

ASSEMBLY BILL

No. 678

Introduced by Assembly Member Papan

February 22, 2001

An act to amend Section 7031 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 678, as introduced, Papan. Contractors.

Existing law prohibits any unlicensed contractor from bringing or maintaining an action to recover compensation in any court in this state.

This bill would authorize a person who utilizes an unlicensed contractor to bring an action in any court of competent jurisdiction in this state for recovery of compensation paid to the unlicensed contractor for performance of any act or contract.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7031 of the Business and Professions
2 Code is amended to read:
3 7031. (a) Except as provided in subdivision ~~(d)~~ (e), no
4 person engaged in the business or acting in the capacity of a
5 contractor, may bring or maintain any action, or recover in law or
6 equity in any action, in any court of this state for the collection of
7 compensation for the performance of any act or contract ~~for which~~
8 *where* a license is required by this chapter without alleging that he
9 or she was a duly licensed contractor at all times during the



1 performance of that act or contract, regardless of the merits of the
2 cause of action brought by the person, except that this prohibition
3 shall not apply to contractors who are each individually licensed
4 under this chapter but who fail to comply with Section 7029.

5 (b) *A person who utilizes the services of an unlicensed*
6 *contractor may bring an action in any court of competent*
7 *jurisdiction in this state to recover all compensation paid to the*
8 *unlicensed contractor for performance of any act or contract.*

9 (c) A security interest taken to secure any payment for the
10 performance of any act or contract for which a license is required
11 by this chapter is unenforceable if the person performing the act
12 or contract was not a duly licensed contractor at all times during
13 the performance of the act or contract.

14 ~~(c)~~

15 (d) If licensure or proper licensure is controverted, then proof
16 of licensure pursuant to this section shall be made by production
17 of a verified certificate of licensure from the Contractors' State
18 License Board which establishes that the individual or entity
19 bringing the action was duly licensed in the proper classification
20 of contractors at all times during the performance of any act or
21 contract covered by the action. Nothing herein shall require any
22 person or entity controverting licensure or proper licensure to
23 produce a verified certificate. When licensure or proper licensure
24 is controverted, the burden of proof to establish licensure or proper
25 licensure shall be on the licensee.

26 ~~(d)~~

27 (e) The judicial doctrine of substantial compliance shall not
28 apply under this section where the person who engaged in the
29 business or acted in the capacity of a contractor has never been a
30 duly licensed contractor in this state. However, the court may
31 determine that there has been substantial compliance with
32 licensure requirements under this section if it is shown at an
33 evidentiary hearing that the person who engaged in the business or
34 acted in the capacity of a contractor (1) had been duly licensed as
35 a contractor in this state prior to the performance of the act or
36 contract, (2) acted reasonably and in good faith to maintain proper
37 licensure, and (3) did not know or reasonably should not have
38 known that he or she was not duly licensed. Subdivision (b) of
39 Section 143 does not apply to contractors subject to this
40 subdivision.



1 ~~(e)~~
2 (f) The exceptions to the prohibition against the application of
3 the judicial doctrine of substantial compliance found in
4 subdivision ~~(d)~~ (e) shall apply to all contracts entered into on or
5 after January 1, 1992, and to all actions or arbitrations arising
6 therefrom, except that the amendments to subdivisions ~~(d)~~ (e) and
7 ~~(e)~~ (f) enacted during the 1994 portion of the 1993–94 Regular
8 Session of the Legislature shall not apply to either of the following:
9 (1) Any legal action or arbitration commenced prior to January
10 1, 1995, regardless of the date on which the parties entered into the
11 contract.
12 (2) Any legal action or arbitration commenced on or after
13 January 1, 1995, if the legal action or arbitration was commenced
14 prior to January 1, 1995, and was subsequently dismissed.

