

Assembly Bill No. 1236

Passed the Assembly May 2, 2013

Chief Clerk of the Assembly

Passed the Senate July 8, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 7071.19 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1236, Hagman. Contractors: limited liability companies.

The Contractors' State License Law provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law authorizes the Contractors' State License Board to issue a contractor's license to a limited liability company, but requires, 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 for damages arising out of specified claims of employees. Existing law also requires 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. Under existing law, the policy or policies of insurance secured to satisfy these provisions are required to be written by an insurer or insurers duly licensed by this state.

This bill would additionally permit those policies to be written by an eligible surplus line insurer, as specified.

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

SECTION 1. Section 7071.19 of the Business and Professions Code is amended 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 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 requirements of this section shall be written by an insurer or insurers duly licensed by this state or an eligible surplus line insurer, with the insurance procured pursuant to Section 1765.1 of the Insurance Code, 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, or, in the case of a surplus line policy, the surplus line broker, 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) Any policy numbers and the sum of the aggregate limit of liability provided by each.

Approved _____, 2013

Governor