

Introduced by Committee on Business and Professions (Senators Figueroa (Chair), Brulte, Cedillo, Machado, Murray, and Vincent)

March 17, 2004

An act to amend Sections 7011.4, 7028.1, 7048, 7068, 7071.9, 7071.11, 7083, 7085, 7090.1, 7121, 7137, 8024, 8024.1, 8024.2, and 8027 of, and to repeal Sections 7019.5, 7021, and 7124.5 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1914, as introduced, Committee on Business and Professions. Contractors: court reporters.

(1) Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors.

Existing law requires the board to conduct certain studies and reviews. Existing law requires an unlicensed person engaging in a project under \$500 to give notice to the consumer regarding his or her nonlicensee status. Existing law prohibits an applicant for licensure convicted of certain acts from applying for licensure for a one year period following the conviction. Existing law allows a 30-day grace period for a delinquency fee, with regards to delinquent application for a license. Existing law requires a copy of a complaint in a civil action against a contractor's bond to be served on the register of the clerk of court, who must maintain a record. Existing law prohibits the board from making public disclosure of complaints against a licensee, except as specified.

This bill would delete these provisions and requirements.

Existing law requires a qualifying individual to file a bond in the amount of \$7,500.

This bill would, on and after January 1, 2007, require the bond amount to be \$12,500. The bill would also establish the aggregate surety on claims brought against the bond at an amount of \$7,500.

Existing law provides for a contractor's licensure examination, and exempts certain persons from the examination. Existing law requires contractors changing certain information, including business name or address, to notify the registrar within 90 days of the change. Existing law makes employment of certain person who have been denied a license or had action taken against their license, or the license of an entity that they were associated with, grounds for disciplinary action.

This bill would revise the conditions for exemption from licensure. The bill would require notice of a change in information to be given on a form prescribed by the registrar. The bill would exempt employment as a bona fide employee from the disciplinary action provisions related to employing persons who have been denied or had action taken against their license or the license of an entity they were associated with.

(2) Existing law provides for the certification and regulation of shorthand reporters by the Court Reporters Board of California in the Department of Consumer Affairs. Existing law requires the payment of an initial certification fee prior to certification. Existing law also requires a certificate holder applying for renewal to meet requirements that include notifying the board if he or she has been convicted of a misdemeanor substantially related to the functions and duties of a court reporter.

This bill would authorize the board to issue an interim permit of specified duration to a candidate eligible for certification, prior to receipt of the initial certification fee. The bill would also require a certificate holder applying for renewal to notify the board if he or she has been convicted of any misdemeanor.

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 7011.4 of the Business and Professions
- 2 Code is amended to read:
- 3 7011.4. (a) Notwithstanding Section 7011, there is in the
- 4 Contractors' State License Board, a separate enforcement unit



1 which shall rigorously enforce this chapter prohibiting all forms
2 of unlicensed activity.

3 (b) Persons employed as ~~deputy registrars~~ *enforcement*
4 *representatives* in this unit and designated by the Director of
5 Consumer Affairs are not peace officers and are not entitled to
6 safety member retirement benefits. They do not have the power of
7 arrest. However, they may issue a written notice to appear in court
8 pursuant to Chapter 5c (commencing with Section 853.5) of Title
9 3 of Part 2 of the Penal Code.

10 SEC. 2. Section 7019.5 of the Business and Professions Code
11 is repealed.

12 ~~7019.5. The board shall contract for a feasibility study~~
13 ~~relating to the development of a system for joint enforcement~~
14 ~~actions with respect to contractors by the board, the Department~~
15 ~~of Industrial Relations, the Employment Development~~
16 ~~Department, and the Franchise Tax Board. The study should~~
17 ~~include, but not be limited to, the means of accomplishing the~~
18 ~~following:~~

19 ~~(a) Establishment of a common identification number which~~
20 ~~may be utilized by all those agencies.~~

21 ~~(b) Assessment of the current state of technology in the affected~~
22 ~~departments.~~

23 ~~(c) Assessment of the ability, and any impediments, of the~~
24 ~~affected departments to share information.~~

25 ~~(d) Comparison of the standards of proof in the issuance of~~
26 ~~citations and other administrative enforcement actions.~~

27 ~~(e) Ways to consolidate enforcement actions and procedures~~
28 ~~among the departments.~~

29 SEC. 3. Section 7021 of the Business and Professions Code
30 is repealed.

31 ~~7021. The board shall conduct the following studies and~~
32 ~~reviews, and shall report to the department and the Legislature no~~
33 ~~later than October 1, 2001.~~

34 ~~(a) The board shall conduct a comprehensive study of the issues~~
35 ~~surrounding home improvement contracts that involve home~~
36 ~~equity lending fraud and seams, and provide recommendations to~~
37 ~~deal with this problem.~~

38 ~~(b) The board shall conduct a comprehensive study of its~~
39 ~~reorganization (“reengineering”) plan to restructure intake,~~
40 ~~mediation, and investigation services, and evaluate the impact this~~

1 effort has had on consumer and industry access to board staff, its
2 ability to reduce timeframes for complaint processing and
3 investigations, increasing mediations, investigations, and legal
4 actions, productivity of staff, and overall costs to the board.

5 ~~(e) The board shall conduct a comprehensive study and review~~
6 ~~of recovery fund programs in California and other states which~~
7 ~~provide compensation to consumers for financial injury caused by~~
8 ~~a licensed professional. It should evaluate the effectiveness of~~
9 ~~these programs and whether such a recovery fund could benefit~~
10 ~~consumers who are harmed as a result of contractor fraud, poor~~
11 ~~workmanship, malfeasance, abandonment, failure to perform, or~~
12 ~~other illegal acts.~~

13 ~~(d) The board shall conduct a comprehensive study in~~
14 ~~consultation with the Department of Insurance, on the use of surety~~
15 ~~bonds to compensate homeowners for financial injury sustained as~~
16 ~~a result of a contractor's fraud, poor workmanship, malfeasance,~~
17 ~~abandonment, failure to perform, or other illegal acts. This study~~
18 ~~shall include consideration of the payout criteria of bonds,~~
19 ~~increasing the bond amount, a "step bonding" approach based on~~
20 ~~the amount of the prime contract, and the requirement of~~
21 ~~performance or payment bonds. This study shall additionally~~
22 ~~consider whether to require contractors to carry general liability~~
23 ~~insurance and whether to establish a guarantee program in order~~
24 ~~to provide the appropriate insurance and bond coverage in~~
25 ~~connection with a homeowner's employment of a contractor.~~

26 ~~(e) The board shall review its current disclosure policy and~~
27 ~~provide recommended changes.~~

28 SEC. 4. Section 7028.1 of the Business and Professions Code
29 is amended to read:

30 7028.1. It is a misdemeanor for any contractor, *whether*
31 *licensed or unlicensed*, to perform or engage in asbestos-related
32 work, as defined in Section 6501.8 of the Labor Code, without
33 certification pursuant to Section 7058.5 of this code, or to perform
34 or engage in a removal or remedial action, as defined in
35 subdivision (d) of Section 7058.7, or, unless otherwise exempted
36 by this chapter, to bid for the installation or removal of, or to install
37 or remove, an underground storage tank, without certification
38 pursuant to Section 7058.7. A contractor in violation of this
39 section is subject to one of the following penalties:

(a) Conviction of a first offense is punishable by a fine of not less than one thousand dollars (\$1,000) or more than three thousand dollars (\$3,000), and by possible revocation or suspension of any contractor's license.

(b) Conviction of a subsequent offense requires a fine of not less than three thousand dollars (\$3,000) or more than five thousand dollars (\$5,000), or imprisonment in the county jail not exceeding one year, or both the fine and imprisonment, and a mandatory action to suspend or revoke any contractor's license.

SEC. 5. Section 7048 of the Business and Professions Code is amended to read:

7048. ~~(a)~~—This chapter does not apply to any work or operation on one undertaking or project by one or more contracts, the aggregate contract price which for labor, materials, and all other items, is less than five hundred dollars (\$500), that work or operations being considered of casual, minor, or inconsequential nature.

This exemption does not apply in any case wherein the work of construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than five hundred dollars (\$500) for the purpose of evasion of this chapter or otherwise.

This exemption does not apply to a person who advertises or puts out any sign or card or other device which might indicate to the public that he or she is a contractor or that he or she is qualified to engage in the business of a contractor.

~~(b) Any person performing work costing less than five hundred dollars (\$500) who is not licensed under this chapter shall disclose to the purchaser of the work the fact that he or she is not licensed by the Contractors' State License Board.~~

~~At the time of making a bid or prior to entering into a contract to perform work for less than five hundred dollars (\$500), whichever occurs first, the person performing the work shall provide the following notice in capital letters in at least 10-point roman boldface type or in contrasting red print in at least 8-point roman boldface type:~~

~~"I, (individual's name), AM NOT LICENSED BY THE CONTRACTORS' STATE LICENSE BOARD.~~

~~STATE LAW REQUIRES ANYONE WHO CONTRACTS TO DO CONSTRUCTION WORK TO BE LICENSED BY THE CONTRACTORS' STATE LICENSE BOARD IN THE LICENSE CATEGORY IN WHICH THE CONTRACTOR IS GOING TO BE WORKING IF THE TOTAL PRICE OF THE JOB IS \$500 OR MORE (INCLUDING LABOR AND MATERIALS).~~

~~LICENSED CONTRACTORS ARE REGULATED BY LAWS DESIGNED TO PROTECT THE PUBLIC. IF YOU CONTRACT WITH SOMEONE WHO DOES NOT HAVE A LICENSE, THE CONTRACTORS' STATE LICENSE BOARD MAY BE UNABLE TO ASSIST YOU WITH A COMPLAINT. YOUR ONLY REMEDY AGAINST AN UNLICENSED CONTRACTOR MAY BE IN CIVIL COURT, AND YOU MAY BE LIABLE FOR DAMAGES ARISING OUT OF ANY INJURIES TO THE CONTRACTOR OR HIS OR HER EMPLOYEES."~~

~~The person performing the work shall maintain for four years a copy of the above notice signed by the purchaser of the work acknowledging receipt of this notice.~~

~~The exemption provided by this section does not apply to any person failing to provide the required notice to the purchaser of the work.~~

~~This notice need only be provided once to the same purchaser of subsequent work.~~

SEC. 6. Section 7068 of the Business and Professions Code is amended to read:

7068. (a) The board shall require an applicant to show such degree of knowledge and experience in the classification applied for, and such general knowledge of the building, safety, health, and lien laws of the state and of the administrative principles of the contracting business as the board deems necessary for the safety and protection of the public.

(b) An applicant shall qualify in regard to his or her experience and knowledge in one of the following ways:

(1) If an individual, he or she shall qualify by personal appearance or by the appearance of his or her responsible

1 managing employee who is qualified for the same license
2 classification as the classification being applied for.

3 (2) If a copartnership or a limited partnership, it shall qualify
4 by the appearance of a general partner or by the appearance of a
5 responsible managing employee who is qualified for the same
6 license classification as the classification being applied for.

7 (3) If a corporation, or any other combination or organization,
8 it shall qualify by the appearance of a responsible managing officer
9 or responsible managing employee who is qualified for the same
10 license classification as the classification being applied for.

11 ~~(c) An applicant who has been convicted of a violation of~~
12 ~~Section 7028 may not apply for a license for a one-year period~~
13 ~~from the date of conviction. Upon submittal of an application the~~
14 ~~applicant shall be subject to Section 7071.6.~~

15 ~~(d)~~ A responsible managing employee for the purpose of this
16 chapter shall mean an individual who is a bona fide employee of
17 the applicant and is actively engaged in the classification of work
18 for which that responsible managing employee is the qualifying
19 person in behalf of the applicant.

20 ~~(e)~~

21 (d) The board shall, in addition, require an applicant who
22 qualifies by means of a responsible managing employee under
23 either paragraph (1) or (2) of subdivision (b) to show his or her
24 general knowledge of the building, safety, health, and lien laws of
25 the state and of the administrative principles of the contracting
26 business as the board deems necessary for the safety and protection
27 of the public.

28 ~~(f)~~

29 (e) Except in accordance with Section 7068.1, no person
30 qualifying on behalf of an individual or firm under paragraph (1),
31 (2), or (3) of subdivision (b) shall hold any other active
32 contractor's license while acting in the capacity of a qualifying
33 individual pursuant to this section.

34 ~~(g)~~

35 (f) At the time of application for renewal of a license, the
36 responsible managing individual shall file a statement with the
37 registrar, on a form prescribed by the registrar, verifying his or her
38 capacity as a responsible managing individual to the licensee.

39 ~~(h)~~

1 (g) Statements made by or on behalf of an applicant as to the
2 applicant's experience in the classification applied for shall be
3 verified by a qualified and responsible person. In addition, the
4 registrar shall, as specified by board regulation, randomly review
5 a percentage of such statements for their veracity.

6 ~~(i)~~

7 (h) The registrar shall review experience gained by applicants
8 from other states to determine whether all of that experience was
9 gained in a lawful manner in that state.

10 SEC. 7. Section 7071.9 of the Business and Professions Code
11 is amended to read:

12 7071.9. (a) If the qualifying individual, as referred to in
13 Sections 7068 and 7068.1, is not either the proprietor, a general
14 partner, or joint licensee, he or she shall file or have on file a
15 qualifying individual's bond as provided in Section 7071.10 in the
16 sum of seven thousand five hundred dollars (\$7,500). This bond
17 is in addition to, and may not be combined with, any contractor's
18 bond required by Sections 7071.5 to 7071.8, inclusive, and is
19 required for the issuance, reinstatement, reactivation, or continued
20 valid use of a license. *However, on and after January 1, 2007, the*
21 *sum of the bond that a qualifying individual is required to have on*
22 *file shall be twelve thousand five hundred dollars (\$12,500).*

23 (b) *Excluding the claims brought by the beneficiaries specified*
24 *in paragraph (1) of subdivision (a) of Section 7071.10, the*
25 *aggregate liability of a surety on claims brought against the bond*
26 *required by this section shall not exceed the sum of seven thousand*
27 *five hundred dollars (\$7,500). The bond proceeds in excess of*
28 *seven thousand five hundred dollars (\$7,500) shall be reserved*
29 *exclusively for the claims of the beneficiaries specified in*
30 *paragraph (1) of subdivision (a) of Section 7071.10. However,*
31 *nothing in this section shall be construed to prevent any*
32 *beneficiary specified in paragraph (1) of subdivision (a) of Section*
33 *7071.10 from claiming or recovering the full measure of the bond*
34 *required by this section. This bond is in addition to, and may not*
35 *be combined with, any contractor's bond required by Sections*
36 *7071.5 to 7071.8, inclusive, and is required for the issuance,*
37 *reinstatement, reactivation, or continued valid use of a license.*

38 (c) The responsible managing officer of a corporation shall not
39 be required to file or have on file a qualifying individual's bond,
40 if he or she owns 10 percent or more of the voting stock of the

1 corporation and certifies to that fact on a form prescribed by the
2 registrar.

3 SEC. 8. Section 7071.11 of the Business and Professions
4 Code is amended to read:

5 7071.11. (a) ~~A copy of the complaint in a civil action~~
6 ~~commenced by a person claiming against a bond required by this~~
7 ~~article shall be served by registered or certified mail upon the~~
8 ~~registrar by the clerk of the court at the time the action is~~
9 ~~commenced and the registrar shall maintain a record, available for~~
10 ~~public inspection, of all actions so commenced.~~ The aggregate
11 liability of a surety on a claim for wages and fringe benefits
12 brought against any bond required by this article, other than a bond
13 required by Section 7071.8, shall not exceed the sum of four
14 thousand dollars (\$4,000). If any bond which may be required is
15 insufficient to pay all claims in full, the sum of the bond shall be
16 distributed to all claimants in proportion to the amount of their
17 respective claims. Any action, other than an action to recover
18 wages or fringe benefits, against a contractor's bond or a bond of
19 a qualifying individual filed by an active licensee shall be brought
20 within two years after the expiration of the license period during
21 which the act or omission occurred, or within two years of the date
22 the license of the active licensee was inactivated, canceled, or
23 revoked by the board, whichever first occurs. Any action, other
24 than an action to recover wages or fringe benefits, against a
25 disciplinary bond filed by an active licensee pursuant to Section
26 7071.8 shall be brought within two years after the expiration of the
27 license period during which the act or omission occurred, or within
28 two years of the date the license of the active licensee was
29 inactivated, canceled, or revoked by the board, or within two years
30 after the last date for which a disciplinary bond filed pursuant to
31 Section 7071.8 was required, whichever date is first. A claim to
32 recover wages or fringe benefits shall be brought within six
33 months from the date that the wage or fringe benefit delinquencies
34 were discovered, but in no event shall a civil action thereon be
35 brought later than two years from the date the wage or fringe
36 benefit contributions were due.

37 (b) Whenever the surety makes payment on any claim against
38 a bond required by this article, whether or not payment is made
39 through a court action or otherwise, the surety shall, within 30 days
40 of the payment, provide notice to the registrar. The notice required

1 by this subdivision shall provide the following information by
2 declaration on a form prescribed by the registrar:

3 (1) The name and license number of the contractor.

4 (2) The surety bond number.

5 (3) The amount of payment.

6 (4) The statutory basis upon which the claim is made.

7 (5) The names of the person or persons to whom payments have
8 been made.

9 (6) Whether or not the payments were the result of a good faith
10 action by the surety.

11 The notice shall also clearly indicate whether or not the licensee
12 filed a protest in accordance with this section.

13 (c) Prior to the settlement of a claim through a good faith
14 payment by the surety, a licensee shall have not less than 15 days
15 in which to provide a written protest. This protest shall instruct the
16 surety not to make payment from the bond on the licensee's
17 account upon the specific grounds that the claim is opposed by the
18 licensee, and provide the surety a specific and reasonable basis for
19 the licensee's opposition to payment.

20 (1) Whenever a licensee files a protest in accordance with this
21 subdivision, the board shall investigate the matter and file
22 disciplinary action as set forth under this chapter if there is
23 evidence that the surety has sustained a loss as the result of a good
24 faith payment made for the purpose of mitigating any damages
25 incurred by any person or entity covered under Section 7071.5.

26 (2) Any licensee that fails to file a protest as specified in this
27 subdivision shall have 90 days from the date of notification by the
28 board to submit proof of payment of the actual amount owed to the
29 surety and, if applicable, proof of payment of any judgement or
30 admitted claim in excess of the amount of the bond or, by operation
31 of law, the license shall be suspended at the end of the 90 days. A
32 license suspension pursuant to this subdivision shall be disclosed
33 indefinitely as a failure to settle outstanding final liabilities in
34 violation of this chapter. The disclosure specified by this
35 subdivision shall also be applicable to all licenses covered by the
36 provisions of subdivision (d).

37 (d) No license may be renewed, reissued, or reinstated while
38 any judgment or admitted claim in excess of the amount of the
39 bond remains unsatisfied. Further, no license may be renewed,
40 reissued, or reinstated while any surety remains unreimbursed for

1 any loss or expense sustained on any bond issued for the licensee
2 or for any entity of which any officer, director, member, partner,
3 or qualifying person was an officer, director, member, partner, or
4 qualifying person of the licensee while the licensee was subject to
5 suspension or disciplinary action under this section.

6 (e) The licensee may provide the board with a notarized copy
7 of an accord, reached with the surety to satisfy the debt in lieu of
8 full payment. By operation of law, failure to abide by the accord
9 shall result in the automatic suspension of any license to which this
10 section applies. A license that is suspended for failure to abide by
11 the accord may only be renewed or reinstated when proof of
12 satisfaction of all debts is made.

13 (f) Legal fees may not be charged against the bond by the board.

14 (g) In any case in which a claim is filed against a deposit given
15 in lieu of a bond by any employee or by an employee organization
16 on behalf of an employee, concerning wages or fringe benefits
17 based upon the employee's employment, claims for the
18 nonpayment shall be filed with the Labor Commissioner. The
19 Labor Commissioner shall, pursuant to the authority vested by
20 Section 96.5 of the Labor Code, conduct hearings to determine
21 whether or not the wages or fringe benefits should be paid to the
22 complainant. Upon a finding by the commissioner that the wages
23 or fringe benefits should be paid to the complainant, the
24 commissioner shall notify the registrar of the findings. The
25 registrar shall not make payment from the deposit on the basis of
26 findings by the commissioner for a period of 10 days following
27 determination of the findings. If, within the period, the
28 complainant or the contractor files written notice with the registrar
29 and the commissioner of an intention to seek judicial review of the
30 findings pursuant to Section 11523 of the Government Code, the
31 registrar shall not make payment, if an action is actually filed,
32 except as determined by the court. If, thereafter, no action is filed
33 within 60 days following determination of findings by the
34 commissioner, the registrar shall make payment from the deposit
35 to the complainant.

36 (h) Any action, other than an action to recover wages or fringe
37 benefits, against a deposit given in lieu of a contractor's bond or
38 bond of a qualifying individual filed by an active licensee shall be
39 brought within three years after the expiration of the license period
40 during which the act or omission occurred, or within three years

1 after the date the license was inactivated, canceled, or revoked by
2 the board, whichever first occurs. Any action, other than an action
3 to recover wages or fringe benefits, against a deposit given in lieu
4 of a disciplinary bond filed by an active licensee pursuant to
5 Section 7071.8 shall be brought within three years after the
6 expiration of the license period during which the act or omission
7 occurred, or within three years of the date the license of the active
8 licensee was inactivated, canceled, or revoked by the board, or
9 within three years after the last date for which a deposit given in
10 lieu of a disciplinary bond filed pursuant to Section 7071.8 was
11 required, whichever date is first. If the board is notified of a
12 complaint relative to a claim against the deposit, the deposit shall
13 not be released until the complaint has been adjudicated.

14 SEC. 9. Section 7083 of the Business and Professions Code
15 is amended to read:

16 7083. All licensees shall notify the registrar, *on a form*
17 *prescribed by the registrar*, in writing within 90 days of any change
18 to information recorded under this chapter. This notification
19 requirement shall include, but not be limited to, changes in
20 *business* address, personnel, business name, qualifying individual
21 bond exemption pursuant to Section 7071.9, or exemption to
22 qualify multiple licenses pursuant to Section 7068.1.

23 Failure of the licensee to notify the registrar of any change to
24 information within 90 days shall cause the change to be effective
25 the date the written notification is received at the board's
26 headquarters office.

27 Failure to notify the registrar of the changes within the 90 days
28 is grounds for disciplinary action.

29 SEC. 10. Section 7085 of the Business and Professions Code
30 is amended to read:

31 7085. (a) After investigating any verified complaint alleging
32 a violation of Section 7107, 7109, 7110, 7113, 7119, or 7120, and
33 any complaint arising from a contract involving works of
34 improvement ~~as defined in Section 7151~~ and finding a possible
35 violation, the registrar may, with the concurrence of both the
36 licensee and the complainant, refer the alleged violation, and any
37 dispute between the licensee and the complainant arising
38 thereunder, to arbitration pursuant to this article, provided the
39 registrar finds that:

(1) There is evidence that the complainant has suffered or is likely to suffer material damages as a result of a violation of Section 7107, 7109, 7110, 7113, 7119, or 7120, and any complaint arising from a contract involving works of improvement—~~as defined in Section 7151.~~

(2) There are reasonable grounds for the registrar to believe that the public interest would be better served by arbitration than by disciplinary action.

(3) The licensee does not have a history of repeated or similar violations.

(4) The licensee was in good standing at the time of the alleged violation.

(5) The licensee does not have any outstanding disciplinary actions filed against him or her.

(6) The parties have not previously agreed to private arbitration of the dispute pursuant to contract or otherwise.

(7) The parties have been advised of the provisions of Section 2855 of the Civil Code.

For the purposes of paragraph (1), “material damages” means damages greater than seven thousand five hundred dollars (\$7,500) and less than fifty thousand dollars (\$50,000).

(b) In all cases in which a possible violation of the sections set forth in paragraph (1) of subdivision (a) exists and the contract price is equal to or less than seven thousand five hundred dollars (\$7,500), or the demand for damages is equal to or less than seven thousand five hundred dollars (\$7,500) regardless of the contract price, the complaint shall be referred to arbitration, utilizing the criteria set forth in paragraphs (2) to (6), inclusive, of subdivision (a).

SEC. 11. Section 7090.1 of the Business and Professions Code is amended to read:

7090.1. (a) (1) Notwithstanding any other provisions of law, the failure to pay a civil penalty, or to comply with an order of correction or an order to pay a specified sum to an injured party in lieu of correction once the order has become final, shall result in the automatic suspension of a license by operation of law 30 days after noncompliance with the terms of the order.

(2) The registrar shall notify the licensee in writing of the failure to comply with the final order and that the license shall be suspended 30 days from the date of the notice.

(3) The licensee may contest the determination of noncompliance within 15 days after service of the notice, by written notice to the registrar. Upon receipt of the written notice, the registrar may reconsider the determination and after reconsideration may affirm or set aside the suspension.

(4) Reinstatement may be made at any time following the suspension by complying with the final order of the citation. If no reinstatement of the license is made within ~~one year~~ 90 days of the date of the automatic suspension, the cited license and any other contractors' license issued to the licensee shall be automatically revoked by operation of law for a period to be determined by the registrar pursuant to Section 7102.

(5) The registrar may delay, for good cause, the revocation of a contractor's license for failure to comply with the final order of the citation. The delay in the revocation of the license shall not exceed one year. When seeking a delay of the revocation of his or her license, a licensee shall apply to the registrar in writing prior to the date of the revocation of the licensee's license by operation of law and state the reasons that establish good cause for the delay. The registrar's power to grant a delay of the revocation shall expire upon the effective date of the revocation of the licensee's license by operation of law.

(b) The cited licensee shall also be automatically prohibited from serving as an officer, director, associate, partner, or qualifying individual of another licensee, for the period determined by the registrar, and the employment, election, or association of that person by a licensee shall constitute grounds for disciplinary action. Any qualifier disassociated pursuant to this section shall be replaced within 90 days of the date of disassociation. Upon failure to replace the qualifier within 90 days of the prohibition, the license of the other licensee shall be automatically suspended or the qualifier's classification removed at the end of the 90 days.

SEC. 12. Section 7121 of the Business and Professions Code is amended to read:

7121. Any person who has been denied a license for a reason other than failure to document sufficient satisfactory experience for a supplemental classification for an existing license, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it

was under suspension, or who has been a member, officer, director, or associate of any partnership, corporation, firm, or association whose application for a license has been denied for a reason other than failure to document sufficient satisfactory experience for a supplemental classification for an existing license, or whose license has been revoked, or whose license is under suspension, or who has failed to renew a license while it was under suspension, and while acting as a member, officer, director, or associate had knowledge of or participated in any of the prohibited acts for which the license was denied, suspended, or revoked, shall be prohibited from serving as an officer, director, associate, partner, or qualifying individual of a licensee, and the employment, election, or association of this type of person by a licensee *in any capacity other than as a nonsupervising bona fide employee* shall constitute grounds for disciplinary action.

SEC. 13. Section 7124.5 of the Business and Professions Code is repealed.

~~7124.5. The board shall not make public disclosure of complaints against a licensee except pursuant to a uniform policy if adopted by the Department of Consumer Affairs, after public hearings, which is applicable to all boards, bureaus, commissions, divisions, offices, or officers subject to the jurisdiction of the department.~~

SEC. 14. Section 7137 of the Business and Professions Code is amended to read:

7137. The board shall set fees by regulation. These fees shall not exceed the following schedule:

(a) The application fee for an original license in a single classification shall not be more than three hundred dollars (\$300).

The application fee for each additional classification applied for in connection with an original license shall not be more than seventy-five dollars (\$75).

The application fee for each additional classification pursuant to Section 7059 shall not be more than seventy-five dollars (\$75).

The application fee to replace a responsible managing officer or employee pursuant to Section 7068.2 shall not be more than seventy-five dollars (\$75).

(b) The fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, a change of responsible managing officer or responsible managing

1 employee, or for an asbestos certification or hazardous substance
2 removal certification, shall not be more than sixty dollars (\$60).

3 (c) The fee for scheduling or rescheduling an examination for
4 a licensee who is required to take the examination as a condition
5 of probation shall not be more than sixty dollars (\$60).

6 (d) The initial license fee for an active or inactive license shall
7 not be more than one hundred eighty dollars (\$180).

8 (e) The renewal fee for an active license shall not be more than
9 three hundred sixty dollars (\$360).

10 The renewal fee for an inactive license shall not be more than
11 one hundred eighty dollars (\$180).

12 (f) The delinquency fee is an amount equal to 50 percent of the
13 renewal fee, if the license is renewed ~~more than 30 days~~ after its
14 expiration.

15 (g) The registration fee for a home improvement salesperson
16 shall not be more than seventy-five dollars (\$75).

17 (h) The renewal fee for a home improvement salesperson
18 registration shall not be more than seventy-five dollars (\$75).

19 (i) The application fee for an asbestos certification examination
20 shall not be more than seventy-five dollars (\$75).

21 (j) The application fee for a hazardous substance removal or
22 remedial action certification examination shall not be more than
23 seventy-five dollars (\$75).

24 SEC. 15. Section 8024 of the Business and Professions Code
25 is amended to read:

26 8024. All certificates issued under this chapter shall be valid
27 for a period of one year, except for the initial period of licensure
28 as prescribed by the board, and shall expire at 12 midnight on the
29 last day of the month of birth of the licensee unless renewed.

30 To renew an unexpired certificate, the certificate holder shall,
31 on or before each of the dates on which it would otherwise expire,
32 do all of the following:

33 (a) Apply for renewal on a form prescribed by the board.

34 (b) Pay the renewal fee prescribed by this chapter.

35 (c) Notify the board whether he or she has been convicted of
36 any felony or any misdemeanor ~~if the misdemeanor is substantially~~
37 ~~related to the functions and duties of a court reporter~~ and whether
38 any disciplinary action by any regulatory or licensing board in this
39 or any other state was taken against the licensee subsequent to the
40 licensee's last renewal.

SEC. 16. Section 8024.1 of the Business and Professions Code is amended to read:

8024.1. Every person to whom a certificate is issued shall, as a condition precedent to its issuance, and in addition to any other fee which may be payable, pay the initial certificate fee prescribed by this chapter. *Prior to receipt of an initial certificate fee, the board may issue an interim permit of a limited duration, but only to candidates eligible for certification under Section 8020. A limited permit shall be valid for 45 days, or until the board issues a certificate to the limited permitholder. If the board issues interim permits, the initial certificate fee, and any other fee that may be payable, shall be paid prior to the issuance of the certificate.*

SEC. 17. Section 8024.2 of the Business and Professions Code is amended to read:

8024.2. (a) Except as otherwise provided in this article, a certificate that has expired may be renewed at any time within the period set forth in Section 8024.5 by doing all of the following:

- (1) Applying for renewal on a form prescribed by the board.
- (2) Paying the renewal fee prescribed by this chapter.
- (3) Notifying the board whether the licensee has been convicted of any felony or any misdemeanor ~~if the misdemeanor is substantially related to the functions and duties of a court reporter~~ and whether any disciplinary action was taken against the licensee by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

(b) If the certificate is not renewed within 30 days after its expiration, the certificate holder, as a condition precedent to renewal, shall also pay the delinquency fee set forth in Section 163.5. Renewal under this section shall be effective on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the certificate shall continue in effect through the date provided in Section 8024 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

The certificate shall not be renewed if the certificate holder has failed to pay monetary sanctions identified in subdivision (g) of Section 8025.

SEC. 18. Section 8027 of the Business and Professions Code is amended to read:

1 8027. (a) As used in this section, “school” means a court
2 reporter training program or an institution that provides a course
3 of instruction approved by the board and the Bureau for Private
4 Postsecondary and Vocational Education, is a public school in this
5 state, or is accredited by the Western Association of Schools and
6 Colleges.

7 (b) A court reporting school shall be primarily organized to
8 train students for the practice of shorthand reporting, as defined in
9 Sections 8016 and 8017. Its educational program shall be on the
10 postsecondary or collegiate level. It shall be legally organized and
11 authorized to conduct its program under all applicable laws of the
12 state, and shall conform to and offer all components of the
13 minimum prescribed course of study established by the board. Its
14 records shall be kept and shall be maintained in a manner to render
15 them safe from theft, fire, or other loss. The records shall indicate
16 positive daily and clock-hour attendance of each student for all
17 classes, apprenticeship and graduation reports, high school
18 transcripts or the equivalent or self-certification of high school
19 graduation or the equivalent, transcripts of other education, and
20 student progress to date, including all progress and counseling
21 reports.

22 (c) Any school intending to offer a program in court reporting
23 shall notify the board within 30 days of the date on which it
24 provides notice to, or seeks approval from, the California
25 Department of Education, the Bureau for Private Postsecondary
26 and Vocational Education, the Chancellor’s Office of the
27 California Community Colleges, or the Western Association of
28 Schools and Colleges, whichever is applicable. The board shall
29 review the proposed curriculum and provide the school tentative
30 approval, or notice of denial, within 60 days of receipt of the
31 notice. The school shall apply for provisional recognition pursuant
32 to subdivision (d) within no more than one year from the date it
33 begins offering court reporting classes.

34 (d) The board may grant provisional recognition to a new court
35 reporting school upon satisfactory evidence that it has met all of
36 the provisions of subdivision (b) and this subdivision. Recognition
37 may be granted by the board to a provisionally recognized school
38 after it has been in continuous operation for a period of no less than
39 three consecutive years from the date provisional recognition was
40 granted, during which period the school shall provide satisfactory



evidence that at least one person has successfully completed the entire course of study established by the board and complied with the provisions of Section 8020, and has been issued a certificate to practice shorthand reporting as defined in Sections 8016 and 8017. The board may, for good cause shown, extend the three-year provisional recognition period for not more than one year. Failure to meet the provisions and terms of this section shall require the board to deny recognition. Once granted, recognition may be withdrawn by the board for failure to comply with all applicable laws and regulations.

(e) Application for recognition of a court reporting school shall be made upon a form prescribed by the board and shall be accompanied by all evidence, statements, or documents requested. Each branch, extension center, or off-campus facility requires separate application.

(f) All recognized and provisionally recognized court reporting schools shall notify the board of any change in school name, address, telephone number, responsible court reporting program manager, owner of private schools, and the effective date thereof, within 30 days of the change. All of these notifications shall be made in writing.

(g) A school shall notify the board in writing immediately of the discontinuance or pending discontinuance of its court reporting program or any of the program's components. Within two years of the date this notice is sent to the board, the school shall discontinue its court reporting program in its entirety. The board may, for good cause shown, grant not more than two one-year extensions of this period to a school. If a student is to be enrolled after this notice is sent to the board, a school shall disclose to the student the fact of the discontinuance or pending discontinuance of its court reporting program or any of its program components.

(h) The board shall maintain a roster of currently recognized and provisionally recognized court reporting schools, including, but not limited to, the name, address, telephone number, and the name of the responsible court reporting program manager of each school.

(i) The board shall maintain statistics that display the number and passing percentage of all first-time examinees, including, but not limited to, those qualified by each recognized or provisionally

1 recognized school and those first-time examinees qualified by
2 other methods as defined in Section 8020.

3 (j) Inspections and investigations shall be conducted by the
4 board as necessary to carry out this section, including, but not
5 limited to, unannounced site visits.

6 (k) All recognized and provisionally recognized schools shall
7 print in their school or course catalog the name, address, and
8 telephone number of the board. At a minimum, the information
9 shall be in 8-point bold type and include the following statement:

10
11 “IN ORDER FOR A PERSON TO QUALIFY FROM A
12 SCHOOL TO TAKE THE STATE LICENSING
13 EXAMINATION, THE PERSON SHALL COMPLETE A
14 PROGRAM AT A RECOGNIZED SCHOOL. FOR
15 INFORMATION CONCERNING THE MINIMUM
16 REQUIREMENTS THAT A COURT REPORTING PROGRAM
17 MUST MEET IN ORDER TO BE RECOGNIZED, CONTACT:
18 THE COURT REPORTERS BOARD OF CALIFORNIA;
19 (ADDRESS); (TELEPHONE NUMBER).”
20

21 (l) Each court reporting school shall file with the board, not
22 later than June 30 of each year, a current school catalog that shows
23 all course offerings and staff, and for private schools, the owner,
24 except that where there have been no changes to the catalog within
25 the previous year, no catalog need be sent. In addition, each school
26 shall also file with the board a statement certifying whether the
27 school is in compliance with all statutes and the rules and
28 regulations of the board, signed by the responsible court reporting
29 program manager.

30 (m) A school offering court reporting may not make any
31 written or verbal claims of employment opportunities or potential
32 earnings unless those claims are based on verified data and reflect
33 current employment conditions.

34 (n) If a school offers a course of instruction that exceeds the
35 board’s minimum requirements, the school shall disclose orally
36 and in writing the board’s minimum requirements and how the
37 course of instruction differs from those criteria. The school shall
38 make this disclosure before a prospective student executes an
39 agreement obligating that person to pay any money to the school

1 for the course of instruction. The school shall also make this
2 disclosure to all students enrolled on January 1, 2002.

3 (o) Private *and public* schools shall provide each prospective
4 student with all of the following and have the prospective student
5 sign a document that shall become part of that individual's
6 permanent record, acknowledging receipt of each item:

7 (1) A student consumer information brochure published by the
8 board.

9 (2) A list of the school's graduation requirements, including the
10 number of tests, the pass point of each test, the speed of each test,
11 and the type of test, such as jury charge or literary.

12 (3) A list of requirements to qualify for the state certified
13 shorthand reporter licensing examination, including the number of
14 tests, the pass point of each test, the speed of each test, and the type
15 of test, such as jury charge or literary, if different than those
16 requirements listed in paragraph (2).

17 (4) A copy of the school's board-approved benchmarks for
18 satisfactory progress as identified in subdivision (u).

19 (5) A report showing the number of students from the school
20 who qualified for each of the certified shorthand reporter licensing
21 examinations within the preceding two years, the number of those
22 students that passed each examination, the time, as of the date of
23 qualification, that each student was enrolled in court reporting
24 school, and the placement rate for all students that passed each
25 examination.

26 (6) On and after January 1, 2005, the school shall also provide
27 to prospective students the number of hours each currently
28 enrolled student who has qualified to take the next licensing test,
29 exclusive of transfer students, has attended court reporting classes.

30 (p) *All enrolled students shall have the information in*
31 *subdivisions (n) and (o) on file no later than June 30, 2005.*

32 (q) Public schools shall provide the information in paragraphs
33 ~~(1) to (6) of subdivision~~ *subdivisions (n) and (o), inclusive*, to each
34 new student the first day he or she attends theory or machine speed
35 class, if it was not provided previously.

36 ~~(q)~~

37 (r) Each enrolled student shall be provided written notification
38 of any change in qualification or graduation requirements that is
39 being implemented due to the requirements of any one of the
40 school's oversight agencies. This notice shall be provided to each

1 affected student at least 30 days before the effective date of the
2 change and shall state the new requirement and the name, address,
3 and telephone number of the agency that is requiring it of the
4 school. Each student shall initial and date a document
5 acknowledging receipt of that information and that document, or
6 a copy thereof, shall be made part of the student's permanent file.

7 ~~(t)~~

8 (s) Schools shall make available a comprehensive final
9 examination in each academic subject to any student desiring to
10 challenge an academic class in order to obtain credit towards
11 certification for the state licensing examination. The points
12 required to pass a challenge examination shall not be higher than
13 the minimum points required of other students completing the
14 academic class.

15 ~~(s)~~

16 (t) An individual serving as a teacher, instructor, or reader shall
17 meet the qualifications specified by regulation for his or her
18 position.

19 ~~(t)~~

20 (u) Each school shall provide a substitute teacher or instructor
21 for any class for which the teacher or instructor is absent for two
22 consecutive days or more.

23 ~~(u)~~

24 (v) The board has the authority to approve or disapprove
25 benchmarks for satisfactory progress which each school shall
26 develop for its court reporting program. Schools shall use only
27 board-approved benchmarks to comply with the provisions of
28 paragraph (4) of subdivision (o) and subdivision (u).

29 ~~(v)~~

30 (w) Each school shall counsel each student a minimum of one
31 time within each 12-month period to identify the level of
32 attendance and progress, and the prognosis for completing the
33 requirements to become eligible to sit for the state licensing
34 examination. If the student has not progressed in accordance with
35 the board-approved benchmarks for that school, the student shall
36 be counseled a minimum of one additional time within that same
37 12-month period.

38 ~~(w)~~

39 (x) The school shall provide to the board, for each student
40 qualifying through the school as eligible to sit for the state



licensing examination, the number of hours the student attended court reporting classes, both academic and machine speed classes, including theory.

~~(x)~~

(y) The pass rate of first-time exam takers for each school offering court reporting shall meet or exceed the average pass rate of all first-time test takers for a majority of examinations given for the preceding three years. Failure to do so shall require the board to conduct a review of the program. In addition, the board may place the school on probation and may withdraw recognition if the school continues to place below the above described standard on the two exams that follow the three-year period.

~~(y)~~

(z) A school shall not require more than one 10-minute qualifying examination, as defined in the regulations of the board, for a student to be eligible to sit for the state certification examination.

~~(z)~~

(aa) A school shall provide the board the actual number of hours of attendance for each applicant the school qualifies for the state licensing examination.

~~(aa)~~

(bb) The board shall, by December 1, 2001, do the following by regulation as necessary:

(1) Establish the format that shall be used by schools to report tracking of all attendance hours and actual timeframes for completed coursework.

(2) Require schools to provide a minimum of 10 hours of live dictation class each school week for every full-time student.

(3) Require schools to provide students with the opportunity to read back from their stenographic notes a minimum of one time each day to his or her instructor.

(4) Require schools to provide students with the opportunity to practice with a school-approved speed-building tape, or other assigned material, a minimum of one hour per day after school hours as a homework assignment and provide the notes from this tape to their instructor the following day for review.

(5) Develop standardization of policies on the use and administration of qualifier examinations by schools.

1 (6) Define qualifier exam as follows: the qualifier exam shall
2 consist of 4-voice testimony of 10-minute duration at 200 wpm,
3 graded at 97.5 percent accuracy, and in accordance with the
4 guidelines followed by the board. Schools shall be required to date
5 and number each qualifier and announce the date and number to
6 the students at the time of administering the qualifier. All qualifiers
7 shall indicate the actual dictation time of the test and the school
8 shall catalog and maintain the qualifier for a period of not less than
9 three years for the purpose of inspection by the board.

10 (7) Require schools to develop a program to provide students
11 with the opportunity to interact with professional court reporters
12 to provide skill support, mentoring, or counseling which they can
13 document at least quarterly.

14 (8) Define qualifications and educational requirements
15 required of instructors and readers that read test material and
16 qualifiers.

17 ~~(bb)~~

18 (cc) The board shall adopt regulations to implement the
19 requirements of this section not later than September 1, 2002.

20 ~~(ee)~~

21 (dd) The board may recover costs for any additional expenses
22 incurred under the enactment amending this section in the
23 2001–02 Regular Session of the Legislature pursuant to its fee
24 authority in Section 8031.

