

AMENDED IN SENATE APRIL 1, 2008

SENATE BILL

No. 1337

Introduced by Senator Correa

February 20, 2008

An act to amend Sections 7025, 7028.5, 7029, 7065, 7065.1, 7065.5, 7068, 7068.1, 7068.2, 7069, 7071, 7071.8, 7071.9, 7071.10, 7071.11, 7071.17, 7072.5, 7075.1, 7076, 7076.2, 7085.6, 7090.1, 7096, 7121, 7121.1, 7121.5, 7121.6, 7122, 7122.1, 7122.2, 7122.5, 7137, 7138, and 7152 of, ~~and to add Section 7026.4 to,~~ the Business and Professions Code, and to amend Section 17002 of the Corporations Code, relating to contractors, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1337, as amended, Correa. Contractors: limited liability companies.

Existing law, the Beverly-Killea Limited Liability Company Act, authorizes a limited liability company to engage in any lawful business activity, except as specified, but prohibits construing the act to permit a limited liability company to render professional services, as defined.

Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law authorizes the issuance of contractors licenses to individual owners, copartnerships, and corporations and authorizes those persons and entities to qualify for a license by the appearance of specified individuals. Existing law authorizes the board to set application, licensure, and renewal fees, among others, and provides for the deposit of those fees in the Contractors' License Fund, a continuously appropriated fund. Existing law prohibits licensed

contractors from performing specified acts and makes a violation of certain of those provisions a crime.

This bill would authorize a limited liability company to render ~~occupational, nonprofessional~~ services lawfully rendered only pursuant to a specified license, certificate, or registration if the provisions governing that license, certificate, or registration ~~identify those services as occupational, nonprofessional services and~~ authorize a limited liability company to hold that license, certificate, or registration. The bill ~~would specify that the services a licensed contractor is authorized to perform are occupational, nonprofessional services and~~ would authorize the issuance of contractors licenses to limited liability companies. ~~The bill and~~ would authorize the responsible managing manager, responsible managing officer, or responsible managing employee of the limited liability company to qualify for ~~the~~ *that* license. The bill would also enact related, conforming provisions. Because the bill would impose various fees on limited liability companies that apply for and obtain a contractors license, the bill would increase the amount of revenue deposited in the Contractors' License Fund, thereby making an appropriation. In addition, because a violation of specified provisions of the Contractors State License Law by a limited liability company licensed pursuant to these provisions would be a crime, the bill would impose a state-mandated local program.

Existing law makes various provisions of the Contractors' State License Law applicable to the member, officer, or director, among others, of a licensed contractor.

This bill would delete the term "member" from those provisions and, in specified instances, insert the term "partner."

Under existing law, at the time of application for renewal of a license, the responsible managing individual of a licensee must file a statement with the registrar verifying his or her capacity as a responsible managing individual to the licensee.

This bill would make that requirement applicable to the *current* qualifying individual for a licensee.

Existing law allows a contractor's license number to be reissued or reassigned to a corporation in specified instances.

This bill would allow a contractor's license number to be reissued or reassigned to a corporation or limited liability company that acquires a licensee pursuant to an asset sale if the corporation or limited liability company has a qualifier, as specified.

Existing law also allows a contractor’s license number to be reissued or reassigned to an immediate family member of a licensed individual who is deceased or absent if the license is required to continue an existing family contracting business or to a corporation created by immediate family members of a licensed individual to continue an existing deceased or absent individual licensee’s contracting business. Existing law defines an immediate family member to include a spouse, brother, sister, son, daughter, grandson, or granddaughter, among others.

This bill would specify that an immediately family member includes a father, mother, grandfather, and grandmother.

The bill would make other technical, nonsubstantive changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 7025 of the Business and Professions
2 Code is amended to read:

3 7025. (a) “Person” as used in this chapter includes an
4 individual, a firm, copartnership, corporation, limited liability
5 company, association or other organization, or any combination
6 of any thereof.

7 (b) “Qualifying person,” “qualifying individual,” or “qualifier,”
8 as used in this chapter, means a person who qualifies for a license
9 pursuant to Section 7068.

10 ~~SEC. 2. Section 7026.4 is added to the Business and Professions~~
11 ~~Code, to read:~~

12 ~~7026.4. For purposes of Section 17002 of the Corporations~~
13 ~~Code, the services that a contractor licensed pursuant to this chapter~~
14 ~~is authorized to perform are occupational, nonprofessional services.~~

15 ~~SEC. 3.~~

16 SEC. 2. Section 7028.5 of the Business and Professions Code
17 is amended to read:

18 7028.5. It is unlawful for a person who is or has been a partner,
19 officer, director, manager, responsible managing employee,

1 responsible managing manager, or responsible managing officer
2 of a licensed copartnership, corporation, limited liability company,
3 firm, association or other organization to individually engage in
4 the business or individually act in the capacity of a contractor
5 within this state without having a license in good standing to so
6 engage or act.

7 ~~SEC. 4.~~

8 *SEC. 3.* Section 7029 of the Business and Professions Code is
9 amended to read:

10 7029. A joint venture license is a license issued to any
11 combination of individuals, corporations, limited liability
12 companies, partnerships, or other joint ventures, each of which
13 holds a current, active license in good standing. A joint venture
14 license may be issued in any classification in which at least one
15 of the entities is licensed. An active joint venture license shall be
16 automatically suspended by operation of law during any period in
17 which any member of the entity does not hold a current, active
18 license in good standing.

19 ~~SEC. 5.~~

20 *SEC. 4.* Section 7065 of the Business and Professions Code is
21 amended to read:

22 7065. Under rules and regulations adopted by the board and
23 approved by the director, the registrar shall investigate, classify,
24 and qualify applicants for contractors' licenses by written
25 examination. This examination shall include questions designed
26 to show that the applicant has the necessary degree of knowledge
27 required by Section 7068 and shall include pertinent questions
28 relating to the laws of this state, and the contracting business and
29 trade. Contractors' licenses are to be issued to individual owners,
30 copartnerships, corporations, and limited liability companies. An
31 individual owner may qualify by examination for a contractor's
32 license upon the appearance of the owner or a qualifying individual
33 appearing as a responsible managing employee on behalf of the
34 owner. A copartnership may qualify by examination for a
35 contractor's license upon the appearance of a copartner or a
36 qualifying individual appearing as a responsible managing
37 employee on behalf of the copartnership. A corporation may qualify
38 by examination for a contractor's license upon the appearance of
39 a qualifying individual appearing either as a responsible managing
40 officer or a responsible managing employee on behalf of the

1 corporation. A limited liability company may qualify by
2 examination for a contractor's license upon the appearance of a
3 qualifying individual appearing as a responsible managing officer,
4 a responsible managing manager, or a responsible managing
5 employee on behalf of the company. No examination shall be
6 required of a qualifying individual if, within the five-year period
7 immediately preceding the application for licensure, the qualifying
8 individual has either personally passed the written examination
9 for the same classification being applied for, or has served as the
10 qualifying individual for a licensee whose license was in good
11 standing at any time during the five-year period immediately
12 preceding the application for licensure and in the same
13 classification being applied for.

14 ~~SEC. 6.~~

15 *SEC. 5.* Section 7065.1 of the Business and Professions Code
16 is amended to read:

17 7065.1. Notwithstanding Section 7065, the registrar may waive
18 the examination for a contractor's license under any of the
19 following circumstances:

20 (a) The qualifying individual has, for five of the seven years
21 immediately preceding the application for licensure, been listed
22 on the official records of the board as a member of the personnel
23 of any licensee who held a license, which was active and in good
24 standing, in the same classification being applied for, and who
25 during the period listed on the license has been actively engaged
26 in a licensee's construction activities in the same classification
27 within which the applicant applies for a license.

28 (b) The qualifying individual is an immediate member of the
29 family of a licensee whose individual license was active and in
30 good standing for five of the seven years immediately preceding
31 the application for licensure, and the qualifying individual is able
32 to show all of the following:

33 (1) The qualifying individual has been actively engaged in the
34 licensee's business for five of the seven years immediately
35 preceding the application for licensure.

36 (2) The license is required to continue the existing family
37 business in the event of the absence or death of the licensee.

38 (3) An application is made for a new license in the same
39 classifications in which the licensee is or was licensed.

1 (c) The qualifying individual is an employee of a corporation
2 or a limited liability company seeking to replace its former
3 qualifying individual and has been employed by that corporation
4 or limited liability company under the following conditions:

5 (1) For five of the seven years immediately preceding the
6 application for licensure, the qualifying individual has been
7 continually employed by the corporation or limited liability
8 company in a supervisory capacity in the same classifications being
9 applied for.

10 (2) For five of the seven years immediately preceding the
11 application for licensure, the corporation or limited liability
12 company has held an active license in good standing in the same
13 classifications being applied for.

14 The corporation or limited liability company has not requested
15 a waiver under this subdivision within the past five years.

16 For purposes of this section, employees of a corporation or
17 limited liability company shall include, but not be limited to, the
18 officers of a corporation and the officers and managers of a limited
19 liability company.

20 ~~SEC. 7.~~

21 *SEC. 6.* Section 7065.5 of the Business and Professions Code
22 is amended to read:

23 7065.5. No license shall be issued to a minor, nor to any
24 copartnership a partner of which is a minor, nor to any corporation
25 any officer, director or responsible managing employee of which
26 is a minor, nor to any limited liability company any officer,
27 manager, or responsible managing employee of which is a minor,
28 nor to any other kind of business organization in which a minor
29 holds a responsible official position, unless the minor shall first
30 have had a guardian appointed by a court of competent jurisdiction.

31 ~~SEC. 8.~~

32 *SEC. 7.* Section 7068 of the Business and Professions Code is
33 amended to read:

34 7068. (a) The board shall require an applicant to show the
35 degree of knowledge and experience in the classification applied
36 for, and the general knowledge of the building, safety, health, and
37 lien laws of the state and of the administrative principles of the
38 contracting business that the board deems necessary for the safety
39 and protection of the public.

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

3 (1) If an individual, he or she shall qualify by personal
4 appearance or by the appearance of his or her responsible managing
5 employee who is qualified for the same license classification as
6 the classification being applied for.

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

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

15 (4) If a limited liability company, it shall qualify by the
16 appearance of a responsible managing officer, a responsible
17 managing manager, or a responsible managing employee who is
18 qualified for the same license classification as the classification
19 being applied for.

20 (c) A responsible managing employee for the purpose of this
21 chapter shall mean an individual who is a bona fide employee of
22 the applicant and is actively engaged in the classification of work
23 for which that responsible managing employee is the qualifying
24 person in behalf of the applicant.

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

32 (e) Except in accordance with Section 7068.1, no person
33 qualifying on behalf of an individual or firm under paragraph (1),
34 (2), (3), or (4) of subdivision (b) shall hold any other active
35 contractor's license while acting in the capacity of a qualifying
36 individual pursuant to this section.

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

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

9 ~~SEC. 9.~~

10 *SEC. 8.* Section 7068.1 of the Business and Professions Code
11 is amended to read:

12 7068.1. The person qualifying on behalf of an individual or
13 firm under paragraph (1), (2), (3), or (4) of subdivision (b) of
14 Section 7068 shall be responsible for exercising that direct
15 supervision and control of his or her employer's or principal's
16 construction operations as is necessary to secure full compliance
17 with the provisions of this chapter and the rules and regulations
18 of the board relating to the construction operations. This person
19 shall not act in the capacity of the qualifying person for an
20 additional individual or firm unless one of the following conditions
21 exists:

22 (a) There is a common ownership of at least 20 percent of the
23 equity of each individual or firm for which the person acts in a
24 qualifying capacity.

25 (b) The additional firm is a subsidiary of or a joint venture with
26 the first. "Subsidiary," as used in this subdivision, means any firm
27 at least 20 percent of the equity of which is owned by the other
28 firm.

29 (c) With respect to a firm under paragraph (2), (3), or (4) of
30 subdivision (b) of Section 7068, the majority of the partners,
31 officers, or managers are the same.

32 (d) Notwithstanding subdivisions (a), (b), and (c), a qualifying
33 individual may act as the qualifier for no more than three firms in
34 any one-year period.

35 "Firm," as used in this section, means a copartnership, a limited
36 partnership, a corporation, a limited liability company, or any other
37 combination or organization described in Section 7068.

38 "Person," as used in this section, is limited to natural persons,
39 notwithstanding the definition of "person" in Section 7025.

1 The board shall require every applicant or licensee qualifying
2 by the appearance of a qualifying individual to submit detailed
3 information on the qualifying individual's duties and
4 responsibilities for supervision and control of the applicant's
5 construction operations.

6 ~~SEC. 10.~~

7 *SEC. 9.* Section 7068.2 of the Business and Professions Code
8 is amended to read:

9 7068.2. If the responsible managing officer, responsible
10 managing employee, or responsible managing manager
11 disassociates from the licensed entity, the licensee, or the qualifier
12 shall notify the registrar in writing, and the licensee shall replace
13 the qualifier, within 90 days from the date of disassociation.

14 To replace a responsible managing officer, responsible managing
15 employee, or responsible managing manager, the licensee shall
16 file an application as prescribed by the registrar, accompanied by
17 the fee fixed by this chapter, designating an individual to qualify
18 as required by this chapter.

19 Upon failure to replace the qualifier within 90 days of the
20 disassociation the license shall be automatically suspended or the
21 classification removed at the end of the 90 days.

22 The registrar may review and accept the petition of a licensee
23 who disputes the date of disassociation or who has failed to notify
24 and replace the qualifier within the prescribed time, upon a showing
25 of good cause by the contractor. This petition shall be received
26 within 90 days from the date of the board's notice that the license
27 will be suspended if the qualifier is not replaced. The registrar may
28 grant only one 90-day extension to replace the qualifier.

29 Upon failure of the licensee or the qualifier to notify the registrar
30 of the disassociation within 90 days from the date of disassociation,
31 the license shall be automatically suspended or the classification
32 removed and the qualifier removed from the license effective the
33 date the written notification is received at the board's headquarters
34 office.

35 The person qualifying on behalf of a licensee under Section 7068
36 shall be responsible for the licensee's construction operations until
37 the board receives the written notification of disassociation.

38 Failure of the licensee or the qualifier to notify the registrar of
39 the qualifier's disassociation within 90 days of the disassociation
40 is grounds for disciplinary action.

1 ~~SEC. 11.~~

2 *SEC. 10.* Section 7069 of the Business and Professions Code
3 is amended to read:

4 7069. (a) An applicant, and each officer, director, partner,
5 manager, associate, and responsible managing employee thereof,
6 shall not have committed acts or crimes that are grounds for denial
7 of licensure under Section 480.

8 (b) As part of an application for a contractor’s license, the board
9 shall require an applicant to furnish a full set of fingerprints for
10 purposes of conducting a criminal history record check.
11 Fingerprints furnished pursuant to this subdivision shall be
12 submitted in an electronic format if readily available. Requests for
13 alternative methods of furnishing fingerprints are subject to the
14 approval of the registrar. The board shall use the fingerprints
15 furnished by an applicant to obtain criminal history information
16 on the applicant from the Department of Justice and the United
17 States Federal Bureau of Investigation, and the board may obtain
18 any subsequent arrest information that is available.

19 ~~SEC. 12.~~

20 *SEC. 11.* Section 7071 of the Business and Professions Code
21 is amended to read:

22 7071. No license shall be issued to a corporation, copartnership,
23 limited liability company, or other combination or organization if
24 a responsible officer or director of the corporation, or other
25 combination or organization, or a partner of the copartnership, or
26 a manager or officer of the limited liability company does not meet
27 the qualifications required of an applicant other than those
28 qualifications relating to knowledge and experience.

29 ~~SEC. 13.~~

30 *SEC. 12.* Section 7071.8 of the Business and Professions Code
31 is amended to read:

32 7071.8. (a) This section applies to an application for a license,
33 for renewal or restoration of a license, an application to change
34 officers of a corporation or a limited liability company, or for
35 continued valid use of a license which has been disciplined,
36 whether or not the disciplinary action has been stayed, made by
37 any of the following persons or firms:

38 (1) A person whose license has been suspended or revoked as
39 a result of disciplinary action, or a person who was a qualifying
40 individual for a licensee at any time during which cause for

1 disciplinary action occurred resulting in suspension or revocation
2 of the licensee's license, whether or not the qualifying individual
3 had knowledge or participated in the prohibited act or omission.

4 (2) A person who was an officer, director, manager, or partner
5 of a licensee at any time during which cause for disciplinary action
6 occurred resulting in suspension or revocation of the licensee's
7 license and who had knowledge of or participated in the act or
8 omission which was the cause for the disciplinary action.

9 (3) A partnership, corporation, limited liability company, firm,
10 or association of which an existing or new officer, director,
11 manager, partner, or qualifying person has had a license suspended
12 or revoked as a result of disciplinary action.

13 (4) A partnership, corporation, limited liability company, firm,
14 or association of which an officer, director, manager, partner, or
15 qualifying person was a manager, officer, director, or partner of a
16 licensee at any time during which cause for disciplinary action
17 occurred resulting in suspension or revocation of the license, and
18 who had knowledge of or participated in the act or omission which
19 was the cause for the disciplinary action.

20 (b) The board shall require as a condition precedent to the
21 issuance, reissuance, renewal, or restoration of a license to the
22 applicant, or to the approval of an application to change officers
23 of a corporation or a limited liability company, or removal of
24 suspension, or to the continued valid use of a license which has
25 been suspended or revoked, but which suspension or revocation
26 has been stayed, that the applicant or licensee file or have on file
27 a contractor's bond in a sum to be fixed by the registrar based upon
28 the seriousness of the violation, but which sum shall not be less
29 than fifteen thousand dollars (\$15,000) nor more than 10 times
30 that amount required by Section 7071.6.

31 (c) The bond is in addition to, may not be combined with, and
32 does not replace any other type of bond required by this chapter.
33 The bond shall remain on file with the registrar for a period of at
34 least two years and for any additional time that the registrar
35 determines. The bond period shall run only while the license is
36 current, active, and in good standing, and shall be extended until
37 the license has been current, active, and in good standing for the
38 required period. Each applicant or licensee shall be required to file
39 only one disciplinary contractor's bond of the type described in

1 this section for each application or license subject to this bond
2 requirement.

3 ~~SEC. 14.~~

4 *SEC. 13.* Section 7071.9 of the Business and Professions Code
5 is amended to read:

6 7071.9. (a) If the qualifying individual, as referred to in
7 Sections 7068 and 7068.1, is neither the proprietor, a general
8 partner, nor a joint licensee, he or she shall file or have on file a
9 qualifying individual's bond as provided in Section 7071.10 in the
10 sum of twelve thousand five hundred dollars (\$12,500). This bond
11 is in addition to, and may not be combined with, any contractor's
12 bond required by Sections 7071.5 to 7071.8, inclusive, and is
13 required for the issuance, reinstatement, reactivation, or continued
14 valid use of a license.

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

30 (c) The responsible managing officer of a corporation shall not
31 be required to file or have on file a qualifying individual's bond,
32 if he or she owns 10 percent or more of the voting stock of the
33 corporation and certifies to that fact on a form prescribed by the
34 registrar.

35 (d) The qualifying individual for a limited liability company
36 shall not be required to file or have on file a qualifying individual's
37 bond if he or she owns at least a 10 percent membership interest
38 in the limited liability company and certifies to that fact on a form
39 prescribed by the registrar.

1 ~~SEC. 15.~~

2 *SEC. 14.* Section 7071.10 of the Business and Professions Code
3 is amended to read:

4 7071.10. (a) The qualifying individual's bond required by this
5 article shall be executed by an admitted surety insurer in favor of
6 the State of California, in a form acceptable to the registrar and
7 filed with the registrar by the qualifying individual. The qualifying
8 individual's bond shall be for the benefit of the following persons:

9 (1) A homeowner contracting for home improvement upon the
10 homeowner's personal family residence damaged as a result of a
11 violation of this chapter by the licensee.

12 (2) A person damaged as a result of a willful and deliberate
13 violation of this chapter by the licensee, or by the fraud of the
14 licensee in the execution or performance of a construction contract.

15 (3) An employee of the licensee damaged by the licensee's
16 failure to pay wages.

17 (4) A person or entity, including an express trust fund described
18 in Section 3111 of the Civil Code, to whom a portion of the
19 compensation of an employee of a licensee is paid by agreement
20 with that employee or the collective bargaining agent of that
21 employee, that is damaged as the result of the licensee's failure to
22 pay fringe benefits for its employees including, but not limited to,
23 employer payments described in Section 1773.1 of the Labor Code
24 and regulations adopted thereunder (without regard to whether the
25 work was performed on a public or private work). Damage to an
26 express trust fund is limited to employer payments required to be
27 made on behalf of employees of the licensee, as part of the overall
28 compensation of those employees, which the licensee fails to pay.

29 (b) The qualifying individual's bond shall not be required in
30 addition to the contractor's bond when the qualifying individual
31 is the proprietor under paragraph (1) of subdivision (b) of Section
32 7068 or a general partner under paragraph (2) of subdivision (b)
33 of Section 7068.

34 ~~SEC. 16.~~

35 *SEC. 15.* Section 7071.11 of the Business and Professions Code
36 is amended to read:

37 7071.11. (a) The aggregate liability of a surety on a claim for
38 wages and fringe benefits brought against a bond required by this
39 article, other than a bond required by Section 7071.8, shall not
40 exceed the sum of four thousand dollars (\$4,000). If a bond

1 required by this article is insufficient to pay all claims in full, the
2 sum of the bond shall be distributed to all claimants in proportion
3 to the amount of their respective claims.

4 (b) No license may be renewed, reissued, or reinstated while a
5 judgment or admitted claim in excess of the amount of the bond
6 remains unsatisfied. The following limitations periods apply to
7 bonds required by this article:

8 (1) Any action, other than an action to recover wages or fringe
9 benefits, against a contractor's bond or a bond of a qualifying
10 individual filed by an active licensee shall be brought within two
11 years after the expiration of the license period during which the
12 act or omission occurred, or within two years of the date the license
13 of the active licensee was inactivated, canceled, or revoked by the
14 board, whichever first occurs.

15 (2) Any action, other than an action to recover wages or fringe
16 benefits, against a disciplinary bond filed by an active licensee
17 pursuant to Section 7071.8 shall be brought within two years after
18 the expiration of the license period during which the act or
19 omission occurred, or within two years of the date the license of
20 the active licensee was inactivated, canceled, or revoked by the
21 board, or within two years after the last date for which a
22 disciplinary bond filed pursuant to Section 7071.8 was required,
23 whichever date is first.

24 (3) A claim to recover wages or fringe benefits shall be brought
25 within six months from the date that the wage or fringe benefit
26 delinquencies were discovered, but in no event shall a civil action
27 thereon be brought later than two years from the date the wage or
28 fringe benefit contributions were due.

29 (c) Whenever the surety makes payment on a claim against a
30 bond required by this article, whether or not payment is made
31 through a court action or otherwise, the surety shall, within 30
32 days of the payment, provide notice to the registrar. The notice
33 required by this subdivision shall provide the following information
34 by declaration on a form prescribed by the registrar:

- 35 (1) The name and license number of the contractor.
- 36 (2) The surety bond number.
- 37 (3) The amount of payment.
- 38 (4) The statutory basis upon which the claim is made.
- 39 (5) The names of the person or persons to whom payments have
40 been made.

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

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

5 (d) Prior to the settlement of a claim through a good faith
6 payment by the surety, a licensee shall have not less than 15 days
7 in which to provide a written protest. This protest shall instruct
8 the surety not to make payment from the bond on the licensee's
9 account upon the specific grounds that the claim is opposed by the
10 licensee, and provide the surety a specific and reasonable basis for
11 the licensee's opposition to payment.

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

18 (2) A licensee that fails to file a protest as specified in this
19 subdivision shall have 90 days from the date of notification by the
20 board to submit proof of payment of the actual amount owed to
21 the surety and, if applicable, proof of payment of any judgment or
22 admitted claim in excess of the amount of the bond or, by operation
23 of law, the license shall be suspended at the end of the 90 days. A
24 license suspension pursuant to this subdivision shall be disclosed
25 indefinitely as a failure to settle outstanding final liabilities in
26 violation of this chapter. The disclosure specified by this
27 subdivision shall also be applicable to all licenses covered by the
28 provisions of subdivision (d).

29 (e) No license may be renewed, reissued, or reinstated while a
30 surety remains unreimbursed for a loss or expense sustained on a
31 bond issued for the licensee or for an entity of which an officer,
32 director, partner, manager, or qualifying person was an officer,
33 director, partner, manager, or qualifying person of the licensee
34 while the licensee was subject to suspension or disciplinary action
35 under this section.

36 (f) The licensee may provide the board with a notarized copy
37 of an accord, reached with the surety to satisfy the debt in lieu of
38 full payment. By operation of law, failure to abide by the accord
39 shall result in the automatic suspension of a license to which this
40 section applies. A license that is suspended for failure to abide by

1 the accord may only be renewed or reinstated when proof of
2 satisfaction of all debts is made.

3 (g) Legal fees may not be charged against the bond by the board.

4 ~~SEC. 17.~~

5 *SEC. 16.* Section 7071.17 of the Business and Professions Code
6 is amended to read:

7 7071.17. (a) Notwithstanding any other provision of law, the
8 board shall require, as a condition precedent to accepting an
9 application for licensure, renewal, reinstatement, or to change
10 officers or other personnel of record, that an applicant, previously
11 found to have failed or refused to pay a contractor, subcontractor,
12 consumer, materials supplier, or employee based on an unsatisfied
13 final judgment, file or have on file with the board a bond sufficient
14 to guarantee payment of an amount equal to the unsatisfied final
15 judgment or judgments. The applicant shall have 90 days from the
16 date of notification by the board to file the bond or the application
17 shall become void and the applicant shall reapply for issuance,
18 reinstatement, or reactivation of a license. The board may not issue,
19 reinstate, or reactivate a license until the bond is filed with the
20 board. The bond required by this section is in addition to the
21 contractor's bond. The bond shall be on file for a minimum of one
22 year, after which the bond may be removed by submitting proof
23 of satisfaction of all debts. The applicant may provide the board
24 with a notarized copy of any accord, reached with any individual
25 holding an unsatisfied final judgment, to satisfy a debt in lieu of
26 filing the bond. The board shall include on the license application
27 for issuance, reinstatement, or reactivation, a statement, to be made
28 under penalty of perjury, as to whether there are any unsatisfied
29 judgments against the applicant on behalf of contractors,
30 subcontractors, consumers, materials suppliers, or the applicant's
31 employees. Notwithstanding any other provision of law, if it is
32 found that the applicant falsified the statement then the license
33 will be retroactively suspended to the date of issuance and the
34 license will stay suspended until the bond, satisfaction of judgment,
35 or notarized copy of any accord applicable under this section is
36 filed.

37 (b) Notwithstanding any other provision of law, all licensees
38 shall notify the registrar in writing of any unsatisfied final judgment
39 imposed on the licensee. If the licensee fails to notify the registrar
40 in writing within 90 days, the license shall be automatically

1 suspended on the date that the registrar is informed, or is made
2 aware of the unsatisfied final judgment. The suspension shall not
3 be removed until proof of satisfaction of the judgment, or in lieu
4 thereof, a notarized copy of an accord is submitted to the registrar.
5 If the licensee notifies the registrar in writing within 90 days of
6 the imposition of any unsatisfied final judgment, the licensee shall,
7 as a condition to the continual maintenance of the license, file or
8 have on file with the board a bond sufficient to guarantee payment
9 of an amount equal to all unsatisfied judgments applicable under
10 this section. The licensee has 90 days from date of notification by
11 the board to file the bond or at the end of the 90 days the license
12 shall be automatically suspended. In lieu of filing the bond required
13 by this section, the licensee may provide the board with a notarized
14 copy of any accord reached with any individual holding an
15 unsatisfied final judgment.

16 (c) By operation of law, failure to maintain the bond or failure
17 to abide by the accord shall result in the automatic suspension of
18 any license to which this section applies.

19 (d) A license that is suspended for failure to comply with the
20 provisions of this section can only be reinstated when proof of
21 satisfaction of all debts is made, or when a notarized copy of an
22 accord has been filed as set forth under this section.

23 (e) This section applies only with respect to an unsatisfied final
24 judgment that is substantially related to the construction activities
25 of a licensee licensed under this chapter, or to the qualifications,
26 functions, or duties of the license.

27 (f) Except as otherwise provided, this section shall not apply to
28 an applicant or licensee when the financial obligation covered by
29 this section has been discharged in a bankruptcy proceeding.

30 (g) Except as otherwise provided, the bond shall remain in full
31 force in the amount posted until the entire debt is satisfied. If, at
32 the time of renewal, the licensee submits proof of partial
33 satisfaction of the financial obligations covered by this section,
34 the board may authorize the bond to be reduced to the amount of
35 the unsatisfied portion of the outstanding judgment. When the
36 licensee submits proof of satisfaction of all debts, the bond
37 requirement may be removed.

38 (h) The board shall take the actions required by this section
39 upon notification by any party having knowledge of the outstanding
40 judgment upon a showing of proof of the judgment.

1 (i) For the purposes of this section, the term “judgment” also
2 includes any final arbitration award where the time to file a petition
3 for a trial de novo or a petition to vacate or correct the arbitration
4 award has expired, and no petition is pending.

5 (j) The qualifying person and any partner of the licensee or
6 personnel of the licensee named as a judgment debtor in an
7 unsatisfied final judgment shall be automatically prohibited from
8 serving as an officer, director, associate, partner, owner, manager,
9 qualifying individual, or other personnel of record of another
10 licensee. This prohibition shall cause the license of any other
11 existing renewable licensed entity with any of the same personnel
12 of record as the judgment debtor licensee to be suspended until
13 the license of the judgment debtor is reinstated or until those same
14 personnel of record disassociate themselves from the renewable
15 licensed entity.

16 (k) For purposes of this section, a cash deposit may be submitted
17 in lieu of the bond.

18 (l) Notwithstanding subdivision (f), the failure of a licensee to
19 notify the registrar of an unsatisfied final judgment in accordance
20 with this section is cause for disciplinary action.

21 ~~SEC. 18.~~

22 *SEC. 17.* Section 7072.5 of the Business and Professions Code
23 is amended to read:

24 7072.5. (a) Upon the issuance of a license, a plasticized pocket
25 card of a size, design, and content as may be determined by the
26 registrar shall be issued at no cost to each licensee, or to the
27 partners, managers, officers, or responsible managing officers of
28 licensees licensed as other than individuals, which card shall be
29 evidence that the licensee is duly licensed pursuant to this chapter.
30 All cards issued shall be surrendered upon the suspension,
31 revocation, or denial of renewal of the license, and shall be mailed
32 or delivered to the board within five days of the suspension,
33 revocation, or denial.

34 (b) When a person to whom a card is issued terminates his or
35 her position, office, or association with a licensee that is licensed
36 as other than an individual, that person shall surrender his or her
37 card to the licensee and within five days thereafter the card shall
38 be mailed or delivered by the licensee to the board for cancellation.

1 ~~SEC. 19.~~

2 *SEC. 18.* Section 7075.1 of the Business and Professions Code
3 is amended to read:

4 7075.1. (a) No license, regardless of type or classification,
5 shall be transferable to any other person or entity under any
6 circumstances.

7 (b) A license number may be reissued after cancellation,
8 revocation, suspension, or expiration beyond the renewal period
9 specified in Section 7141, only under the following circumstances:

10 (1) To an individual upon application.

11 (2) To a partnership upon application if there is no change in
12 the partners or partnership structure.

13 (3) To a corporation upon application if there is no change in
14 the status of the corporation as registered with the Secretary of
15 State.

16 (4) To a limited liability company upon application if there is
17 no change in the status of the company as registered with the
18 Secretary of State.

19 (c) A license number may be reissued or reassigned to a different
20 entity only under the following conditions:

21 (1) To a corporation when the parent corporation has merged
22 or created a subsidiary, the subsidiary has merged into the parent
23 corporation, or the corporation has changed its filing status with
24 the Secretary of State from a domestic corporation to a foreign
25 corporation or from a foreign corporation to a domestic corporation,
26 and the new entity is being formed to continue the business of the
27 formerly licensed corporation.

28 (2) To a limited liability company when the parent limited
29 liability company has merged or created a subsidiary, the subsidiary
30 has merged into the parent limited liability company, or the limited
31 liability company has changed its filing status with the Secretary
32 of State from a domestic limited liability company to a foreign
33 limited liability company or from a foreign limited liability
34 company to a domestic limited liability company, and the new
35 entity is being formed to continue the business of the formerly
36 licensed limited liability company.

37 (3) To an individual when the individual is an immediate family
38 member of a licensed individual who is deceased or absent and
39 the license is required to continue an existing family contracting
40 business.

1 (4) To a corporation or limited liability company when created
2 by immediate members of an individual licensee's family to
3 continue an existing deceased or absent individual licensee's
4 contracting business.

5 (5) To a corporation or limited liability company when the
6 corporation or limited liability company is formed by an individual
7 licensee and the individual licensee maintains ownership directly
8 or indirectly of shares or membership interests evidencing more
9 than 50 percent of the voting power.

10 (6) To a corporation or limited liability company that acquires
11 a licensee pursuant to an asset sale provided that the corporation
12 or limited liability company has a qualifier as required by Section
13 7068.

14 For purposes of this section, an immediate family member of a
15 deceased or absent licensed individual is either a spouse, father,
16 mother, brother, sister, son, daughter, stepson, stepdaughter,
17 grandson, granddaughter, grandfather, grandmother, son-in-law,
18 or daughter-in-law.

19 ~~SEC. 20.~~

20 *SEC. 19.* Section 7076 of the Business and Professions Code
21 is amended to read:

22 7076. (a) An individual license shall be canceled upon the
23 death of a person licensed as an individual. An immediate member
24 of the family of the deceased licensee may request a continuance
25 of the license to complete projects in progress and undertake new
26 work for a reasonable amount of time to be determined by rules
27 of the board. The request for a continuance must be made in writing
28 and received at the board's headquarters office within 90 days
29 after the death. Approval of the continuance of an individual license
30 may be contingent upon meeting the bond requirements of Sections
31 7071.5 and 7071.6 within 90 days of notification by the board of
32 that requirement. The immediate member of the family must apply
33 for and obtain his or her own license to continue contracting after
34 the continuance expires.

35 (b) A partnership license shall be canceled upon the death of a
36 general partner. The remaining partner or partners shall notify the
37 registrar in writing within 90 days of the death of a general partner.
38 Failure to notify the registrar within 90 days of the death is grounds
39 for disciplinary action.

1 The remaining general partner or partners may request a
2 continuance of the license to complete projects in progress and
3 undertake new work for a reasonable amount of time to be
4 determined by rules of the board. The request for a continuance
5 must be made in writing and received at the board's headquarters
6 office within 90 days after the death. The remaining general partner
7 or partners must apply for and obtain a new license to continue
8 contracting after the continuance expires.

9 (c) A partnership license shall be canceled upon the
10 disassociation of a general partner or upon the dissolution of the
11 partnership. The disassociating partner or the remaining partner
12 or partners shall notify the registrar in writing within 90 days of
13 the disassociation of a general partner or dissolution of the
14 partnership. Failure to notify the registrar of the disassociation or
15 dissolution within 90 days shall cause the license to be canceled
16 effective the date the written notification is received at the board's
17 headquarters office. Failure to notify the registrar within 90 days
18 of the disassociation or dissolution is grounds for disciplinary
19 action. The remaining general partner or partners may request a
20 continuance of the license to complete projects contracted for or
21 in progress prior to the date of disassociation or dissolution for a
22 reasonable length of time to be determined by rules of the board.
23 The request for a continuance must be made in writing and received
24 at the board's headquarters office within 90 days after the
25 disassociation or dissolution. The remaining general partner or
26 partners must apply for and obtain a new license to undertake new
27 work and to continue contracting after the continuance expires.

28 (d) The general partner or partners shall notify the registrar in
29 writing within 90 days of the death of a limited partner. Failure to
30 notify the registrar within 90 days of the death is grounds for
31 disciplinary action.

32 The death of a limited partner will not affect the partnership
33 license unless the partnership license has only one limited partner.
34 In this case, the license will be canceled upon the death of the
35 limited partner unless a new limited partner is added to the license
36 within 90 days of the death.

37 If the license is canceled, the remaining general partner or
38 partners may request a continuance of the license to complete
39 projects in progress and to undertake new work for a reasonable
40 amount of time to be determined by rules of the board. The request

1 for a continuance must be made in writing and received at the
2 board's headquarters office within 90 days after the death. The
3 remaining general partner or partners must apply for and obtain a
4 new license to continue contracting after the continuance expires.

5 (e) The general partner or partners shall notify the registrar in
6 writing within 90 days of the disassociation of a limited partner.
7 Failure to notify the registrar of the disassociation, within 90 days,
8 shall cause the disassociation to be effective the date the written
9 notification is received at the board's headquarters office. Failure
10 to notify the registrar within 90 days of the disassociation is
11 grounds for disciplinary action.

12 The disassociation of a limited partner will not affect the
13 partnership license unless the partnership license has only one
14 limited partner. In this case, the license will be canceled upon the
15 disassociation of the limited partner unless a new limited partner
16 is added to the license within 90 days of the disassociation. If the
17 license is canceled, the remaining general partner or partners may
18 request a continuance of the license to complete projects contracted
19 for or in progress prior to the date of disassociation for a reasonable
20 amount of time to be determined by rules of the board. The request
21 for a continuance must be made in writing and received at the
22 board's headquarters office within 90 days after the death. The
23 remaining general partner or partners must apply for and obtain a
24 new license to undertake new work and to continue contracting
25 after the continuance expires.

26 (f) A joint venture license shall be canceled upon the
27 cancellation, revocation, or disassociation of any of its entity
28 licenses or upon the dissolution of the joint venture. The registrar
29 shall be notified in writing within 90 days of the disassociation of
30 a joint venture entity or dissolution of the joint venture. Failure to
31 notify the registrar of the disassociation or dissolution within 90
32 days shall cause the license to be canceled effective the date the
33 written notification is received at the board's headquarters office.
34 Failure to notify the registrar within 90 days of the disassociation
35 or dissolution is grounds for disciplinary action.

36 Any remaining entity or entities may request a continuance of
37 the license to complete projects contracted for or in progress prior
38 to the date of disassociation or dissolution for a reasonable amount
39 of time to be determined by rules of the board. The request for a
40 continuance must be made in writing and received at the board's

1 headquarters office within 90 days of the disassociation or
2 dissolution. The remaining entity or entities must apply for and
3 obtain a new license to undertake new work and to continue
4 contracting after the continuance expires.

5 (g) Any individual, partnership, or joint venture license
6 continued in accordance with this section is subject to all other
7 provisions of this chapter.

8 (h) A corporation license shall be canceled upon the
9 corporation's dissolution, merger, or surrender of its right to do
10 business in this state. The corporation shall notify the registrar in
11 writing within 90 days of the dissolution, merger, or surrender.
12 Failure to notify the registrar of the dissolution, merger, or
13 surrender within 90 days shall cause the license to be canceled
14 effective the date written notification is received at the board's
15 headquarters office. If the corporation fails to notify the board of
16 the dissolution, merger, or surrender, the corporation license shall
17 be canceled 60 days after the board's discovery when researching
18 the corporate records of the Secretary of State. Failure to notify
19 the registrar within 90 days of the dissolution, merger, or surrender
20 is grounds for disciplinary action.

21 (i) A limited liability company license shall be canceled upon
22 the company's dissolution, merger, or surrender of its right to do
23 business in this state. The limited liability company shall notify
24 the registrar in writing within 90 days of the dissolution, merger,
25 or surrender. Failure to notify the register of the dissolution,
26 merger, or surrender within 90 days shall cause the license to be
27 canceled effective the date written notification is received at the
28 board's headquarters office. If the limited liability company fails
29 to notify the board of the dissolution, merger, or surrender, the
30 limited liability company license shall be canceled 60 days after
31 the board's discovery when researching the records of the Secretary
32 of State. Failure to notify the registrar within 90 days of the
33 dissolution, merger, or surrender is grounds for disciplinary action.

34 (j) The registrar shall review and accept the petition of a licensee
35 who disputes the date of cancellation upon a showing of good
36 cause. This petition shall be received within 90 days of the board's
37 official notice of cancellation.

38 ~~SEC. 21.~~

39 *SEC. 20.* Section 7076.2 of the Business and Professions Code
40 is amended to read:

1 7076.2. Notwithstanding any other provision of law, the failure
2 of a contractor licensed to do business as a corporation or a limited
3 liability company in this state to be registered and in good standing
4 with the Secretary of State after notice from the registrar shall
5 result in the automatic suspension of the license by operation of
6 law. The registrar shall notify the licensee in writing of its failure
7 to be registered and in good standing with the Secretary of State
8 and that the licensee shall be suspended 30 days from the date of
9 the notice if the licensee does not provide proof satisfactory to the
10 registrar that it is properly registered and in good standing with
11 the Secretary of State. Reinstatement may be made at any time
12 following the suspension by providing proof satisfactory to the
13 registrar that the license is properly registered and in good standing.

14 ~~SEC. 22.~~

15 *SEC. 21.* Section 7085.6 of the Business and Professions Code
16 is amended to read:

17 7085.6. (a) (1) The failure of a licensee to comply with an
18 arbitration award rendered under this article shall result in the
19 automatic suspension of a license by operation of law.

20 (2) The registrar shall notify the licensee by certified mail of
21 the failure to comply with the arbitrator's award, and that the
22 license shall be automatically suspended 30 calendar days from
23 the date of that notice.

24 (3) The licensee may appeal the suspension for noncompliance
25 within 15 calendar days after service of the notice by written notice
26 to the registrar.

27 (4) Reinstatement may be made at any time following the
28 suspension by complying with the arbitrator's award and the final
29 order of the registrar. If no reinstatement of the license is made
30 within 90 days of the date of the automatic suspension, the license
31 and any other contractors' license issued to the licensee shall be
32 automatically revoked by operation of law for a period to be
33 determined by the registrar pursuant to Section 7102.

34 (5) The registrar may delay, for good cause, the revocation of
35 a contractor's license for failure to comply with the arbitration
36 award. The delay in the revocation of the license shall not exceed
37 one year. When seeking a delay of the revocation of his or her
38 license, a licensee shall apply to the registrar in writing prior to
39 the date of the revocation of the licensee's license by operation of
40 law and state the reasons that establish good cause for the delay.

1 The registrar’s power to grant a delay of the revocation shall expire
2 upon the effective date of the revocation of the licensee’s license
3 by operation of law.

4 (b) The licensee shall be automatically prohibited from serving
5 as an officer, director, associate, partner, manager, or qualifying
6 individual of another licensee, for the period determined by the
7 registrar and the employment, election, or association of that person
8 by another licensee shall constitute grounds for disciplinary action.
9 A qualifier disassociated pursuant to this section shall be replaced
10 within 90 days from the date of disassociation. Upon failure to
11 replace the qualifier within 90 days of the disassociation, the
12 license of the other licensee shall be automatically suspended or
13 the qualifier’s classification removed at the end of the 90 days.

14 ~~SEC. 23.~~

15 *SEC. 22.* Section 7090.1 of the Business and Professions Code
16 is amended to read:

17 7090.1. (a) (1) Notwithstanding any other provisions of law,
18 the failure to pay a civil penalty, or to comply with an order of
19 correction or an order to pay a specified sum to an injured party
20 in lieu of correction once the order has become final, shall result
21 in the automatic suspension of a license by operation of law 30
22 days after noncompliance with the terms of the order.

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

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

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

38 (5) The registrar may delay, for good cause, the revocation of
39 a contractor’s license for failure to comply with the final order of
40 the citation. The delay in the revocation of the license shall not

1 exceed one year. When seeking a delay of the revocation of his or
2 her license, a licensee shall apply to the registrar in writing prior
3 to the date of the revocation of the licensee's license by operation
4 of law and state the reasons that establish good cause for the delay.
5 The registrar's power to grant a delay of the revocation shall expire
6 upon the effective date of the revocation of the licensee's license
7 by operation of law.

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

19 ~~SEC. 24.~~

20 *SEC. 23.* Section 7096 of the Business and Professions Code
21 is amended to read:

22 7096. For the purposes of this chapter, the term "licensee" shall
23 include an individual, copartnership, corporation, limited liability
24 company, joint venture, or any combination or organization
25 licensed under this chapter, and shall also include any named
26 responsible managing officer, responsible managing manager, or
27 personnel of that licentiate whose appearance has qualified the
28 licentiate under the provisions of Section 7068.

29 ~~SEC. 25.~~

30 *SEC. 24.* Section 7121 of the Business and Professions Code
31 is amended to read:

32 7121. A person who has been denied a license for a reason
33 other than failure to document sufficient satisfactory experience
34 for a supplemental classification for an existing license, or who
35 has had his or her license revoked, or whose license is under
36 suspension, or who has failed to renew his or her license while it
37 was under suspension, or who has been a partner, officer, director,
38 manager, or associate of any partnership, corporation, limited
39 liability company, firm, or association whose application for a
40 license has been denied for a reason other than failure to document

1 sufficient satisfactory experience for a supplemental classification
2 for an existing license, or whose license has been revoked, or
3 whose license is under suspension, or who has failed to renew a
4 license while it was under suspension, and while acting as a partner,
5 officer, director, manager, or associate had knowledge of or
6 participated in any of the prohibited acts for which the license was
7 denied, suspended, or revoked, shall be prohibited from serving
8 as an officer, director, associate, partner, manager, or qualifying
9 individual of a licensee, and the employment, election, or
10 association of this type of person by a licensee in any capacity
11 other than as a nonsupervising bona fide employee shall constitute
12 grounds for disciplinary action.

13 ~~SEC. 26.~~

14 *SEC. 25.* Section 7121.1 of the Business and Professions Code
15 is amended to read:

16 7121.1. Notwithstanding any other provision of this chapter,
17 the disassociation of a partner, officer, director, manager, or
18 associate from the license of a partnership, corporation, limited
19 liability company, firm, or association whose license has been
20 cited pursuant to Section 7099 shall not relieve the partner, officer,
21 director, manager, or associate from responsibility for complying
22 with the citation if he or she had knowledge of, or participated in,
23 any of the prohibited acts for which the citation was issued. Section
24 7121 shall apply to a partner, officer, director, manager, or
25 associate of a licensee that fails to comply with a citation after it
26 is final.

27 ~~SEC. 27.~~

28 *SEC. 26.* Section 7121.5 of the Business and Professions Code
29 is amended to read:

30 7121.5. A person who was the qualifying individual on a
31 revoked license, or of a license under suspension, or of a license
32 that was not renewed while it was under suspension, shall be
33 prohibited from serving as an officer, director, associate, partner,
34 manager, or qualifying individual of a licensee, whether or not the
35 individual had knowledge of or participated in the prohibited acts
36 or omissions for which the license was revoked, or suspended, and
37 the employment, election, or association of that person by a
38 licensee shall constitute grounds for disciplinary action.

1 ~~SEC. 28.~~

2 *SEC. 27.* Section 7121.6 of the Business and Professions Code
3 is amended to read:

4 7121.6. (a) An individual who meets all of the following
5 criteria shall not perform any act regulated under this chapter for
6 or on behalf of a licensee, other than as a bona fide nonsupervising
7 employee:

8 (1) The individual was an officer, director, owner, manager, or
9 partner of a license that was revoked.

10 (2) The individual had knowledge of or participated in any act
11 or omission for which the license was revoked.

12 (3) The individual is not eligible for reinstatement for licensure
13 under Section 7102.

14 (b) An individual who meets all of the following criteria shall
15 not perform any act regulated under this chapter for or on behalf
16 of a licensee, other than as a bona fide nonsupervising employee:

17 (1) The individual furnished the qualifications for licensure, as
18 set forth under Section 7068, and that license was revoked.

19 (2) The individual served in the capacity of the qualifying
20 individual during the commission or omission of any of the acts
21 that resulted in the revocation of the license, whether or not he or
22 she had knowledge of or participated in those acts.

23 (3) The individual is not eligible for reinstatement for licensure
24 under Section 7102.

25 (c) A violation of this section is a misdemeanor punishable by
26 a fine of not less than four thousand five hundred dollars (\$4,500),
27 by imprisonment in a county jail for not less than 90 days nor more
28 than one year, or by both the fine and imprisonment. The penalty
29 provided by this subdivision is cumulative to the penalties available
30 under other laws of this state.

31 (d) Notwithstanding any other provision of law to the contrary,
32 an indictment for any violation of this section shall be found or an
33 information or complaint filed within four years from the
34 performance of any act that is prohibited under this section.

35 ~~SEC. 29.~~

36 *SEC. 28.* Section 7122 of the Business and Professions Code
37 is amended to read:

38 7122. The performance by an individual, partnership,
39 corporation, limited liability company, firm, or association of an
40 act or omission constituting a cause for disciplinary action, likewise

1 constitutes a cause for disciplinary action against a licensee other
2 than the individual qualifying on behalf of the individual or entity,
3 if the licensee was a partner, officer, director, manager, or associate
4 of that individual, partnership, corporation, limited liability
5 company, firm, or association at the time the act or omission
6 occurred, and had knowledge of or participated in the prohibited
7 act or omission.

8 ~~SEC. 30.~~

9 *SEC. 29.* Section 7122.1 of the Business and Professions Code
10 is amended to read:

11 7122.1. Notwithstanding Section 7068.2 or any other provision
12 of this chapter, the disassociation of a qualifying individual from
13 a license after the act or omission has occurred that resulted in a
14 citation pursuant to Section 7099 shall not relieve the qualifying
15 individual from responsibility for complying with the citation.
16 Section 7122.5 shall apply to a qualifying individual of a licensee
17 that fails to comply with a citation after it is final.

18 ~~SEC. 31.~~

19 *SEC. 30.* Section 7122.2 of the Business and Professions Code
20 is amended to read:

21 7122.2. (a) Notwithstanding Section 7068.2 or any other
22 provisions of this chapter, the disassociation of a qualifying
23 individual from a license that has been referred to arbitration
24 pursuant to Section 7085 shall not relieve the qualifying individual
25 from the responsibility of complying with an arbitration award
26 rendered as a result of acts or omissions committed while acting
27 as the qualifying individual for the license as provided under
28 Sections 7068 and 7068.1.

29 (b) Section 7122.5 shall apply to a qualifying individual of a
30 licensee that fails to comply with an arbitration award once it is
31 rendered.

32 ~~SEC. 32.~~

33 *SEC. 31.* Section 7122.5 of the Business and Professions Code
34 is amended to read:

35 7122.5. The performance by an individual, partnership,
36 corporation, limited liability company, firm, or association of an
37 act or omission constituting a cause for disciplinary action, likewise
38 constitutes a cause for disciplinary action against a licensee who
39 at the time that the act or omission occurred was the qualifying
40 individual of that individual, partnership, corporation, limited

1 liability company, firm, or association, whether or not he or she
2 had knowledge of or participated in the prohibited act or omission.

3 ~~SEC. 33.~~

4 *SEC. 32.* Section 7137 of the Business and Professions Code
5 is amended to read:

6 7137. The board shall set fees by regulation. These fees shall
7 not exceed the following schedule:

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

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

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

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

19 (b) The fee for rescheduling an examination for an applicant
20 who has applied for an original license, additional classification,
21 a change of responsible managing officer, responsible managing
22 manager, or responsible managing employee, or for an asbestos
23 certification or hazardous substance removal certification, shall
24 not be more than sixty dollars (\$60).

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

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

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

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

34 (f) The delinquency fee is an amount equal to 50 percent of the
35 renewal fee, if the license is renewed after its expiration.

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

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

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

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

6 ~~SEC. 34.~~

7 *SEC. 33.* Section 7138 of the Business and Professions Code
8 is amended to read:

9 7138. Notwithstanding any other provision of law, a fee paid
10 in connection with a service or application covered by Section
11 7137 shall accrue to the Contractors' License Fund as an earned
12 fee and shall not be refunded.

13 ~~SEC. 35.~~

14 *SEC. 34.* Section 7152 of the Business and Professions Code
15 is amended to read:

16 7152. (a) "Home improvement salesperson" is a person
17 employed by a home improvement contractor licensed under this
18 chapter to solicit, sell, negotiate, or execute contracts for home
19 improvements, for the sale, installation or furnishing of home
20 improvement goods or services, or of swimming pools, spas, or
21 hot tubs.

22 (b) The following shall not be required to be registered as home
23 improvement salespersons:

24 (1) An officer of record of a corporation licensed pursuant to
25 this chapter, or a manager of record of a limited liability company
26 licensed pursuant to this chapter.

27 (2) A general partner listed on the license record of a partnership
28 licensed pursuant to this chapter.

29 (3) A qualifying person, as defined in Section 7025.

30 (4) A salesperson whose sales are all made pursuant to
31 negotiations between the parties if the negotiations are initiated
32 by the prospective buyer at or with a general merchandise retail
33 establishment that operates from a fixed location where goods or
34 services are offered for sale.

35 (5) A person who contacts the prospective buyer for the
36 exclusive purpose of scheduling appointments for a registered
37 home improvement salesperson.

38 (6) A bona fide service repairperson who is in the employ of a
39 licensed contractor and whose repair or service call is limited to

1 the service, repair, or emergency repair initially requested by the
2 buyer of the service.

3 (c) The exemption to registration provided under paragraphs
4 (1), (2), and (3) of subdivision (b) shall apply only to those
5 individuals who, at the time of the sales transaction, are listed as
6 personnel of record for the licensee responsible for soliciting,
7 negotiating, or contracting for a service or improvement that is
8 subject to regulation under this article.

9 ~~SEC. 36.~~

10 *SEC. 35.* Section 17002 of the Corporations Code is amended
11 to read:

12 17002. (a) Subject to any limitations contained in the articles
13 of organization and to compliance with any other applicable laws,
14 a limited liability company may engage in any lawful business
15 activity, whether or not for profit, except the banking business,
16 the business of issuing policies of insurance and assuming
17 insurance risks, or the trust company business.

18 (b) Notwithstanding subdivision (a) and as specifically provided
19 in this subdivision, a limited liability company may operate as a
20 health care service plan licensed pursuant to Chapter 2.2
21 (commencing with Section 1340) of Division 2 of the Health and
22 Safety Code if the limited liability company is a subsidiary of a
23 health care service plan licensed pursuant to those provisions and
24 the limited liability company is established to serve an existing
25 line of business of the parent health care service plan.
26 Notwithstanding any other provision of law, the tort or contract
27 liability of a limited liability company created to operate as a health
28 care service plan under this subdivision and its members is not
29 limited or restricted in any manner because of the limited liability
30 company status of the health care service plan.

31 (c) ~~A—Notwithstanding Section 17375, a limited liability~~
32 ~~company may render occupational, nonprofessional services that~~
33 ~~may be lawfully rendered only pursuant to a license, certification,~~
34 ~~or registration authorized by the Business and Professions Code~~
35 ~~if the applicable provisions of the Business and Professions Code~~
36 ~~identify those services as occupational, nonprofessional services~~
37 ~~and authorize a limited liability company to hold that license,~~
38 ~~certification, or registration.~~

1 ~~SEC. 37.~~

2 *SEC. 36.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section 17556 of
8 the Government Code, or changes the definition of a crime within
9 the meaning of Section 6 of Article XIII B of the California
10 Constitution.

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