

**Senate Bill No. 392**

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Passed the Senate August 30, 2010

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*Secretary of the Senate*

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Passed the Assembly August 26, 2010

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2010, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 7025, 7028.5, 7029, 7065, 7065.1, 7065.5, 7068, 7068.1, 7068.2, 7069, 7071, 7071.7, 7071.8, 7071.9, 7071.11, 7071.17, 7072.5, 7075.1, 7076, 7076.2, 7085.6, 7090, 7090.1, 7096, 7121, 7121.1, 7121.5, 7121.6, 7122, 7122.1, 7122.2, 7122.5, 7137, 7138, 7152, 7159, and 7159.10 of, and to add Sections 7071.6.5 and 7071.19 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 392, Florez. 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, partnerships, 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 services that may be lawfully rendered only pursuant to a license, certificate, or registration authorized by the Business and Professions Code if the provisions of that code authorize a limited liability company to hold that license, certificate, or registration. The bill would authorize the Contractors' State License Board, commencing no later than January 1, 2012, to issue a contractor's license to a limited liability company and would authorize the

responsible managing manager, responsible managing officer, responsible managing member, or responsible managing employee of the limited liability company to qualify for that license. The bill would also require, as a condition precedent to the issuance, reissuance, reinstatement, reactivation, renewal, or continued valid use of a limited liability company contractor's license, that the applicant or licensee file or have on file a surety bond in the sum of \$100,000 for damages arising out of specified claims of employees. The bill would also require the limited liability company to maintain a policy or policies of insurance against liability imposed on or against it for damages arising out of claims, as specified, as a condition of licensure, and would require the licensed limited liability company to provide a notice concerning that insurance or security in certain contracts, as specified. The bill would provide for the personal liability of persons within the limited liability company in a certain instance, except as specified. 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 contractor's 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."

Existing law makes it unlawful for a person who has been a member, officer, director, or responsible managing officer of a licensed organization to individually engage in the business of a contractor without a license.

This bill would extend that prohibition to individuals listed in the personnel of record of the licensed organization and to certain other managing persons in the organization.

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.

Under existing law, no license may be renewed, reissued, or reinstated while a surety remains unreimbursed for a loss or expense sustained on a bond issued for the licensee or for an entity of which an officer, director, partner, manager, or qualifying person was an officer, director, partner, manager, or qualifying person of the licensee while the licensee was subject to suspension or disciplinary action, as specified.

This bill would instead specify that, during any period in which a surety remains unreimbursed for a loss or expense sustained on a bond issued, as specified, the license for which the bond was issued, and any other license on which any member of the licensee's personnel of record, as defined, has also been listed, may not be renewed, reissued, or reinstated while the licensee was subject to suspension or disciplinary action, as specified.

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 limited liability company in those instances, to a limited liability company formed to continue the business of a corporation, and 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 immediate family member includes a father and mother.

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.

Appropriation: yes.

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

SECTION 1. The Legislature finds and declares that contractors have been allowed to operate as corporations, and to be designated as “S” or “C” corporations, for many years, with well-established case law regarding the ability to pierce the corporate veil. It is the intent of the Legislature that this doctrine shall also apply to limited liability companies. Because there is not yet case law establishing this principle in California, the additional one-hundred-thousand-dollar (\$100,000) bond requirement for the benefit of workers relative to payment of wages and fringe benefits will ensure that workers are protected despite the absence of case law dealing with limited liability companies.

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

7025. (a) “Members of the personnel of record” as used in this chapter means every person listed in the records of the registrar as then associated with a licensee.

(b) “Person” as used in this chapter includes an individual, a firm, partnership, corporation, limited liability company, association or other organization, or any combination thereof.

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

SEC. 3. Section 7028.5 of the Business and Professions Code is amended to read:

7028.5. It is unlawful for a person who is or has been a partner, officer, director, manager, responsible managing employee, responsible managing member, responsible managing manager, or responsible managing officer of, or an individual who is listed in the personnel of record of, a licensed partnership, corporation, limited liability company, firm, association or other organization to individually engage in the business or individually act in the

capacity of a contractor within this state without having a license in good standing to so engage or act.

SEC. 4. Section 7029 of the Business and Professions Code is amended to read:

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

SEC. 5. Section 7065 of the Business and Professions Code is amended to read:

7065. (a) Under rules and regulations adopted by the board and approved by the director, the registrar shall investigate, classify, and qualify applicants for contractors' licenses by written examination. This examination shall include questions designed to show that the applicant has the necessary degree of knowledge required by Section 7068 and shall include pertinent questions relating to the laws of this state, and the contracting business and trade.

(b) Contractors' licenses are to be issued to individual owners, partnerships, corporations, and limited liability companies in accordance with the provisions of this chapter.

(1) Every person who is an officer, member, responsible manager, or director of a corporation or limited liability company seeking licensure under this chapter shall be listed on the application as a member of the personnel of record.

(2) Every person who is a member of a partnership seeking licensure under this chapter shall be listed on the application as a member of the personnel record.

(c) An applicant shall qualify for licensure in accordance with the provisions of this subdivision as follows:

(1) An individual owner may qualify by examination for a contractor's license upon the appearance of the owner or a qualifying individual appearing as a responsible managing employee on behalf of the owner.

(2) A partnership may qualify by examination for a contractor's license upon the appearance of a partner or a qualifying individual appearing as a responsible managing employee on behalf of the copartnership.

(3) A corporation may qualify by examination for a contractor's license upon the appearance of a qualifying individual appearing either as a responsible managing officer or a responsible managing employee on behalf of the corporation.

(4) A limited liability company may qualify by examination for a contractor's license upon the appearance of a qualifying individual appearing as a responsible managing officer, a responsible managing manager, a responsible managing member, or a responsible managing employee on behalf of the company.

(d) No examination shall be required of a qualifying individual if, within the five-year period immediately preceding the application for licensure, the qualifying individual has either personally passed the written examination for the same classification being applied for, or has served as the qualifying individual for a licensee whose license was in good standing at any time during the five-year period immediately preceding the application for licensure and in the same classification being applied for.

SEC. 6. Section 7065.1 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

SEC. 7. Section 7065.5 of the Business and Professions Code is amended to read:

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

SEC. 8. Section 7068 of the Business and Professions Code is amended to read:

7068. (a) The board shall require an applicant to show the degree of knowledge and experience in the classification applied



for, and the general knowledge of the building, safety, health, and lien laws of the state and of the administrative principles of the contracting business that 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 managing employee who is qualified for the same license classification as the classification being applied for.

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

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

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

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

(d) The board shall, in addition, require an applicant who qualifies by means of a responsible managing employee under either paragraph (1) or (2) of subdivision (b) to show his or her 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.

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

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

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

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

SEC. 9. Section 7068.1 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

SEC. 10. Section 7068.2 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

SEC. 11. Section 7069 of the Business and Professions Code is amended to read:

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

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

SEC. 12. Section 7071 of the Business and Professions Code is amended to read:

7071. No license shall be issued to a corporation, partnership, limited liability company, or other combination or organization if a responsible officer or director of the corporation, or other combination or organization, or a partner of the copartnership, or a manager or officer of the limited liability company, or any member of an organization seeking licensure under this chapter does not meet the qualifications required of an applicant other than those qualifications relating to knowledge and experience.

SEC. 13. Section 7071.6.5 is added to the Business and Professions Code, to read:

7071.6.5. (a) The board shall require, as a condition precedent to the issuance, reissuance, reinstatement, reactivation, renewal, or continued valid use of a limited liability company license, that the applicant or licensee file or have on file a surety bond in the sum of one hundred thousand dollars (\$100,000).

(b) The bond required by this section shall be executed by an admitted surety in favor of the State of California, in a form

acceptable to the registrar and filed with the registrar, electronically or otherwise, by the applicant or licensee.

(c) The bond required by this section shall be for the benefit of any employee damaged by his or her employer's failure to pay wages, interest on wages, or fringe benefits and is intended to serve as an additional safeguard for workers employed by or contracted to work for a limited liability company.

(d) If an applicant or licensee subject to subdivision (a) is also a party to a collective bargaining agreement, the bond required by this section shall also cover, in addition to the coverage described in subdivision (c), welfare fund contributions, pension fund contributions, and apprentice program contributions.

(e) The bond required by this section shall not be applicable to a licensee whose license has been inactivated on the official records of the board during the period the license is inactive.

SEC. 14. Section 7071.7 of the Business and Professions Code is amended to read:

7071.7. (a) Except as provided in subdivision (b), the registrar shall accept a bond required by Section 7071.6, 7071.6.5, 7071.8, or 7071.9 as of the effective date shown on the bond, if the bond is received by the registrar within 90 days after that date, and shall reinstate the license to which the bond pertains, if otherwise eligible, retroactive to the effective date of the bond.

(b) Notwithstanding subdivision (a), the registrar shall accept a bond as of the effective date shown on the bond, even if the bond is not received by the registrar within 90 days after that date, upon a showing by the licensee, on a form acceptable to the registrar, that the failure to have a bond on file was due to circumstances beyond the control of the licensee. The registrar shall reinstate the license to which the bond pertains, if otherwise eligible, retroactive to the effective date of the bond.

SEC. 15. Section 7071.8 of the Business and Professions Code is amended to read:

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

(1) A person whose license has been suspended or revoked as a result of disciplinary action, or a person who was a qualifying individual for a licensee at any time during which cause for disciplinary action occurred resulting in suspension or revocation of the licensee's license, whether or not the qualifying individual had knowledge or participated in the prohibited act or omission.

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

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

(4) A partnership, corporation, limited liability company, firm, or association of which a member of the personnel of record, including, but not limited to, an officer, director, manager, partner, or qualifying person was, likewise, a manager, officer, director, or partner of a licensee at any time during which cause for disciplinary action occurred resulting in suspension or revocation of the license, and who had knowledge of or participated in the act or omission which was the cause for the disciplinary action.

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

(c) The bond is in addition to, may not be combined with, and does not replace any other type of bond required by this chapter. The bond shall remain on file with the registrar for a period of at least two years and for any additional time that the registrar

determines. The bond period shall run only while the license is current, active, and in good standing, and shall be extended until the license has been current, active, and in good standing for the required period. Each applicant or licensee shall be required to file only one disciplinary contractor's bond of the type described in this section for each application or license subject to this bond requirement.

SEC. 16. Section 7071.9 of the Business and Professions Code is amended to read:

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

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

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

(d) The qualifying individual for a limited liability company shall not be required to file or have on file a qualifying individual's

bond if he or she owns at least a 10-percent membership interest in the limited liability company and certifies to that fact on a form prescribed by the registrar.

SEC. 17. Section 7071.11 of the Business and Professions Code is amended to read:

7071.11. (a) The aggregate liability of a surety on a claim for wages and fringe benefits brought against a bond required by this article, other than a bond required by Section 7071.8, shall not exceed the sum of four thousand dollars (\$4,000). If a bond required by this article is insufficient to pay all claims in full, the sum of the bond shall be distributed to all claimants in proportion to the amount of their respective claims.

(b) No license may be renewed, reissued, or reinstated while a judgment or admitted claim in excess of the amount of the bond remains unsatisfied.

(c) Except for claims covered by subdivision (d), any action against a bond required under this article, excluding the judgment bond specified under Section 7071.17, shall be brought in accordance with the following:

(1) Within two years after the expiration of the license period during which the act or omission occurred. The provisions of this paragraph shall be applicable only if the license has not been inactivated, canceled, or revoked during the license period for which the bond was posted and accepted by the registrar as specified under Section 7071.7.

(2) If the license has been inactivated, canceled, or revoked, an action shall be brought within two years of the date the license of the active licensee would have expired had the license not been inactivated, canceled, or revoked. For the provisions of this paragraph to be applicable, the act or omission for which the action is filed must have occurred prior to the date the license was inactivated, canceled, or revoked.

(3) An action against a disciplinary bond filed by an active licensee pursuant to Section 7071.8 shall be brought in accordance with the provisions of paragraph (1) or (2), as applicable, or within two years after the last date for which a disciplinary bond filed pursuant to Section 7071.8 was required, whichever date is first.

(d) A claim to recover wages or fringe benefits shall be brought within six months from the date that the wage or fringe benefit delinquencies were discovered, but in no event shall a civil action



thereon be brought later than two years from the date the wage or fringe benefit contributions were due.

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

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

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

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

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

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

(2) A licensee that fails to file a protest as specified in this subdivision shall have 90 days from the date of notification by the board to submit proof of payment of the actual amount owed to the surety and, if applicable, proof of payment of any judgment or admitted claim in excess of the amount of the bond or, by operation of law, the license shall be suspended at the end of the 90 days. A license suspension pursuant to this subdivision shall be disclosed indefinitely as a failure to settle outstanding final liabilities in violation of this chapter. The disclosure specified by this

subdivision shall also be applicable to all licenses covered by the provisions of subdivision (g).

(g) During any period in which a surety remains unreimbursed for a loss or expense sustained on a bond issued pursuant to this article, the license for which the bond was issued, and any other license on which any member of the licensee's personnel of record has also been listed, may not be renewed, reissued, or reinstated while the licensee was subject to suspension or disciplinary action under this section.

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

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

SEC. 18. Section 7071.17 of the Business and Professions Code is amended to read:

7071.17. (a) Notwithstanding any other provision of law, the board shall require, as a condition precedent to accepting an application for licensure, renewal, reinstatement, or to change officers or other personnel of record, that an applicant, previously found to have failed or refused to pay a contractor, subcontractor, consumer, materials supplier, or employee based on an unsatisfied final judgment, file or have on file with the board a bond sufficient to guarantee payment of an amount equal to the unsatisfied final judgment or judgments. The applicant shall have 90 days from the date of notification by the board to file the bond or the application shall become void and the applicant shall reapply for issuance, reinstatement, or reactivation of a license. The board may not issue, reinstate, or reactivate a license until the bond is filed with the board. The bond required by this section is in addition to the contractor's bond. The bond shall be on file for a minimum of one year, after which the bond may be removed by submitting proof of satisfaction of all debts. The applicant may provide the board with a notarized copy of any accord, reached with any individual holding an unsatisfied final judgment, to satisfy a debt in lieu of filing the bond. The board shall include on the license application for issuance, reinstatement, or reactivation, a statement, to be made

under penalty of perjury, as to whether there are any unsatisfied judgments against the applicant on behalf of contractors, subcontractors, consumers, materials suppliers, or the applicant's employees. Notwithstanding any other provision of law, if it is found that the applicant falsified the statement then the license will be retroactively suspended to the date of issuance and the license will stay suspended until the bond, satisfaction of judgment, or notarized copy of any accord applicable under this section is filed.

(b) Notwithstanding any other provision of law, all licensees shall notify the registrar in writing of any unsatisfied final judgment imposed on the licensee. If the licensee fails to notify the registrar in writing within 90 days, the license shall be automatically suspended on the date that the registrar is informed, or is made aware of the unsatisfied final judgment. The suspension shall not be removed until proof of satisfaction of the judgment, or in lieu thereof, a notarized copy of an accord is submitted to the registrar. If the licensee notifies the registrar in writing within 90 days of the imposition of any unsatisfied final judgment, the licensee shall, as a condition to the continual maintenance of the license, file or have on file with the board a bond sufficient to guarantee payment of an amount equal to all unsatisfied judgments applicable under this section. The licensee has 90 days from date of notification by the board to file the bond or at the end of the 90 days the license shall be automatically suspended. In lieu of filing the bond required by this section, the licensee may provide the board with a notarized copy of any accord reached with any individual holding an unsatisfied final judgment.

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

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

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

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

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

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

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

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

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

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

SEC. 19. Section 7071.19 is added to the Business and Professions Code, to read:

7071.19. (a) As a condition of the issuance, reinstatement, reactivation, or continued valid use of a license under this chapter, in addition to any bond required under this article, a limited liability company shall, in accordance with the provisions of this section,

maintain a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims based upon acts, errors, or omissions arising out of the contracting services it provides.

(b) The total aggregate limit of liability under the policy or policies of insurance required under this section shall be as follows:

(1) For a limited liability company licensee with five or fewer persons listed on the members of the personnel of record, the aggregate limit shall not be less than one million dollars (\$1,000,000).

(2) For a limited liability company licensee with more than five persons listed on the members of the personnel of record, an additional one hundred thousand dollars (\$100,000) of insurance shall be obtained for each person listed on the personnel of record of the licensee except that the maximum amount of insurance is not required to exceed five million dollars (\$5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth under this section.

(c) The policy or policies required by this section may be issued on a claims-made or occurrence basis, and shall cover: (1) in the case of a claims-made policy, claims initially asserted in the designated period, and (2) in the case of an occurrence policy, occurrences during the designated period. For purposes of this section, “designated period” means a policy year or any other period designated in the policy that is not greater than 12 months. Any policy or policies secured to satisfy the provisions of this section shall be written by an insurer or insurers duly licensed by this state, and may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this section may be subject to a deductible or self-insured retention.

(d) The impairment or exhaustion of the aggregate limit of liability by amounts paid under any policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the licensee to acquire additional insurance coverage for that designated period. However, the aggregate limit of liability coverage (coverage limit) required by this section shall be reinstated by not later than the commencement

date of the next designated period, and the license of any licensee that fails to comply with this provision shall be suspended by operation of law until the date that the licensee complies with the coverage limit requirements of this section. In addition, the amount to which any coverage limit is depleted may be reported on the license record.

(e) Upon the dissolution and winding up of the company, the company shall, with respect to any insurance policy or policies then maintained pursuant to this section, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply with this section for a minimum of three years if reasonably available from the insurer.

(f) Prior to the issuance, reinstatement, or reactivation of a limited liability company license as provided under this chapter, the applicant or licensee shall, in the manner prescribed by the registrar, submit the information and documentation required by this section and requested by the registrar, demonstrating compliance with the financial security requirements specified by this section.

(g) For any insurance policy secured by a licensee in satisfaction of this section, a Certificate of Liability Insurance, signed by an authorized agent or employee of the insurer, shall be submitted electronically or otherwise to the registrar. The insurer issuing the certificate shall report to the registrar the following information for any policy required under this section: name, license number, policy number, dates that coverage is scheduled to commence and lapse, the date and amount of any payment of claims, and cancellation date if applicable.

(h) Upon the issuance, reinstatement, or reactivation of a license under this section, the registrar may post the following information to the licensee's license record on the Internet:

(1) The name of the insurer or insurers providing the liability policy or policies submitted by the licensee for the most recent designated period.

(2) The policy number(s) and the sum of the aggregate limit of liability provided by each.

SEC. 20. Section 7072.5 of the Business and Professions Code is amended to read:

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

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

SEC. 21. Section 7075.1 of the Business and Professions Code is amended to read:

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

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

- (1) To an individual upon application.
- (2) To a partnership upon application if there is no change in the partners or partnership structure.
- (3) To a corporation upon application if there is no change in the status of the corporation as registered with the Secretary of State.
- (4) To a limited liability company upon application if there is no change in the status of the company as registered with the Secretary of State.

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

- (1) To a corporation when the parent corporation has merged or created a subsidiary, the subsidiary has merged into the parent corporation, or the corporation has changed its filing status with the Secretary of State from a domestic corporation to a foreign corporation or from a foreign corporation to a domestic corporation,

and the new entity is being formed to continue the business of the formerly licensed corporation.

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

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

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

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

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

(7) To a limited liability company that is formed by a corporation to continue the business of the corporation subsequent to the cancellation of the corporate entity's license, provided the personnel listed for each entity are the same.

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

SEC. 22. Section 7076 of the Business and Professions Code is amended to read:

7076. (a) An individual license shall be canceled upon the death of a person licensed as an individual. An immediate member



of the family of the deceased licensee may request a continuance of the license to complete projects in progress and undertake new work for a reasonable amount of time to be determined by rules of the board. The request for a continuance must be made in writing and received at the board's headquarters office within 90 days after the death. Approval of the continuance of an individual license may be contingent upon meeting the bond requirements of Sections 7071.5 and 7071.6 within 90 days of notification by the board of that requirement. The immediate member of the family must apply for and obtain his or her own license to continue contracting after the continuance expires.

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

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

(c) A partnership license shall be canceled upon the disassociation of a general partner or upon the dissolution of the partnership. The disassociating partner or the remaining partner or partners shall notify the registrar in writing within 90 days of the disassociation of a general partner or dissolution of the partnership. Failure to notify the registrar of the disassociation or dissolution within 90 days shall cause the license to be canceled effective the date the written notification is received at the board's headquarters office. Failure to notify the registrar within 90 days of the disassociation or dissolution is grounds for disciplinary action. The remaining general partner or partners may request a continuance of the license to complete projects contracted for or in progress prior to the date of disassociation or dissolution for a reasonable length of time to be determined by rules of the board. The request for a continuance must be made in writing and received at the board's headquarters office within 90 days after the

disassociation or dissolution. The remaining general partner or partners must apply for and obtain a new license to undertake new work and to continue contracting after the continuance expires.

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

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

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

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

The disassociation of a limited partner will not affect the partnership license unless the partnership license has only one limited partner. In this case, the license will be canceled upon the disassociation of the limited partner unless a new limited partner is added to the license within 90 days of the disassociation. If the license is canceled, the remaining general partner or partners may request a continuance of the license to complete projects contracted for or in progress prior to the date of disassociation for a reasonable amount of time to be determined by rules of the board. The request for a continuance must be made in writing and received at the board's headquarters office within 90 days after the death. The remaining general partner or partners must apply for and obtain a

new license to undertake new work and to continue contracting after the continuance expires.

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

Any remaining entity or entities may request a continuance of the license to complete projects contracted for or in progress prior to the date of disassociation or dissolution for a reasonable amount of time to be determined by rules of the board. The request for a continuance must be made in writing and received at the board's headquarters office within 90 days of the disassociation or dissolution. The remaining entity or entities must apply for and obtain a new license to undertake new work and to continue contracting after the continuance expires.

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

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

(i) A limited liability company license shall be canceled upon the company's dissolution, merger, or surrender of its right to do business in this state. The limited liability company shall notify

the registrar in writing within 90 days of the dissolution, merger, or surrender. Failure to notify the registrar of the dissolution, merger, or surrender within 90 days shall cause the license to be canceled effective the date written notification is received at the board's headquarters office. If the limited liability company fails to notify the board of the dissolution, merger, or surrender, the limited liability company license shall be canceled 60 days after the board's discovery when researching the records of the Secretary of State. Failure to notify the registrar within 90 days of the dissolution, merger, or surrender is grounds for disciplinary action.

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

SEC. 23. Section 7076.2 of the Business and Professions Code is amended to read:

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

(b) Where the license of a limited liability company is suspended pursuant to subdivision (a), each person within the company identified in Section 7028.5 shall be personally liable up to one million dollars (\$1,000,000) each for damages resulting to third parties in connection with the company's performance, during the period of suspension, of any act or contract where a license is required by this chapter. This personal liability shall not apply where there has been substantial compliance with the licensure requirements, as described in subdivision (e) of Section 7031.

SEC. 24. Section 7085.6 of the Business and Professions Code is amended to read:

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

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

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

(4) Reinstatement may be made at any time following the suspension by complying with the arbitrator's award and the final order of the registrar. If no reinstatement of the license is made within 90 days of the date of the automatic suspension, the license and any other contractor's 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 arbitration award. 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 licensee shall be automatically prohibited from serving as an officer, director, associate, partner, manager, or qualifying individual of another licensee, for the period determined by the registrar and the employment, election, or association of that person by another licensee shall constitute grounds for disciplinary action. A qualifier disassociated pursuant to this section shall be replaced within 90 days from the date of disassociation. Upon failure to replace the qualifier within 90 days of the disassociation, the license of the other licensee shall be automatically suspended or the qualifier's classification removed at the end of the 90 days.

SEC. 25. Section 7090 of the Business and Professions Code is amended to read:

7090. The registrar may upon his or her own motion and shall upon the verified complaint in writing of any person, investigate the actions of any applicant, contractor, or home improvement salesperson within the state and may deny the licensure or the renewal of licensure of, or cite, temporarily suspend, or permanently revoke any license or registration if the applicant, licensee, or registrant, is guilty of or commits any one or more of the acts or omissions constituting causes for disciplinary action.

The registrar may proceed to take disciplinary action as in this article provided against an applicant or a person licensed or registered under the provisions of this chapter even though the grounds or cause for such disciplinary action arose upon projects or while the applicant, licensee, or registrant was acting in a capacity or under circumstances or facts which, under the provisions of Sections 7044, 7045, 7046, and 7048, would otherwise exempt the person or his or her operations from the provisions of this chapter.

Notwithstanding any provision of this chapter, if the registrar finds that any contractor licensed or registered under the provisions of this chapter has willfully and deliberately violated any state or local law relating to the issuance of building permits, other than failure to obtain a county or city permit for repair, maintenance, and adjustment of equipment where such repair, maintenance, or adjustment is valued at less than five hundred dollars (\$500) for labor or materials, or where the repair of a part or component part of mechanical equipment consists of replacing such part or component part of mechanical equipment in need of repair with the identical part or component part, the registrar shall take disciplinary action against the contractor's license in accordance with this chapter.

For the purpose of this section, there shall be a rebuttable presumption affecting the burden of proof that construction performed without a permit is a willful and deliberate violation.

For the purposes of this section, with respect to administrative proceedings or hearings to suspend or revoke a contractor's license, the registrar at all times shall have the burden of proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.

SEC. 26. 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 90 days of the date of the automatic suspension, the cited license and any other contractor's 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, manager, 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. A 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. 27. Section 7096 of the Business and Professions Code is amended to read:

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

SEC. 28. Section 7121 of the Business and Professions Code is amended to read:

7121. A 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 partner, officer, director, manager, or associate of any partnership, corporation, limited liability company, 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 partner, officer, director, manager, 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, manager, qualifying individual, or member of the personnel of record 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. 29. Section 7121.1 of the Business and Professions Code is amended to read:

7121.1. Notwithstanding any other provision of this chapter, the disassociation of a partner, officer, director, manager, or associate from the license of a partnership, corporation, limited



liability company, firm, or association whose license has been cited pursuant to Section 7099 shall not relieve the partner, officer, director, manager, or associate from responsibility for complying with the citation if he or she had knowledge of, or participated in, any of the prohibited acts for which the citation was issued. Section 7121 shall apply to a partner, officer, director, manager, or associate of a licensee that fails to comply with a citation after it is final.

SEC. 30. Section 7121.5 of the Business and Professions Code is amended to read:

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

SEC. 31. Section 7121.6 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

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

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

SEC. 32. Section 7122 of the Business and Professions Code is amended to read:

7122. The performance by an individual, partnership, corporation, limited liability company, firm, or association of an act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against a licensee other than the individual qualifying on behalf of the individual or entity, if the licensee was a partner, officer, director, manager, or associate of that individual, partnership, corporation, limited liability company, firm, or association at the time the act or omission occurred, and had knowledge of or participated in the prohibited act or omission.

SEC. 33. Section 7122.1 of the Business and Professions Code is amended to read:

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

SEC. 34. Section 7122.2 of the Business and Professions Code is amended to read:

7122.2. (a) Notwithstanding Section 7068.2 or any other provisions of this chapter, the disassociation of a qualifying individual from a license that has been referred to arbitration pursuant to Section 7085 shall not relieve the qualifying individual from the responsibility of complying with an arbitration award

rendered as a result of acts or omissions committed while acting as the qualifying individual for the license as provided under Sections 7068 and 7068.1.

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

SEC. 35. Section 7122.5 of the Business and Professions Code is amended to read:

7122.5. The performance by an individual, partnership, corporation, limited liability company, firm, or association of an act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against a licensee who at the time that the act or omission occurred was the qualifying individual of that individual, partnership, corporation, limited liability company, firm, or association, whether or not he or she had knowledge of or participated in the prohibited act or omission.

SEC. 36. 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, responsible managing manager, responsible managing member, or responsible managing 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, responsible managing manager, responsible managing member, or responsible managing employee, or for an asbestos certification or hazardous substance removal certification, shall not be more than sixty dollars (\$60).

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

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

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

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

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

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

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

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

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

(k) In addition to any other fees charged to C-10 and C-7 contractors, the board may charge a fee not to exceed twenty dollars (\$20), which shall be used by the board to enforce provisions of the Labor Code related to electrician certification.

SEC. 37. Section 7138 of the Business and Professions Code is amended to read:

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

SEC. 38. Section 7152 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

(6) A bona fide service repairperson who is in the employ of a licensed contractor and whose repair or service call is limited to the service, repair, or emergency repair initially requested by the buyer of the service.

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

SEC. 39. Section 7159 of the Business and Professions Code is amended to read:

7159. (a) (1) This section identifies the projects for which a home improvement contract is required, outlines the contract requirements, and lists the items that shall be included in the contract, or may be provided as an attachment.

(2) This section does not apply to service and repair contracts that are subject to Section 7159.10, if the contract for the applicable services complies with Sections 7159.10 to 7159.14, inclusive.

(3) This section does not apply to the sale, installation, and servicing of a fire alarm sold in conjunction with an alarm system, as defined in subdivision (n) of Section 7590.1, if all costs attributable to making the fire alarm system operable, including sale and installation costs, do not exceed five hundred dollars (\$500), and the licensee complies with the requirements set forth in Section 7159.9.

(4) This section does not apply to any costs associated with monitoring a burglar or fire alarm system.

(5) Failure by the licensee, his or her agent or salesperson, or by a person subject to be licensed under this chapter, to provide the specified information, notices, and disclosures in the contract, or to otherwise fail to comply with any provision of this section, is cause for discipline.

(b) For purposes of this section, “home improvement contract” means an agreement, whether oral or written, or contained in one or more documents, between a contractor and an owner or between a contractor and a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, if the work is to be performed in, to, or upon the residence or dwelling unit of the tenant, for the performance of a home improvement, as defined in Section 7151, and includes all labor, services, and materials to be furnished and performed thereunder, if the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars (\$500). “Home improvement contract” also means an agreement, whether oral or written, or contained in one or more documents, between a salesperson, whether or not he or she is a home improvement salesperson, and an owner or a tenant, regardless of the number of residence or dwelling units contained in the building in which the tenant resides, which provides for the sale, installation, or furnishing of home improvement goods or services.

(c) In addition to the specific requirements listed under this section, every home improvement contract and any person subject to licensure under this chapter or his or her agent or salesperson shall comply with all of the following:

(1) The writing shall be legible.

(2) Any printed form shall be readable. Unless a larger typeface is specified in this article, text in any printed form shall be in at least 10-point typeface and the headings shall be in at least 10-point boldface type.

(3) (A) Before any work is started, the contractor shall give the buyer a copy of the contract signed and dated by both the contractor and the buyer. The buyer’s receipt of the copy of the contract initiates the buyer’s rights to cancel the contract pursuant to Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

(B) The contract shall contain on the first page, in a typeface no smaller than that generally used in the body of the document, both of the following:

(i) The date the buyer signed the contract.

(ii) The name and address of the contractor to which the applicable “Notice of Cancellation” is to be mailed, immediately preceded by a statement advising the buyer that the “Notice of Cancellation” may be sent to the contractor at the address noted on the contract.

(4) The contract shall include a statement that, upon satisfactory payment being made for any portion of the work performed, the contractor, prior to any further payment being made, shall furnish to the person contracting for the home improvement or swimming pool work a full and unconditional release from any potential lien claimant claim or mechanic’s lien authorized pursuant to Section 3110 of the Civil Code for that portion of the work for which payment has been made.

(5) A change-order form for changes or extra work shall be incorporated into the contract and shall become part of the contract only if it is in writing and signed by the parties prior to the commencement of any work covered by a change order.

(6) The contract shall contain, in close proximity to the signatures of the owner and contractor, a notice stating that the owner or tenant has the right to require the contractor to have a performance and payment bond.

(7) If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

(8) The provisions of this section are not exclusive and do not relieve the contractor from compliance with any other applicable provision of law.

(d) A home improvement contract and any changes to the contract shall be in writing and signed by the parties to the contract prior to the commencement of work covered by the contract or an applicable change order and, except as provided in paragraph (8) of subdivision (a) of Section 7159.5, shall include or comply with all of the following:

(1) The name, business address, and license number of the contractor.

(2) If applicable, the name and registration number of the home improvement salesperson that solicited or negotiated the contract.

(3) The following heading on the contract form that identifies the type of contract in at least 10-point boldface type: “Home Improvement.”

(4) The following statement in at least 12-point boldface type: “You are entitled to a completely filled in copy of this agreement, signed by both you and the contractor, before any work may be started.”

(5) The heading: “Contract Price,” followed by the amount of the contract in dollars and cents.

(6) If a finance charge will be charged, the heading: “Finance Charge,” followed by the amount in dollars and cents. The finance charge is to be set out separately from the contract amount.

(7) The heading: “Description of the Project and Description of the Significant Materials to be Used and Equipment to be Installed,” followed by a description of the project and a description of the significant materials to be used and equipment to be installed. For swimming pools, the project description required under this paragraph also shall include a plan and scale drawing showing the shape, size, dimensions, and the construction and equipment specifications.

(8) If a downpayment will be charged, the details of the downpayment shall be expressed in substantially the following form, and shall include the text of the notice as specified in subparagraph (C):

(A) The heading: “Downpayment.”

(B) A space where the actual downpayment appears.

(C) The following statement in at least 12-point boldface type:

**“THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS.”**

(9) If payments, other than the downpayment, are to be made before the project is completed, the details of these payments, known as progress payments, shall be expressed in substantially the following form, and shall include the text of the statement as specified in subparagraph (C):



(A) A schedule of progress payments shall be preceded by the heading: “Schedule of Progress Payments.”

(B) Each progress payment shall be stated in dollars and cents and specifically reference the amount of work or services to be performed and materials and equipment to be supplied.

(C) The section of the contract reserved for the progress payments shall include the following statement in at least 12-point boldface type:

“The schedule of progress payments must specifically describe each phase of work, including the type and amount of work or services scheduled to be supplied in each phase, along with the amount of each proposed progress payment. IT IS AGAINST THE LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR WORK NOT YET COMPLETED, OR FOR MATERIALS NOT YET DELIVERED. HOWEVER, A CONTRACTOR MAY REQUIRE A DOWNPAYMENT.”

(10) The contract shall address the commencement of work to be performed in substantially the following form:

(A) A statement that describes what constitutes substantial commencement of work under the contract.

(B) The heading: “Approximate Start Date.”

(C) The approximate date on which work will be commenced.

(11) The estimated completion date of the work shall be referenced in the contract in substantially the following form:

(A) The heading: “Approximate Completion Date.”

(B) The approximate date of completion.

(12) If applicable, the heading: “List of Documents to be Incorporated into the Contract,” followed by the list of documents incorporated into the contract.

(13) The heading: “Note About Extra Work and Change Orders,” followed by the following statement:

“Extra Work and Change Orders become part of the contract once the order is prepared in writing and signed by the parties prior to the commencement of work covered by the new change order. The order must describe the scope of the extra work or change, the cost to be added or subtracted from the contract, and the effect the order will have on the schedule of progress payments.”

(e) Except as provided in paragraph (8) of subdivision (a) of Section 7159.5, all of the following notices shall be provided to the owner as part of the contract form as specified or, if otherwise authorized under this subdivision, may be provided as an attachment to the contract:

(1) A notice concerning commercial general liability insurance. This notice may be provided as an attachment to the contract if the contract includes the following statement: “A notice concerning commercial general liability insurance is attached to this contract.” The notice shall include the heading “Commercial General Liability Insurance (CGL),” followed by whichever of the following statements is both relevant and correct:

(A) “(The name on the license or ‘This contractor’) does not carry commercial general liability insurance.”

(B) “(The name on the license or ‘This contractor’) carries commercial general liability insurance written by (the insurance company). You may call (the insurance company) at \_\_\_\_\_ to check the contractor’s insurance coverage.”

(C) “(The name on the license or ‘This contractor’) is self-insured.”

(D) “(The name on the license or ‘This contractor’) is a limited liability company that carries liability insurance or maintains other security as required by law. You may call (the insurance company or trust company or bank) at \_\_\_\_ to check on the contractor’s insurance coverage or security.”

(2) A notice concerning workers’ compensation insurance. This notice may be provided as an attachment to the contract if the contract includes the statement: “A notice concerning workers’ compensation insurance is attached to this contract.” The notice shall include the heading “Workers’ Compensation Insurance” followed by whichever of the following statements is correct:

(A) “(The name on the license or ‘This contractor’) has no employees and is exempt from workers’ compensation requirements.”

(B) “(The name on the license or ‘This contractor’) carries workers’ compensation insurance for all employees.”

(3) A notice that provides the buyer with the following information about the performance of extra or change-order work:

(A) A statement that the buyer may not require a contractor to perform extra or change-order work without providing written authorization prior to the commencement of work covered by the new change order.

(B) A statement informing the buyer that extra work or a change order is not enforceable against a buyer unless the change order also identifies all of the following in writing prior to the commencement of work covered by the new change order:

- (i) The scope of work encompassed by the order.
- (ii) The amount to be added or subtracted from the contract.
- (iii) The effect the order will make in the progress payments or the completion date.

(C) A statement informing the buyer that the contractor's failure to comply with the requirements of this paragraph does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.

(4) A notice with the heading "Mechanics' Lien Warning" written as follows:

**"MECHANICS' LIEN WARNING:**

Anyone who helps improve your property, but who is not paid, may record what is called a mechanics' lien on your property. A mechanics' lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder.

Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics' liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a '20-day Preliminary Notice.' This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if he or she is not paid.

**BE CAREFUL.** The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides

material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices.

You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property.

**PROTECT YOURSELF FROM LIENS.** You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

**PAY WITH JOINT CHECKS.** One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB's Internet Web site at [www.cslb.ca.gov](http://www.cslb.ca.gov) or call CSLB at 800-321-CSLB (2752).

**REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME.** This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe.”

(5) The following notice shall be provided in at least 12-point typeface:

“Information about the Contractors' State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions, and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you

may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees.

For more information:

Visit CSLB's Internet Web site at [www.cslb.ca.gov](http://www.cslb.ca.gov)

Call CSLB at 800-321-CSLB (2752)

Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

(6) (A) The notice set forth in subparagraph (B) and entitled "Three-Day Right to Cancel," shall be provided to the buyer unless the contract is:

(i) Negotiated at the contractor's place of business.

(ii) Subject to the "Seven-Day Right to Cancel," as set forth in paragraph (7).

(iii) Subject to licensure under the Alarm Company Act (Chapter 11.6 (commencing with Section 7590)), provided the alarm company licensee complies with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as applicable.

(B) "Three-Day Right to Cancel

You, the buyer, have the right to cancel this contract within three business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(C) The “Three-Day Right to Cancel” notice required by this paragraph shall comply with all of the following:

- (i) The text of the notice is at least 12-point boldface type.
- (ii) The notice is in immediate proximity to a space reserved for the owner’s signature.
- (iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.
- (iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.
- (v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with the following statement: “The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a ‘Notice of the Three-Day Right to Cancel.’”
- (vi) The notice shall be accompanied by a completed form in duplicate, captioned “Notice of Cancellation,” which also shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

“Notice of Cancellation”  
 /enter date of transaction/  
 \_\_\_\_\_  
 (Date)

“You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.”

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to \_\_\_\_\_, /name of seller/ at \_\_\_\_\_ /address of seller’s place of business/ not later than midnight of \_\_\_\_\_ (Date)

I hereby cancel this transaction. \_\_\_\_\_ (Date) \_\_\_\_\_ (Buyer’s signature)

(7) (A) The following notice entitled “Seven-Day Right to Cancel” shall be provided to the buyer for any contract that is written for the repair or restoration of residential premises damaged by any sudden or catastrophic event for which a state of emergency has been declared by the President of the United States or the Governor, or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county:

“Seven-Day Right to Cancel

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor’s place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received them, goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor’s instructions on how to return the goods at the contractor’s expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract.”

(B) The “Seven-Day Right to Cancel” notice required by this subdivision shall comply with all of the following:

- (i) The text of the notice is at least 12-point boldface type.
- (ii) The notice is in immediate proximity to a space reserved for the owner’s signature.
- (iii) The owner acknowledges receipt of the notice by signing and dating the notice form in the signature space.
- (iv) The notice is written in the same language, e.g., Spanish, as that principally used in any oral sales presentation.
- (v) The notice may be attached to the contract if the contract includes, in at least 12-point boldface type, a checkbox with the following statement: “The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a ‘Notice of the Seven-Day Right to Cancel.’”
- (vi) The notice shall be accompanied by a completed form in duplicate, captioned “Notice of Cancellation,” which shall also be attached to the agreement or offer to purchase and be easily detachable, and which shall contain the following statement written in the same language, e.g., Spanish, as used in the contract:

“Notice of Cancellation”

/enter date of transaction/

\_\_\_\_\_

(Date)



“You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller’s expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.”

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to \_\_\_\_\_,  
/name of seller/

at \_\_\_\_\_  
/address of seller’s place of business/

not later than midnight of \_\_\_\_\_.  
(Date)

I hereby cancel this transaction. \_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Buyer’s signature)

SEC. 40. Section 7159.10 of the Business and Professions Code is amended to read:

7159.10. (a) (1) “Service and repair contract” means an agreement between a contractor or salesperson for a contractor, whether a general contractor or a specialty contractor, who is

licensed or subject to be licensed pursuant to this chapter with regard to the transaction, and a homeowner or a tenant, for the performance of a home improvement as defined in Section 7151, that conforms to the following requirements:

(A) The contract amount is seven hundred fifty dollars (\$750) or less.

(B) The prospective buyer initiated contact with the contractor to request the work.

(C) The contractor does not sell the buyer goods or services beyond those reasonably necessary to take care of the particular problem that caused the buyer to contact the contractor.

(D) No payment is due, or accepted by the contractor, until the work is completed.

(2) As used in this subdivision, “the work is completed” means that all of the conditions that caused the buyer to contact the contractor for service and repairs have been fully corrected and, if applicable, the building department has accepted and approved the corrective work.

(b) For any contract written pursuant to subdivision (a) or otherwise presented to the buyer as a service and repair contract, unless all of the conforming requirements for service and repair contracts specified in subdivision (a) are met, the contract requirements for home improvements set forth in subdivisions (c), (d), and (e) of Section 7159 shall be applicable, including any rights to rescind the contract as set forth in Section 1689.6 or 1689.7 of the Civil Code, regardless of the aggregate contract price.

(c) If all of the requirements of subdivision (a) are met, only those notices and other requirements set forth in this section are applicable to the contract.

(d) Every service and repair contract described in subdivision (a) shall include, or otherwise comply with, all of the following:

(1) The contract, any changes to the contract, and any attachments shall be in writing and signed or acknowledged by the parties as set forth in this section, and shall be written in the same language (for example Spanish) as principally used in the oral sales presentation.

(2) The writing shall be legible.

(3) Any printed form shall be readable. Unless a larger typeface is specified in this article, the text shall be in at least 10-point

typeface and the headings shall be in at least 10-point boldface type.

(4) Before any work is started, the contractor shall give the buyer a copy of the contract signed and dated by the buyer and by the contractor or the contractor's representative.

(5) The name, business address, and license number of the contractor.

(6) The date the contract was signed.

(7) A notice concerning commercial general liability insurance. This notice may be provided as an attachment to the contract if the contract includes the statement, "A notice concerning commercial general liability insurance is attached to this contract." The notice shall include the heading "Commercial General Liability Insurance (CGL)" followed by whichever of the following statements is both relevant and correct:

(A) "(The name on the license or 'This contractor') does not carry commercial general liability insurance."

(B) "(The name on the license or 'This contractor') carries commercial general liability insurance written by (the insurance company). You may call the (insurance company) at \_\_\_\_ to check the contractor's insurance coverage."

(C) "(The name on the license or 'This contractor') is self-insured."

(D) "(The name on the license or 'This contractor') is a limited liability company that carries liability insurance or maintains other security as required by law. You may call (the insurance company or trust company or bank) at \_\_\_\_ to check on the contractor's insurance coverage or security."

(8) A notice concerning workers' compensation insurance. This notice may be provided as an attachment to the contract if the contract includes the statement "A notice concerning workers' compensation insurance is attached to this contract." The notice shall include the heading "Workers' Compensation Insurance" followed by whichever of the following statements is both relevant and correct:

(A) "(The name on the license or 'This contractor') has no employees and is exempt from workers' compensation requirements."

(B) "(The name on the license or 'This contractor') carries workers' compensation insurance for all employees."

(e) Every service and repair contract described in subdivision (a) shall provide the following information, notices, and disclosures in the contract:

(1) Notice of the type of contract in at least 10-point boldface type: “Service and Repair.”

(2) A notice in at least 12-point boldface type, signed and dated by the buyer: “Notice to the Buyer: The law requires that service and repair contracts must meet all of the following requirements:

(A) The price must be no more than seven hundred and fifty dollars (\$750).

(B) You, the buyer, must have initiated contact with the contractor to request the work.

(C) The contractor must not sell you goods or services beyond those reasonably necessary to take care of the particular problem that caused you to contact the contractor.

(D) No payment is due and the contractor may not accept any payment until the work is completed.”

(3) The notice in at least 12-point boldface type: “Notice to the Buyer: You are entitled to a completely filled in and signed copy of this agreement before any work may be started.”

(4) If applicable, the heading “List of Documents to be Incorporated into the Contract,” followed by the list of documents to be incorporated into the contract.

(5) Where the contract is a fixed contract amount, the heading: “Contract Price” followed by the amount of the contract in dollars and cents.

(6) If a finance charge will be charged, the heading: “Finance Charge” followed by the amount in dollars and cents. The finance charge is to be set out separately from the contract amount.

(7) Where the contract is estimated by a time and materials formula, the heading “Estimated Contract Price” followed by the estimated contract amount in dollars and cents. The contract must disclose the set rate and the estimated cost of materials. The contract must also disclose how time will be computed, for example, in increments of quarter hours, half hours, or hours, and the statement: “The actual contract amount of a time and materials contract may not exceed the estimated contract amount without written authorization from the buyer.”

(8) The heading: “Description of the Project and Materials to be Used and Equipment to be Installed” followed by a description

of the project and materials to be used and equipment to be installed.

(9) The statement: “The law requires that the contractor offer you any parts that were replaced during the service call. If you do not want the parts, initial the checkbox labeled ‘OK for contractor to take replaced parts.’ ”

(10) A checkbox labeled “OK for contractor to take replaced parts.”

(11) If a service charge is charged, the heading “Amount of Service Charge” followed by the service charge, and the statement “You may be charged only one service charge, including any trip charge or inspection fee.”

(12) (A) The contract, or an attachment to the contract as specified under subparagraph (C) of this paragraph, must include, in immediate proximity to the space reserved for the buyer’s signature, the following statement, in at least 12-point boldface type, which shall be dated and signed by the buyer:

“YOUR RIGHTS TO CANCEL BEFORE WORK BEGINS

(A) You, the buyer, have the right to cancel this contract until:

1. You receive a copy of this contract signed and dated by you and the contractor; and
2. The contractor starts work.

(B) However, even if the work has begun you, the buyer, may still cancel the contract for any of the reasons specified in items 1 through 4 of this paragraph. If any of these reasons occur, you may cancel the contract within three business days of signing the contract for normal service and repairs, or within seven business days of signing a contract to repair or correct conditions resulting from any sudden or catastrophic event for which a state of emergency has been declared by the President of the United States or the Governor, or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county:

1. You may cancel the contract if the price, including all labor and materials, is more than seven hundred fifty dollars (\$750).
2. You may cancel the contract if you did not initiate the contact with the contractor to request the work.
3. You may cancel the contract if the contractor sold you goods or services beyond those reasonably necessary to take care of the particular problem that caused you to contact the contractor.

4. You may cancel the contract if the payment was due or the contractor accepted any money before the work was complete.

(C) If any of these reasons for canceling occurred, you may cancel the contract as specified under paragraph (B) above by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business within three business days or, if applicable, seven business days of the date you received a signed and dated copy of this contract. Include your name, your address, and the date you received a signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(B) This paragraph does not apply to home improvement contracts entered into by a person who holds an alarm company operator's license issued pursuant to Chapter 11.6 (commencing with Section 7590), provided the person complies with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as applicable.

(C) The notice required in this paragraph may be incorporated as an attachment to the contract if the contract includes a checkbox and whichever statement is relevant in at least 12-point boldface type:

(i) "The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a 'Notice of Your Right to Cancel.'"

(ii) "The law requires that the contractor give you a notice explaining your right to cancel contracts for the repair or restoration of residential premises damaged by a disaster. Initial the checkbox if the contractor has given you a 'Notice of Your Right to Cancel.'"

(f) A bona fide service repairperson employed by a licensed contractor or subcontractor hired by a licensed contractor may enter into a service and repair contract on behalf of that contractor.

(g) The provisions of this section are not exclusive and do not relieve the contractor from compliance with any other applicable provision of law.

SEC. 41. Section 17002 of the Corporations Code is amended to read:

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

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

(c) Notwithstanding Section 17375, a limited liability company may render services that may be lawfully rendered only pursuant to a license, certificate, or registration authorized by the Business and Professions Code if the applicable provisions of the Business and Professions Code authorize a limited liability company to hold that license, certificate, or registration.

SEC. 42. The Contractors' State License Board shall begin processing applications for licensure from limited liability companies, pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, as amended by this act, no later than January 1, 2012.

SEC. 43. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

















Approved \_\_\_\_\_, 2010

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*Governor*