

AMENDED IN SENATE MAY 28, 2002

AMENDED IN SENATE APRIL 18, 2002

AMENDED IN SENATE APRIL 11, 2002

SENATE BILL

No. 1919

Introduced by Senator Figueroa

February 22, 2002

An act to amend Sections 7071.5, 7071.10, and 7150.3 of, and to add Section 7150.4 to, *repeal, and add Section 7071.6 of*, the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

SB 1919, as amended, Figueroa. Contractors.

(1) Existing law, the Contractors' State License Law, provides that the Contractors' State License Board, within the Department of Consumer Affairs, is responsible for the licensure and regulation of contractors. ~~Existing law prohibits a contractor from engaging in the business of home improvement or providing home improvement goods or services unless the contractor is certified as a home improvement contractor. Existing law requires an applicant to meet certain requirements in order to qualify for certification as a home improvement contractor, including passing an open book examination on the business and contracting skills and laws related to home improvement contracting. Existing law provides that these requirements are repealed on January 1, 2004.~~

~~This bill would delete the provision that the examination be open book and instead require that the examination be prescribed by the registrar. The bill would also delete the repeal provision.~~

~~(2) Existing law requires a contractor, or a qualifying individual acting in the capacity of a contractor, to provide a \$7,500 bond or deposit for the benefit of homeowners and other persons that are damaged by the licensee. Persons covered by the bond include persons damaged as a result of a willful and deliberate act in violation of certain provisions.~~

~~This bill would remove the requirement that the act be deliberate. The bill would define willful to mean having a purpose or willingness to commit an act or omission. Existing law requires a swimming pool contractor to provide the bond in the amount of \$10,000.~~

~~The bill would also require, on and after January 1, 2004, that, in order to be certified as a home improvement contractor, a contractor have on file a \$7,500 home improvement contractor's bond meeting certain requirements. The bill would require that the bond be exclusively for the benefit of a homeowner contracting for home improvement upon his or her personal family residence which was damaged as a result of a violation of the provisions governing contractors. The bill would also provide that a benefit obtained by a homeowner from the bond would not limit his or her recovery of nonduplicative benefits from any other bond required by the provisions governing contractors. The bill would provide that a licensee is not required to have the bond on file during any period in which the license is inactive all classifications of contractors provide a \$10,500 bond. The bill would increase the bond to \$12,500 on and after January 1, 2006.~~

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

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

- 1 ~~SECTION 1. Section 7071.5 of the Business and Professions~~
- 2 ~~SECTION 1. Section 7071.6 of the Business and Professions~~
- 3 ~~Code is amended to read:~~
- 4 ~~7071.6. (a) Except as provided in Section 7071.8 and~~
- 5 ~~subdivision (b), the~~ The board shall require as a condition
- 6 precedent to the issuance, reinstatement, reactivation, renewal, or
- 7 continued maintenance of a license, that the applicant or licensee
- 8 file or have on file a contractor's bond in the sum of seven thousand
- 9 five hundred dollars (\$7,500), *except that a license bond in the*
- 10 *sum of ten thousand dollars (\$10,000) shall be required for an*



1 *applicant or licensee to obtain the swimming pool classification*
2 *outlined in Section 832.53 of Title 16 of the California Code of*
3 *Regulations.*

4 ~~(b) Notwithstanding subdivision (a), the board shall require as~~
5 ~~a condition precedent to the issuance, reinstatement, reactivation,~~
6 ~~renewal, or continued maintenance of a license for the license~~
7 ~~classification of swimming pool contractor, that the applicant or~~
8 ~~licensee file or have on file a contractor's bond in the sum of ten~~
9 ~~thousand dollars (\$10,000).~~

10 ~~(e) No bond shall be required of a holder of a license that has~~
11 ~~been inactivated on the official records of the board during the~~
12 ~~period the license is inactive.~~

13 ~~(d)~~

14 (c) Notwithstanding any other provision of law, as a condition
15 precedent to licensure, the board may require an applicant to post
16 a contractor's bond in twice the amount required pursuant to
17 subdivision (a) until the time that the license is renewed, under the
18 following conditions:

19 (1) The applicant has either been convicted of a violation of
20 Section 7028 or has been cited pursuant to Section 7028.7.

21 (2) If the applicant has been cited pursuant to Section 7028.7,
22 the citation has been reduced to a final order of the registrar.

23 (3) The violation of Section 7028, or the basis for the citation
24 issued pursuant to Section 7028.7, constituted a substantial injury
25 to the public.

26 (d) *This section shall become inoperative and is repealed on*
27 *January 1, 2004, unless a later enacted statute deletes or extends*
28 *that date.*

29 *SEC. 2. Section 7071.6 is added to the Business and*
30 *Professions Code, to read:*

31 7071.6. (a) *The board shall require as a condition precedent*
32 *to the issuance, reinstatement, reactivation, renewal, or continued*
33 *maintenance of a license, that the applicant or licensee file or have*
34 *on file a contractor's bond in the sum of ten thousand five hundred*
35 *dollars (\$10,500), regardless of the classification. However, on*
36 *and after January 1, 2006, the sum of the bond that an applicant*
37 *or licensee is required to have on file shall be twelve thousand five*
38 *hundred dollars (\$12,500).*

39 (b) *Excluding the claims brought by the beneficiaries specified*
40 *in subdivision (a) of Section 7071.5, the aggregate liability of a*



1 surety on claims brought against a bond required by this section
2 shall not exceed the sum of seven thousand five hundred dollars
3 (\$7,500). The bond proceeds in excess of seven thousand five
4 hundred dollars (\$7,500) shall be reserved exclusively for the
5 claims of the beneficiaries specified in subdivision (a) of Section
6 7071.5. However, nothing in this section shall be construed so as
7 to prevent any beneficiary specified in subdivision (a) of Section
8 7071.5 from claiming or recovering the full measure of the bond
9 required by this section.

10 (c) No bond shall be required of a holder of a license that has
11 been inactivated on the official records of the board during the
12 period the license is inactive.

13 (d) Notwithstanding any other provision of law, as a condition
14 precedent to licensure, the board may require an applicant to post
15 a contractor's bond in twice the amount required pursuant to
16 subdivision (a) until the time that the license is renewed, under the
17 following conditions:

18 (1) The applicant has either been convicted of a violation of
19 Section 7028 or has been cited pursuant to Section 7028.7.

20 (2) If the applicant has been cited pursuant to Section 7028.7,
21 the citation has been reduced to a final order of the registrar.

22 (3) The violation of Section 7028, or the basis for the citation
23 issued pursuant to Section 7028.7, constituted a substantial injury
24 to the public.

25 (e) This section shall become operative on January 1, 2004.

26 Code is amended to read:

27 ~~7071.5. (a) The contractor's bond required by this article~~
28 ~~shall be executed by an admitted surety in favor of the State of~~
29 ~~California, in a form acceptable to the registrar and filed with the~~
30 ~~registrar by the licensee or applicant. The contractor's bond shall~~
31 ~~be for the benefit of the following:~~

32 ~~(1) Any homeowner contracting for home improvement upon~~
33 ~~the homeowner's personal family residence damaged as a result of~~
34 ~~a violation of this chapter by the licensee.~~

35 ~~(2) Any person damaged as a result of a willful act in violation~~
36 ~~of this chapter by the licensee, or by the fraud of the licensee in the~~
37 ~~execution or performance of a construction contract.~~

38 ~~(3) Any employee of the licensee damaged by the licensee's~~
39 ~~failure to pay wages.~~



1 ~~(4) Any person or entity, including an express trust fund~~
 2 ~~described in Section 3111 of the Civil Code, to whom a portion of~~
 3 ~~the compensation of an employee of a licensee is paid by~~
 4 ~~agreement with that employee or the collective bargaining agent~~
 5 ~~of that employee, damaged as the result of the licensee’s failure to~~
 6 ~~pay fringe benefits for its employees, including, but not limited to,~~
 7 ~~employer payments described in Section 1773.1 of the Labor Code~~
 8 ~~and regulations thereunder (without regard to whether the work~~
 9 ~~was performed on a private or public work). Damage to an express~~
 10 ~~trust fund is limited to actual employer payments required to be~~
 11 ~~made on behalf of employees of the licensee, as part of the overall~~
 12 ~~compensation of those employees, that the licensee fails to pay.~~

13 ~~(b) As used in this section, “willful” means a purpose or~~
 14 ~~willingness to commit the act or make the omission referred to, and~~
 15 ~~does not require any intent to violate the law, to injure another, or~~
 16 ~~to acquire any advantage. For the purposes of this section~~
 17 ~~“willful” shall be interpreted in a manner consistent with the~~
 18 ~~meaning of “willfully” provided by paragraph (1) of Section 7 of~~
 19 ~~the Penal Code.~~

20 ~~SEC. 2. Section 7071.10 of the Business and Professions~~
 21 ~~Code is amended to read:~~

22 ~~7071.10. (a) The qualifying individual’s bond required by~~
 23 ~~this article shall be executed by an admitted surety insurer in favor~~
 24 ~~of the State of California, in a form acceptable to the registrar and~~
 25 ~~filed with the registrar by the qualifying individual. The qualifying~~
 26 ~~individual’s bond shall be for the benefit of the following persons:~~

27 ~~(1) Any homeowner contracting for home improvement upon~~
 28 ~~the homeowner’s personal family residence damaged as a result of~~
 29 ~~a violation of this chapter by the licensee.~~

30 ~~(2) Any person damaged as a result of a willful act in violation~~
 31 ~~of this chapter by the licensee, or by the fraud of the licensee in the~~
 32 ~~execution or performance of a construction contract.~~

33 ~~(3) Any employee of the licensee damaged by the licensee’s~~
 34 ~~failure to pay wages.~~

35 ~~(4) Any person or entity, including an express trust fund~~
 36 ~~described in Section 3111 of the Civil Code, to whom a portion of~~
 37 ~~the compensation of an employee of a licensee is paid by~~
 38 ~~agreement with that employee or the collective bargaining agent~~
 39 ~~of that employee, that is damaged as the result of the licensee’s~~
 40 ~~failure to pay fringe benefits for its employees including, but not~~



1 ~~limited to, employer payments described in Section 1773.1 of the~~
2 ~~Labor Code and regulations adopted thereunder (without regard to~~
3 ~~whether the work was performed on a public or private work).~~
4 ~~Damage to an express trust fund is limited to employer payments~~
5 ~~required to be made on behalf of employees of the licensee, as part~~
6 ~~of the overall compensation of those employees, that the licensee~~
7 ~~fails to pay.~~

8 ~~(b) As used in this section, “willful” means a purpose or~~
9 ~~willingness to commit the act or make the omission referred to, and~~
10 ~~does not require any intent to violate the law, to injure another, or~~
11 ~~to acquire any advantage. For the purposes of this section~~
12 ~~“willful” shall be interpreted in a manner consistent with the~~
13 ~~meaning of “willfully” provided by paragraph (1) of Section 7 of~~
14 ~~the Penal Code.~~

15 ~~(c) The qualifying individual’s bond shall not be required in~~
16 ~~addition to the contractor’s bond when the qualifying individual~~
17 ~~is himself or herself the proprietor under subdivision (a) or a~~
18 ~~general partner under subdivision (b) of Section 7068.~~

19 ~~SEC. 3.—Section 7150.3 of the Business and Professions Code~~
20 ~~is amended to read:~~

21 ~~7150.3.—In order to qualify for certification as a home~~
22 ~~improvement contractor, an applicant shall do all of the following:~~

23 ~~(a) Apply to the board on a form prescribed by the registrar.~~

24 ~~(b) Hold a current and valid contractor’s license.~~

25 ~~(c) Take and pass an examination on the business and~~
26 ~~contracting skills and laws related to home improvement~~
27 ~~contracting, as prescribed by the registrar. In the case of a~~
28 ~~partnership, corporation, or other entity, in the situation in which~~
29 ~~the contractor’s license has been obtained by appearance of a~~
30 ~~qualifying individual, that qualifying individual shall take and~~
31 ~~pass the examination.~~

32 ~~(d) Have on file a home improvement contractor’s bond as~~
33 ~~required in Section 7150.4.~~

34 ~~SEC. 4.—Section 7150.4 is added to the Business and~~
35 ~~Professions Code, to read:~~

36 ~~7150.4.—(a) Except as provided in Section 7071.8, the board~~
37 ~~shall require as a condition precedent to the issuance,~~
38 ~~reinstatement, reactivation, renewal, or continued maintenance of~~
39 ~~a certification as a home improvement contractor, that the~~
40 ~~contractor have on file a home improvement contractor’s bond in~~



1 ~~the sum of seven thousand five hundred dollars (\$7,500). This~~
2 ~~bond shall be in addition to any other bond required by this chapter.~~

3 ~~(b) The home improvement contractor's bond required by this~~
4 ~~section shall be executed by an admitted surety in favor of the State~~
5 ~~of California, in a form acceptable to the registrar and filed with~~
6 ~~the registrar by the contractor.~~

7 ~~(c) The home improvement contractor's bond shall be~~
8 ~~exclusively for the benefit of any homeowner contracting for~~
9 ~~home improvement upon the homeowner's personal family~~
10 ~~residence damaged as a result of a violation of this chapter by the~~
11 ~~contractor. Any benefit obtained by a homeowner from a home~~
12 ~~improvement contractor's bond shall not bar or limit the~~
13 ~~homeowner's recovery of any nonduplicative benefit from any~~
14 ~~other bond provided by this article.~~

15 ~~(d) No home improvement contractor's bond shall be required~~
16 ~~of a holder of a certification as a home improvement contractor~~
17 ~~whose license has been inactivated on the official records of the~~
18 ~~board during the period the license is inactive.~~

19 ~~(e) The home improvement contractor's bond required by this~~
20 ~~section shall be governed by the provisions of this chapter relating~~
21 ~~to the contractor's bond required by Section 7071.6, including~~
22 ~~Sections 7071.7, 7071.8, 7071.9, 7071.10, 7071.11, 7071.12,~~
23 ~~7071.13, 7071.14, 7071.15, and 7071.17, except to the extent that~~
24 ~~those provisions are inconsistent with this section.~~

