



Board of Rules & Appeals

One North University Drive, Suite 3500-B, Plantation, Florida 33324

Phone (954) 765-4500 Fax: (954) 765-4504

<http://www.broward.org/codeappeals>

TO: Building Officials
FROM: James DiPietro, Administrative Director
DATE: September 9, 2019
SUBJECT: Recertifications (2020-2021)

Submission deadline for Recertification Packet is December 5, 2019

Enclosed are recertification application packets for the two year period 2020-2021. Important points:

- Please complete and return all forms to the Board of Rules & Appeals office no later than December 5, 2019.
- Attach the Continuing Education Affidavit signed by the applicant.
- 28 educational contact hours must have been completed prior to December 31, 2019 **Note:** At least 1/2 of this requirement must be discipline specific courses.
- Please include the notarized Affidavit, Board of Rules & Appeals Policy #14.02 on page 6 of 10 of this packet.
- Your new 2020-2021 recertification cards will be valid through December 31, 2021.

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| <p>104.18.1.3 All Building Officials, Assistant Building Officials, Chief Inspectors, Plans Examiners, and Inspectors, to be recertified shall obtain twenty eight (28) contact hours within a two (2) consecutive calendar year biennial renewal period (starting January 1, on an even year, through December 31, of the next odd year) by attending formal education courses, workshops, and seminars, any of which shall be approved by BORA, the Miami-Dade County Code Compliance Office, the BCAIB, the Construction Industry Licensing Board, or the Electrical Contractors Licensing Board, and be related to the individual's discipline. Continuing education contact hours shall include courses approved as discipline specific category (courses which are specific to the code chapters enforced by the specific discipline) and non-discipline</p> | <p>specific category. Specific courses mandated for license holders by the State of Florida Boards' shall be classified as non-discipline specific, unless clearly indicated as discipline specific by a State agency. A minimum of one half of the twenty eight (28) contact hours within a two (2) consecutive calendar year biennial renewal period shall be discipline specific category. Meetings of BORA Committees shall be counted as one (1) hour in the non-discipline specific category and professional association meetings shall be counted as not to exceed one (1) hour in the discipline specific category for a maximum of fourteen (14) contact hours within a two (2) consecutive calendar year biennial renewal period. Unless authorized by BORA Staff online education courses, workshops and seminars do not meet this requirement and shall not be accepted.</p> |
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All Building Departments shall be re-certified biennially by BORA. All Building Officials, Assistant Building Officials, Chief Inspectors, Plans Examiners, and Inspectors who are presently certified by BORA, must complete and submit this recertification application. To stay certified as a department, positions 1-5 listed below must be employed or contracted with the department. One person may hold multiple certifications.

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|-------------------------------|------------------------------|--------------------------|
| 1. Building Official | 6. Structural Plans Examiner | 10. Structural Inspector |
| 2. Chief Structural Inspector | 7. Electrical Plans Examiner | 11. Electrical Inspector |
| 3. Chief Electrical Inspector | 8. Plumbing Plans Examiner | 12. Plumbing Inspector |
| 4. Chief Plumbing Inspector | 9. Mechanical Plans Examiner | 13. Mechanical Inspector |
| 5. Chief Mechanical Inspector | | |

If you have any questions, please call Jonda Joseph, 954.765.4500 x9891 or any BORA Chief Code Compliance Officer. Thank you for your time and consideration.

Application includes, Building Official Checklist, Recertification Application, License Numbers Form, Affidavit of Continuing Education, Policy Affidavit 71-575

BUILDING OFFICIAL CHECKLIST RECERTIFICATION 2020 - 2021

FOR BUILDING OFFICIAL USE

Applicant: _____ Municipality: _____

Date: _____

- 1 B.O. Checklist

- 2 Recertification Application

- 3 License numbers form

- 4 Broward County Board of Rules and Appeals Policy #14-02

- 5 Complete the Affidavit of Education and submit it along with either copies of Certificates or Department of Business and Professional Regulation print out of Continuing Education Attendance.
Note: At least 1/2 of this requirement must be discipline specific courses

- 6 Copy of State/County Contractors/(MEP) Journeymans License or Provide State copy from State Website verification
 - Copy of Registered Architect license

 - Copy of Professional Engineer license

- 7 Copy of BCAIB (State) Code Certificates (Inspector, Plans Examiner, et cetera) or Provide State copy from State Website verification

Comment:

BROWARD COUNTY BOARD OF RULES AND APPEALS

2020 - 2021 RECERTIFICATION APPLICATION

The following is for both full and part time Building Officials, Assistant Building Officials, Chief Inspectors, Plans Examiners, and Inspectors. Please complete this form and return to BORA's office by **December 5, 2019**. Twenty eight (28) educational contact hours need to be completed by December 31, 2019, for recertification in the two (2) year renewal period for 2020-2021. Applicant shall comply with the current requirements for initial certification. Lack of the required educational contact hours will result in denial of recertification. Please complete the attached **AFFIDAVIT OF CONTINUING EDUCATION** or provide a DBPR print out and return the signed affidavit with all pertinent documentation.

Recertification Form

MUNICIPALITY: _____

Last Name: _____

First Name: _____ Middle Name: _____

Work Phone: _____ Optional Cell Phone No: _____

Mandatory Work E-mail: _____ @ _____

INCLUDE A COPY OF ALL THE APPLICANT'S CURRENT STATE OF FLORIDA (BAID, BCAIB, CILB, ECLB, AND FBPE) AND COUNTY LICENSES OR CERTIFICATES. (REFER TO B.C.A.P. RECERTIFICATION SECTION 104.18)

PLEASE RECERTIFY ME FOR THE FOLLOWING DISCIPLINE(S) FOR WHICH I AM NOW CERTIFIED

| | | |
|---|--|---|
| <input type="checkbox"/> Building Official | <input type="checkbox"/> Assistant Building Official | <input type="checkbox"/> Roofing Inspector |
| <input type="checkbox"/> Structural Chief Inspector | <input type="checkbox"/> Structural Plans Examiner | <input type="checkbox"/> Structural Inspector |
| <input type="checkbox"/> Electrical Chief Inspector | <input type="checkbox"/> Electrical Plans Examiner | <input type="checkbox"/> Electrical Inspector |
| <input type="checkbox"/> Plumbing Chief Inspector | <input type="checkbox"/> Plumbing Plans Examiner | <input type="checkbox"/> Plumbing Inspector |
| <input type="checkbox"/> Mechanical Chief Inspector | <input type="checkbox"/> Mechanical Plans Examiner | <input type="checkbox"/> Mechanical Inspector |

| | | | |
|----------------------------------|------|--------------------------------|------|
| Signature of Certified Applicant | Date | Signature of Building Official | Date |
|----------------------------------|------|--------------------------------|------|

This area below is for Broward County Board of Rules and Appeals office use only.

| | |
|-------------|---|
| Date: | CCCCO: |
| Discipline: | Please check one: <input type="checkbox"/> Approved <input type="checkbox"/> Denied |
| Signature: | |
| Comment(s): | |
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Broward County Board of Rules and Appeals
LICENSE NUMBERS FORM

APPLIES TO ALL POSITIONS

Applicant Name: _____

Municipality: _____

Position: _____

List all License numbers. Check those to appear on recertification cards.

_____ CGC _____

_____ CBC _____

_____ CRC _____

_____ CCC _____

_____ EC _____

_____ ER _____

_____ CMC _____

_____ CAC _____

_____ CFC _____

_____ FBPE _____ (Engineer)

_____ FBAID _____ (Architect)

_____ Broward County License _____

_____ BU _____

_____ BN _____

_____ PX _____

_____ SRI _____

_____ Other _____

_____ Other _____

For BORA Staff Use Only

Approved by

Chief Code Compliance Officer: _____ Date: _____

Broward County Board of Rules and Appeals

Please record your attendance in this log for the required 28 educational contact hours. Each entry shall be accompanied by proof of attendance and submitted to the office of the Broward County Board of Rules and Appeals with the recertification form by December 5, 2019. *Print-outs of Department of Business & Professional Regulation continuing educational attendance are acceptable in lieu of certificates. If providing these print-outs, please write "see attached" across the affidavit, print name, municipality, sign and date form, and attach DBPR print-outs.*

Applicant name: _____

Municipality: _____

Affidavit of Continuing Education

Attached**

| Course Title | Date | Sponsor | Course No. | Contact Hours |
|--------------|------|---------|------------|---------------|
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I certify that, to the best of my knowledge, the above information is correct, and that I attended and received credit for these courses.

Applicant Signature: _____

Date: _____

Subject: Policy/Affidavit to ensure compliance with Chapter 71-575, paragraph 4(b), Laws of Florida

POLICY/AFFIDAVIT

The requirements below have been adopted by vote of the Broward County Board of Rules and Appeals on April 10, 2014, to help ensure compliance with Chapter 71-575, paragraph 4(b), Laws of Florida.

NOTICE

All applicants for certification or re-certification are required to execute the following statement and to have same notarized by a duly authorized Notary. Failure to execute and have this statement notarized will prevent the certification / re-certification process from proceeding to completion.

THE UNDERSIGNED HEREBY VOLUNTARILY AND KNOWINGLY STATES AS FOLLOWS:

The undersigned has read Chapter 71-575, paragraph 4(b), Laws of Florida and has had the opportunity to have same reviewed and explained by legal counsel. Undersigned understands the terms of same and that any Inspector (such as and including but not limited to structural, engineering, plumbing, mechanical, or electrical) or other building official charged with enforcing or otherwise supervising or inspecting any work covered under any section of the Florida Building Code as applicable to Broward County pursuant to Chapter 71-575, Laws of Florida, and who is required to hold or who otherwise holds a Certificate of Competency in any area of construction shall not use his/her Certificate of Competency to engage in free enterprise thereby, competing against persons or firms that may do business within Broward County whose work he/she may also inspect, nor may he/she allow his/her Certificate of Competency to be used by another person or firm. This includes any activity, such as, but not limited to bidding, contracting, code consulting, design, employment, plan review, special building inspections, etc., regardless of compensation. The undersigned makes application for certification or re-certification, affirms compliance with aforementioned Code Section, and vouches for the truth and accuracy of all statements and answers herein contained by affixing his/her signature below. The undersigned agrees that failure to comply with the requirements of chapter 71-575 shall be considered a material breach of the terms of certification and may result in decertification/ denial of certification.

A copy of a legal opinion with respect to Chapter 71-575 is available upon request.

Printed Name and Signature of Applicant.

State of Florida

SS |

County of Broward

On the _____ day of _____, 20____, personally appeared before me the above named individual who signed the foregoing instrument declaring same to be true to his knowledge and belief.

Notary-Public: _____

(Printed name and Signature of Notary Public, State of Florida)

(NOTARY SEAL)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

Editor's Note: Affidavit Authorized by BORA vote on May 8, 2014, and issued by Chair on May 9, 2014.

LEGAL ADVISORY OPINION RE: CHAPTER 71-575(4)(B)

I. Statute Interpretation.

It is well established that when interpreting a statute, the courts must examine the plain meaning of the statute to determine the legislative intent. The legislative intent must be determined from the words used without looking to rules of construction or speculating as to intent if the language of the statute is clear and unambiguous. See Palermo v. City of Tampa, 945 So. 2d 550, (Fla. 2nd DCA, 2006). This rule of construction applies to state statutes as well as local ordinances, special acts of legislature, and administrative rules. See Town of Longboat Key v. Islandside Prop. Owners Coalition, LLC, 95 So. 3d 1037 (Fla. 2nd DCA, 2012).

Neither the courts, nor any administrative bodies have the authority to attempt to modify legislative intent through the addition or omission of wording which has been clearly set forth otherwise. See Harvard v. Palm Springs, 98 So. 3d 645, 2012 Fla. App. LEXIS 15330 (Fla. 4th DCA, 2012). (“*Legislative intent is the polestar that guides a court's statutory construction analysis. In attempting to discern legislative intent, a court first looks to the actual language used in the statute. If the statute is clear and unambiguous, a court will not look behind its plain language for legislative intent or resort to rules of statutory construction to ascertain intent. In such an instance, the statute's plain and ordinary meaning must control, unless this leads to an unreasonable result or a result clearly contrary to legislative intent.*”)

At the same time, statutes must be read in their entirety so as to discern legislative intent in its entirety. See Vrchota Corp. v. Kelly, 42 So. 3d 319 (Fla. 4th DCA 2010). Select passages may not be taken out of context to contort or alter the intent of the statute in its entirety.

II. Florida Building Code is Statutory Law.

The Florida Building Code is incorporated into the Florida Statutes at F.S. Sec 553.73 wherein is stated: 553.73

553.73 Florida Building Code.—

(1)(a) The commission shall adopt, by rule pursuant to ss. 120.536(1) and 120.54, the Florida Building Code which shall contain or incorporate by reference all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in this section.

With respect to 71-575 Sec. 4(b) the Code clearly states:

(b) Any Inspector (such as and including but not limited to structural , engineering, plumbing, mechanical, or electrical) or other building official charged with enforcing or otherwise supervising or inspecting any work covered under any section of the South Florida Building Code as applicable to Broward County pursuant to Chapter 71-575, Laws of Florida, and who is required to hold or who otherwise holds a Certificate of Competency in any area of construction shall not use that Certificate of Competency to engage in free enterprise thereby competing against persons or firms whose work he may also inspect, nor may he allow his Certificate of Competency to be used by another person or firm.

See F.B.C. Chapter 71-575.

A thorough review of the legislation in question necessarily requires a sentence by sentence, word by word, review of the words in their entirety.

III. Analysis of Statute

In this case, the plain language of the Special Act at Sec 4(b) refers to:

Any Inspector (such as and including but not limited to structural, engineering, plumbing, mechanical, or electrical) or other building official charged with enforcing or otherwise supervising or inspecting any work covered under any section of the South Florida Building Code as applicable to Broward County pursuant to Chapter 71-575, Laws of Florida, and who is required to hold or who otherwise holds a Certificate of Competency in any area of construction...

In so saying, it is readily determinable as to whom the language contained in the Special Act applies.

The wording which seems to be generating the greatest discussion and uncertainty is the latter portion which states:

...shall not use that Certificate of Competency to engage in free enterprise thereby competing against persons or firms whose work he may also inspect, nor may he allow his Certificate of Competency to be used by another person or firm.

Again, where the court may be the ultimate decision maker in determining a question of statutory interpretation, the BORA must defer to the same rules used by the courts concerning statutory interpretation and which have been set forth above. (*Supra*).

The language in question does not make any determination that an inspector inactivate his license or close his place of business. The only requirements are that; 1) he/she not inspect any work **which may have been performed by a competitor and,** 2) **not allow his/her license to be used [i.e. to act as a qualifier] by another person or firm.**

The statute does not place any geographical limitations on where an inspector **may compete** with another tradesman. The inspector may not compete against any party which may be a competitor, anywhere.

(a) Inspection of Work of Possible Competitor and Definition of "Competitor."

The plain language rule determines that an **inspector could not conduct an inspection on any work which *possibly could have been performed by a competitor.*** Necessarily, the inspector may not compete against another licensed contractor in another county of the state of Florida, or another state, or another country. Location is irrelevant since the statute does not provide for any such limitations. The inspector simply cannot perform work in a construction discipline against a competitor whose work he/she may inspect in the course of their duties for Broward County.

Black's Law Dictionary does not define "competition" however it does define "compete." The word "compete" is legally defined as :

To contend emulously, to strive for the position, reward, profit, goal, etc. for which another is striving.

In so saying, the legal definition of "compete" does not require remuneration or compensation however it does require that another party be striving for the same position, goal, reward, or profit. The most literal determination of this language is that simply by engaging in business an inspector may be taking away work – even if that work was to be obtained through a "no-bid" contract- from another contractor.¹ The language of the statute thereby determines that an inspector may not engage in any work, in any place, where it may entail competition against a party whose work he/she may inspect and which would require the use of his/her Certificate of Competency.

(b) Prohibition from Qualifying for Others

The second point to note is that **the statute precludes an inspector from acting as a qualifier for ANY OTHER PERSON or ANY OTHER FIRM.** As far as acting as a qualifier, it makes no difference whether or not the other person or other firm being contemplated for qualification may be a competitor of the inspector. As long

¹ The reason for this is evident where even in a "no-bid" situation, the inspector would still be taking work which would have otherwise been given to another contractor, "striving" or "contending" to obtain the same "goal" or "position."

as the license holder is employed as an inspector, they are not permitted to act as a qualifier for any other person or other firm, anywhere, anytime.

IV. Conclusion

The short version of this is that: 1) an inspector may not engage in any work which would require the use his/her certificate of competency anywhere it may entail competition against a party whose work he/she may inspect; 2) an inspector is not required to inactivate his/her license nor is he/she required to close their place of business while employed as an inspector; 3) an inspector may not qualify any other person or other firm anytime, anywhere, for any work requiring his/her Certificate of Competency.

Charles M. Kramer, Esq.
FBN # 133541
Board Certified, Construction Law

The Board of Rules and Appeals voted to accept the Board Attorney's opinion on this matter on May 8, 2014 by a vote of 10-1.