



Governor Bush's Emergency Orders Creates Opportunities for Contractors and Consumers

By Lee A. Weintraub, Esq.

Look around anywhere in Florida and the fallout from an unprecedented hurricane season is apparent. Nowhere is this impact felt more than in the roofing industry, currently enduring previously unseen levels of material and labor shortages and delays in permitting and inspections. It is difficult to find roofing contractors and subcontractors, obtain materials and equipment, and close projects with final inspections due to the inordinately high number of roofs requiring repair and/or replacement at a single time. Naturally, pricing pressure follows, as costs for roofing work and materials have escalated significantly. To alleviate this impact, Governor Jeb Bush signed a number of executive orders designed to increase the number of contractors available to repair and replace roofs damaged during the hurricane season. The result of this is to open doors of opportunities for a limited time for all licensed general and building contractors in Florida to undertake roofing work without the corresponding costs of subcontractors.

On August 25, 2004, Governor Bush signed Executive Order 04-188, allowing licensed residential building and general contractors in Florida to perform roofing and re-roofing repairs in counties impacted by Hurricane Charley. Those contractors need not subcontract the roofing repairs to a all counties throughout Florida, as a result of Hurricane Frances. A week

separate licensed roofing contractor. This order applies to both registered and certified contractors in Florida. For those unaware of the distinction, a certified contractor has a state-issued certificate of competency and is permitted to contract in any jurisdiction in Florida.

On the other hand, a registered contractor is licensed only by the jurisdiction in which they are registered and may perform construction services in that jurisdiction only, as well as those jurisdictions with reciprocal agreements or ordinances. The executive order does not permit registered contractors to operate outside of these jurisdictions.

Many contractors apparently interpret this executive order as authorizing them to subcontract roofing work to unlicensed roofers. That, however, is not the case. Under this executive order, the contractor may engage in roofing work itself without subcontracting to a roofing contractor. If, however, the roof work is going to be performed by somebody other than the contractor's employees, then the entity performing the work must be properly licensed as a roofing contractor. This order does not include metal or tile roofing, as those jobs must still be performed only by licensed roofing contractors. Unlicensed, out-of-state contractors are still not permitted to contract under this executive order.

On September 7, 2004, Governor Bush signed Executive Order 04-197, expanding Executive Order 04-188 to

later, the governor signed Executive Order 04-210, authorizing city and county governments to issue specialty roofing licenses without the need for additional local enacting ordinances. These specialty licenses can now be issued to both in state and out of state contractors who fulfill the requirements, which change depending upon the permitting authority.

It is critical to remember that contractors may not engage in contracting outside of the scope of their license until they have received the locally issued specialty license. Running afoul of this requirement is a felony.

Executive Order 04-210 is designed to accelerate the process for licensure of qualified contractors to begin making roofing repairs in hurricane affected areas. To qualify, contractors must present an affidavit of competency from their original jurisdiction showing a proper license within their territory. The affidavit must be signed by their local building official or designee and indicate the contractor has satisfactorily performed roofing work with wood shakes, asphalt, or fiberglass shingles. The contractor must also present proof of compliance with applicable workers' compensation requirements under Chapter 440 of the Florida Statutes and proof of public liability and property damage insurance as required by Section 489.115(5)(a), Fla.Stats., and in a minimum amount of \$100,000 for liability and \$25,000.00 for property damage.

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Local jurisdictions, which still retain the obligation to issue permits and conduct inspections to ensure code compliance, may discipline these specialty roofing contractors as they do any other specialty license. A nominal processing fee will be charged to cover the issuance of the license. This specialty license permits the contractor only to repair and install roofs made of wood shakes, asphalt, or fiberglass shingles. The contractor will not be authorized to work on other types of roofs, such as tile, metal or flat roofs. The specialty license is valid for a period of 90 days. However, all jobs

Governor Bush rose to the occasion by opening doors to contractors and consumers alike when he expanded the scope of entities permitted to engage in roofing work.

permitted before the 90-day period expires may be completed after the expiration of the period.

Finally, Executive Order 04-241, signed November 10, 2004, extends the duration of the above referenced executive orders for a period of 180 days.

However, despite the noble intentions of these orders, many issues frequently arise regarding their interpretation and, in particular, whether prosecutions for unlicensed contracting may actually be increased. Therefore, caution is urged to ensure compliance with all the requirements of the orders before a contractor enjoys the benefits thereof. For instance, the Construction Industry Licensing Board appears to be cracking down on out of state contractors and subcontractors not in compliance with the order. Additionally, inconsistencies between how various permitting jurisdictions issue temporary licenses create confusion and frustration. To be safe, you should carefully review the new licensing requirements in the orders or call an attorney if you need further assistance. ■

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