

**ASSEMBLY BILL**

**No. 2693**

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**Introduced by Assembly Member Wyman  
(Principal coauthor: Assembly Member Correa)**

February 22, 2002

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2693, as introduced, Wyman. Contractors.

Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs. Existing law authorizes 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.

This bill would instead authorize a person to bring the above action against a contractor for recovery of compensation paid to the contractor for performance of any act or contract during the period the contractor was not licensed.

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 (e), no person
- 4 engaged in the business or acting in the capacity of a contractor,

1 may bring or maintain any action, or recover in law or equity in any  
2 action, in any court of this state for the collection of compensation  
3 for the performance of any act or contract where a license is  
4 required by this chapter without alleging that he or she was a duly  
5 licensed contractor at all times during the performance of that act  
6 or contract, regardless of the merits of the cause of action brought  
7 by the person, except that this prohibition shall not apply to  
8 contractors who are each individually licensed under this chapter  
9 but who fail to comply with Section 7029.

10 (b) A person who utilizes the services of ~~an unlicensed~~ a  
11 contractor *during a period when the contractor was not licensed*  
12 may bring an action in any court of competent jurisdiction in this  
13 state to recover all compensation paid to the ~~unlicensed~~ contractor  
14 for performance of any act or contract *during the period when the*  
15 *contractor was not licensed.*

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

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

32 (e) The judicial doctrine of substantial compliance shall not  
33 apply under this section where the person who engaged in the  
34 business or acted in the capacity of a contractor has never been a  
35 duly licensed contractor in this state. However, the court may  
36 determine that there has been substantial compliance with  
37 licensure requirements under this section if it is shown at an  
38 evidentiary hearing that the person who engaged in the business or  
39 acted in the capacity of a contractor (1) had been duly licensed as  
40 a contractor in this state prior to the performance of the act or



1 contract, (2) acted reasonably and in good faith to maintain proper  
2 licensure, and (3) did not know or reasonably should not have  
3 known that he or she was not duly licensed. Subdivision (b) of  
4 Section 143 does not apply to contractors subject to this  
5 subdivision.

6 (f) The exceptions to the prohibition against the application of  
7 the judicial doctrine of substantial compliance found in  
8 subdivision (e) shall apply to all contracts entered into on or after  
9 January 1, 1992, and to all actions or arbitrations arising  
10 therefrom, except that the amendments to subdivisions (e) and (f)  
11 enacted during the 1994 portion of the 1993–94 Regular Session  
12 of the Legislature shall not apply to either of the following:

13 (1) Any legal action or arbitration commenced prior to January  
14 1, 1995, regardless of the date on which the parties entered into the  
15 contract.

16 (2) Any legal action or arbitration commenced on or after  
17 January 1, 1995, if the legal action or arbitration was commenced  
18 prior to January 1, 1995, and was subsequently dismissed.

