

**ASSEMBLY BILL**

**No. 2027**

---

---

**Introduced by Assembly Member Valadao**

February 23, 2012

---

---

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2027, as introduced, Valadao. Contractors: law suits.

Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors. Existing law prohibits a person, acting as a contractor, from bringing an action to collect compensation for performance of any act or contract requiring a license without alleging that he or she was licensed at all times during the performance of the act or contract, except as specified. Existing law provides that the judicial doctrine of substantial compliance does not apply where a person who engaged in the business or acted in the capacity of a contractor has never been a duly licensed contractor in this state.

This bill would specify circumstances under which a court may find that such a person has substantially complied with the licensing requirements under the law with respect to an act or contract, including that the person had a valid license prior to forming a business entity and that license number has been assigned and transferred to the business entity, the person had a valid license at the time the act or contract commenced but did not assign and transfer that contract to the new business entity, the person is the responsible managing officer of the business entity, the person or entity maintained a workers' compensation

insurance policy pertaining to the act or contract, and the person had his or her license reinstated within 30 days following receipt of notice that the license was suspended.

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

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

1 SECTION 1. Section 7031 of the Business and Professions  
2 Code is amended to read:

3 7031. (a) Except as provided in subdivision (e), no person  
4 engaged in the business or acting in the capacity of a contractor,  
5 may bring or maintain any action, or recover in law or equity in  
6 any action, in any court of this state for the collection of  
7 compensation for the performance of any act or contract where a  
8 license is required by this chapter without alleging that he or she  
9 was a duly licensed contractor at all times during the performance  
10 of that act or contract, regardless of the merits of the cause of action  
11 brought by the person, except that this prohibition shall not apply  
12 to contractors who are each individually licensed under this chapter  
13 but who fail to comply with Section 7029.

14 (b) Except as provided in subdivision (e), a person who utilizes  
15 the services of an unlicensed contractor may bring an action in  
16 any court of competent jurisdiction in this state to recover all  
17 compensation paid to the unlicensed contractor for performance  
18 of any act or contract.

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

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

1 licensure is controverted, the burden of proof to establish licensure  
2 or proper licensure shall be on the licensee.

3 (e) (1) The judicial doctrine of substantial compliance shall  
4 not apply under this section where the person who engaged in the  
5 business or acted in the capacity of a contractor has never been a  
6 duly licensed contractor in this state. However, notwithstanding  
7 subdivision (b) of Section 143, the court may determine that there  
8 has been substantial compliance with licensure requirements under  
9 this section if it is shown at an evidentiary hearing that the person  
10 who engaged in the business or acted in the capacity of a contractor  
11 ~~(1)~~ (A) had been duly licensed as a contractor in this state prior to  
12 the performance of the act or contract, ~~(2)~~ (B) acted reasonably  
13 and in good faith to maintain proper licensure, ~~(3)~~ (C) did not know  
14 or reasonably should not have known that he or she was not duly  
15 licensed when performance of the act or contract commenced, and  
16 ~~(4)~~ (D) acted promptly and in good faith to reinstate his or her  
17 license upon learning it was invalid.

18 (2) *Notwithstanding any other provision of this chapter, a court*  
19 *may determine that a person has substantially complied with the*  
20 *licensure requirements under this chapter if the person shows, at*  
21 *an evidentiary hearing, that he or she is duly licensed for the*  
22 *purposes of this chapter. A court may also make a finding of*  
23 *substantial compliance if all of the following circumstances exist:*

24 (A) *The person had a valid license prior to forming a business*  
25 *entity and that license number has been assigned and transferred*  
26 *to the business entity.*

27 (B) *The person had a valid license at the time the contract was*  
28 *commenced yet failed to assign and transfer that contract to the*  
29 *new business entity.*

30 (C) *The person is the responsible managing officer of the new*  
31 *business entity.*

32 (D) *The person or business entity maintained a workers'*  
33 *compensation insurance policy pertaining to the act or contract*  
34 *as to which the doctrine of substantial compliance is being invoked.*

35 (E) *The person's license was reinstated within 30 days following*  
36 *the person's receipt of notice that the license was suspended.*

37 (f) The exceptions to the prohibition against the application of  
38 the judicial doctrine of substantial compliance found in subdivision  
39 (e) shall apply to all contracts entered into on or after January 1,  
40 1992, and to all actions or arbitrations arising therefrom, except

1 that the amendments to subdivisions (e) and (f) enacted during the  
2 1994 portion of the 1993–94 Regular Session of the Legislature  
3 shall not apply to either of the following:

4 (1) Any legal action or arbitration commenced prior to January  
5 1, 1995, regardless of the date on which the parties entered into  
6 the contract.

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