

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1114

Introduced by Assembly Member Achadjian

February 22, 2013

An act to amend Section ~~5000~~ 7157 of the Business and Professions Code, relating to ~~accountants~~ *contractors*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1114, as amended, Achadjian. ~~California Board of Accountancy.~~
Contractors: home improvement contracts.

The Contractors' State License Law provides for the licensure and regulation of contractors by the Contractors' State License Board within the Department of Consumer Affairs. That law prohibits a salesperson or contractor's agent from accepting compensation of any kind for, or on account of, a home improvement transaction, or any other transaction involving a work of improvement, from a person other than the contractor whom he or she represents with respect to the transaction, and from making a payment to any person other than his or her employer on account of the sales transaction. The law also prohibits a contractor from paying, crediting, or allowing any consideration or compensation of any kind to any other contractor or salesperson other than a licensee for, or on account of, the performance of a work of improvement or services, including, but not limited to, home improvement work or services, except as specified.

This bill would delete the latter provision prohibiting contractors from paying, crediting, or allowing any consideration or compensation, as described above.

Existing law, until January 1, 2016, establishes the California Board of Accountancy, which is comprised of 15 members, to be appointed as specified. Under existing law, the board licenses and regulates the practice of accountancy in the State of California.

~~This bill would make technical, nonsubstantive changes to these provisions.~~

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 7157 of the Business and Professions
2 Code is amended to read:

3 7157. (a) Except as otherwise provided in subdivision (b), as
4 a part of, or in connection with, the inducement to enter into ~~any~~
5 a home improvement contract or other contract, ~~which that~~ may
6 be performed by a contractor, ~~no a person may shall not~~ promise
7 or offer to pay, credit, or allow to any owner, compensation or
8 reward for the procurement or placing of home improvement
9 business with others.

10 (b) A contractor or his or her agent or salesperson may give
11 tangible items to prospective customers for advertising or sales
12 promotion purposes ~~where if~~ the gift is not conditioned upon
13 obtaining a contract for home improvement work ~~if~~, the gift does
14 not exceed a value of five dollars (\$5), and only one ~~such~~ gift is
15 given in connection with any one transaction.

16 (c) ~~No~~ A salesperson or contractor's agent ~~may shall not~~ accept
17 any compensation of any kind, for or on account of a home
18 improvement transaction, or any other transaction involving a work
19 of improvement, from ~~any a~~ person other than the contractor whom
20 he or she represents with respect to the transaction, nor shall the
21 salesperson or agent make ~~any a~~ payment to any person other than
22 his or her employer on account of the sales transaction.

23 (d) ~~No contractor shall pay, credit, or allow any consideration~~
24 ~~or compensation of any kind to any other contractor or salesperson~~
25 ~~other than a licensee for or on account of the performance of any~~
26 ~~work of improvement or services, including, but not limited to,~~
27 ~~home improvement work or services, except: (1) where the person~~
28 ~~to or from whom the consideration is to be paid is not subject to~~
29 ~~or is exempted from the licensing requirements of this chapter, or~~

1 ~~(2) where the transaction is not subject to the requirements of this~~
2 ~~chapter.~~

3 ~~As~~

4 ~~(d) As used in this section “owners” “owner” shall also mean~~
5 ~~“tenant.”~~

6 ~~Commission of any act prohibited by~~

7 ~~(e) Any violation of this section is a misdemeanor and constitutes~~
8 ~~a cause for disciplinary action.~~

9 ~~SECTION 1. Section 5000 of the Business and Professions~~
10 ~~Code is amended to read:~~

11 ~~5000. (a) There is in the Department of Consumer Affairs the~~
12 ~~California Board of Accountancy, which consists of 15 members,~~
13 ~~7 of whom shall be licensees, and 8 of whom shall be public~~
14 ~~members who shall not be licentiates of the board or registered by~~
15 ~~the board. The board has the powers and duties conferred by this~~
16 ~~chapter.~~

17 ~~(b) The Governor shall appoint four of the public members, and~~
18 ~~the seven licensee members as provided in this section. The Senate~~
19 ~~Committee on Rules and the Speaker of the Assembly shall each~~
20 ~~appoint two public members. In appointing the seven licensee~~
21 ~~members, the Governor shall appoint members representing a cross~~
22 ~~section of the accounting profession with at least two members~~
23 ~~representing a small public accounting firm. For the purposes of~~
24 ~~this chapter, a small public accounting firm shall be defined as a~~
25 ~~professional firm that employs a total of no more than four~~
26 ~~licensees as partners, owners, or full-time employees in the practice~~
27 ~~of public accountancy within the State of California.~~

28 ~~(c) This section shall remain in effect only until January 1, 2016,~~
29 ~~and as of that date is repealed, unless a later enacted statute, that~~
30 ~~is enacted before January 1, 2016, deletes or extends that date.~~

31 ~~(d) Notwithstanding any other law, the repeal of this section~~
32 ~~renders the board subject to review by the appropriate policy~~
33 ~~committees of the Legislature. However, the review of the board~~
34 ~~shall be limited to reports or studies specified in this chapter and~~
35 ~~those issues identified by the appropriate policy committees of the~~
36 ~~Legislature and the board regarding the implementation of new~~
37 ~~licensing requirements.~~

O