contracted work to ensure it is completed per Florida Building Code. Additionally, he must be responsible for the operations of the business that he is qualifying and have control over all financial matters of the business, not simply the project he "permitted." Violation of this statutorily imposed duty will subject the qualifying agent to sanctions imposed by the Licensing Board. However, violation of the Section 489 duty to supervise does not create a private right of action against the qualifying agent. Nevertheless, an injured party may have a statutorily provided cause of action against the licensed contractor under Section 553.84, if the company committed a violation of the Florida Building Code.

If an owner approaches you to pull a permit for a job that was started by an unlicensed contractor, you have two legal options: (1) go through the process of becoming the qualifying agent for the unlicensed contractor before pulling the permit and make sure you supervise their

work; or (2) have the owner cancel his contract with the unlicensed contractor and contract with you in his place - do not allow the unlicensed contractor to continue performing the work under your permit.

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