



September 2015

The Takeaway from Joint Ventures and Florida Licensure: Follow the Rules

By *Peter C. Vilmos*

Florida's Department of Business and Professional Regulation requires and issues licenses for entities and individuals to qualify to construct improvements to real property in Florida. There are licenses for Certified General Contractors, electricians, plumbers, roofers and many other trades. Often, an out-of-state contractor is willing to come to Florida to construct a project that requires a Florida license. Generally speaking, an out-of-state contractor that does not hold a valid Florida contractor's license cannot perform construction services in Florida unless they acquire a license pursuant to Section 489, Florida Statutes, find a duly-licensed qualifying agent in Florida to "qualify" their out-of state entity, or enter into a duly-prepared and recognized Joint Venture Agreement with a Florida-licensed entity.

Florida law has five requirements for a valid joint venture. They are:

A joint venture, one or more of whose participants are not licensed contractors under Chapter 489, Part I, F.S., may submit a bid on a construction project under the following circumstances:

- a) There must be a written joint venture agreement.
- b) One of the joint venturers must be a business entity properly qualified by a licensed contractor.
- c) Each participant must sign a statement of authority (as set out in Rule 61G4-15.002, F.A.C.) giving the licensed contractor full authority to conduct the contracting business of the participant.
- d) Copies of the joint venture agreement and statements of authority must be received and approved by the Board Office prior to the time of the bid.
- e) If the joint venture is awarded the contract, the licensed contractor must qualify the joint venture within ninety (90) days.

See Florida Administrative Code section 61G4-15.0022(2).

Keep in mind that a joint venture is a separate and distinct business organization from its participants. As a result, the joint venture must independently qualify as a contracting entity under Florida law. Fla. Stat. § 489.119(2)(e); Fla. Stat. § 489.521(2)(a)(1). Failure to follow this procedure can subject an otherwise capable out-of-state contractor doing business in Florida to the penalties and adverse consequences of unlicensed contracting. These penalties can render the construction contract void and disallow the contractor's recovery from an action based either on the construction contract or under other equitable theories.

At a time when the pace of construction is increasing both nationally and in Florida, it is vital for everyone involved to ensure that they properly address the issue of licensure. It's also important to consult an expert in construction law when questions arise in drafting construction contracts or in the area of construction licensure. At Burr & Forman LLP, we have a multi-office team of construction law

professionals specifically dedicated to understand and respond to your construction licensure and construction contracting inquiries.

If you would like more information, please contact:

[Peter C. Vilmos](#) in Orlando at (407) 540-6622 or pvilmos@burr.com