

AMENDED IN SENATE APRIL 8, 2013

**SENATE BILL**

**No. 679**

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**Introduced by Senator Berryhill**

February 22, 2013

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An act to amend ~~Section 6770~~ Sections 6770, 6770.1, 6770.2, 8776, 8776.1, and 8776.2 of the Business and Professions Code, relating to ~~professional engineers: licensees~~.

LEGISLATIVE COUNSEL'S DIGEST

SB 679, as amended, Berryhill. ~~Professional engineers: licensees: Licensees:~~ reporting requirements.

Existing law establishes, within the Department of Consumer Affairs, the Board of for Professional Engineers and Land Surveyors. Existing law prohibits, in order to safeguard life, health, property, and public welfare, any person from practicing civil, electrical, or mechanical ~~engineering~~ *engineering, or land surveying* unless appropriately licensed or specifically exempted from licensure, as specified. Existing law requires a licensee to report to the board in writing the occurrence of any of the specified events ~~that occurred on or after January 1, 2008~~, within 90 days of the date the licensee has knowledge of the event, including the conviction of the licensee of any felony or any other crime that is substantially related to the qualifications, functions, and duties of a licensed professional engineer. Existing law also requires a licensee to report to the board in writing, as specified, *but not limited to*, any civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award against the licensee in any action alleging fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, or recklessness by the licensee in the practice of professional engineering

or land surveying if the amount or value of the judgment, settlement, or arbitration award is \$50,000 or greater.

This bill would ~~increase the latter provision to require that~~ revise those provisions to instead require a licensee to report to the board ~~in writing, as specified, the occurrence of any indictment or information charging a felony, any conviction, any disciplinary action, or any civil action settlement or administrative action resulting in a settlement against the licensee, as specified, if the amount or value of the settlement is greater than \$50,000, and any civil action judgment, settlement, or binding arbitration award or administrative action resulting in a judgment or binding arbitration award against the licensee, as specified, if the amount or value is~~ ~~\$55,000~~ \$25,000 or greater.

Existing law requires a court that rendered a conviction or judgment against a licensee, as specified, to report that fact to the board and provide the board with various documents. Existing law requires a state or local government agency that self-insures a licensee or an insurer that provides professional liability insurance to a licensee to report to the board specified information when payment of a civil action judgment, settlement, or arbitration award, as specified, against a licensee of the board has been made.

This bill would require a court that entered a settlement against a licensee, as specified, to report that fact to the board and provide the board a copy of the settlement and any orders or opinions accompanying the settlement. The bill would require a state or local government agency that self insures a licensee or an insurer that provides professional liability insurance to a licensee to report to the board specified information when payment of a civil action judgment, settlement, or binding arbitration award, in an amount greater than \$50,000 against a licensee of the board has been made.

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

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

- 1 SECTION 1. Section 6770 of the Business and Professions
- 2 Code is amended to read:
- 3 6770. ~~(a) A licensee shall report to the board in writing the~~
- 4 ~~occurrence of any of the following events that occurred on or after~~
- 5 ~~January 1, 2008, within 90 days of the date the licensee has~~
- 6 ~~knowledge of the event:~~

1 ~~(1) The conviction of the licensee of any felony.~~

2 ~~(2) The conviction of the licensee of any other crime that is~~  
3 ~~substantially related to the qualifications, functions, and duties of~~  
4 ~~a licensed professional engineer.~~

5 ~~(3) Any~~

6 6770. (a) *A licensee shall report to the board in writing the*  
7 *occurrence of any of the following events that occurred on or after*  
8 *January 1, 2008, within 90 days of the date the licensee has*  
9 *knowledge of the event:*

10 *(1) The conviction of the licensee of any felony.*

11 *(2) The conviction of the licensee of any other crime that is*  
12 *substantially related to the qualifications, functions, and duties of*  
13 *a licensed professional engineer.*

14 ~~(3) A civil action judgment, settlement, arbitration award, or~~  
15 ~~administrative action resulting in a judgment, settlement, or~~  
16 ~~arbitration award settlement against the licensee in any action~~  
17 ~~alleging fraud, deceit, misrepresentation, breach or violation of~~  
18 ~~contract, negligence, incompetence, or recklessness by the licensee~~  
19 ~~in the practice of professional engineering if the amount or value~~  
20 ~~of the judgment, settlement, or arbitration award settlement is~~  
21 ~~fifty-five thousand dollars (\$55,000) or greater. greater than fifty~~  
22 ~~thousand dollars (\$50,000).~~

23 *(4) A civil action judgment or binding arbitration award or*  
24 *administrative action resulting in a judgment or binding arbitration*  
25 *award against the licensee in any action alleging fraud, deceit,*  
26 *misrepresentation, breach or violation of contract, negligence,*  
27 *incompetence, or recklessness by the licensee in the practice of*  
28 *professional engineering if the amount or value of the judgment*  
29 *or binding arbitration award is twenty-five thousand dollars*  
30 *(\$25,000) or greater.*

31 (b) The report required by subdivision (a) shall be signed by  
32 the licensee and set forth the facts that constitute the reportable  
33 event. If the reportable event involves the action of an  
34 administrative agency or court, the report shall set forth the title  
35 of the matter, court or agency name, docket number, and the date  
36 the reportable event occurred.

37 (c) A licensee shall promptly respond to oral or written inquiries  
38 from the board concerning the reportable events, including inquiries  
39 made by the board in conjunction with license renewal.

1 (d) Nothing in this section shall impose a duty upon any licensee  
2 to report to the board the occurrence of any of the events set forth  
3 in subdivision (a) either by or against any other licensee.

4 (e) Failure of a licensee to report to the board in the time and  
5 manner required by this section shall be grounds for disciplinary  
6 action.

7 (f) For the purposes of this section, a conviction includes the  
8 initial plea, verdict, or finding of guilt; a plea of no contest; or  
9 pronouncement of sentence by a trial court even though the  
10 conviction may not be final or sentence actually imposed until all  
11 appeals are exhausted.

12 *SEC. 2. Section 6770.1 of the Business and Professions Code*  
13 *is amended to read:*

14 6770.1. Within 30 days of entry of a conviction described in  
15 paragraphs (1) and (2) of subdivision (a) of Section ~~6770~~ or 6770,  
16 *a settlement described in paragraph (3) of subdivision (a) of*  
17 *Section 6770, or a judgment described in paragraph ~~(3)~~ (4) of*  
18 *subdivision (a) of Section 6770 by a court of this state that has*  
19 *been notified that the defendant is a licensee of the board, the court*  
20 *that rendered the ~~conviction~~ conviction, settlement, or judgment*  
21 *shall report that fact to the board and provide the board with a copy*  
22 *of the ~~conviction~~ conviction, settlement, or judgment and any orders*  
23 *or opinions of the court accompanying or ordering the ~~conviction~~*  
24 *conviction, settlement, or judgment.*

25 *SEC. 3. Section 6770.2 of the Business and Professions Code*  
26 *is amended to read:*

27 6770.2. (a) Within 30 days of payment of all or any portion  
28 of any civil action judgment, settlement, or *binding* arbitration  
29 award described in Section 6770 against a licensee of the board  
30 in which the amount or value of the judgment, settlement, or  
31 *binding* arbitration award is *greater than* fifty thousand dollars  
32 ~~(\$50,000) or greater;~~ (\$50,000), any insurer providing professional  
33 liability insurance to that licensee shall report to the board the  
34 name of the licensee; the amount or value of the judgment,  
35 settlement, or *binding* arbitration award; the amount paid by the  
36 insurer; and the identity of the payee.

37 (b) Within 30 days of payment of all or any portion of any civil  
38 action judgment, settlement, or *binding* arbitration award described  
39 in Section 6770 against a licensee of the board in which the amount  
40 or value of the judgment, settlement, or *binding* arbitration award

1 is *greater than* fifty thousand dollars ~~(\$50,000) or greater,~~  
 2 ~~(\$50,000),~~ any state or local government agency that self insures  
 3 that licensee shall report to the board the name of the licensee; the  
 4 amount or value of the judgment, settlement, or *binding* arbitration  
 5 award; the amount paid; and the identity of the payee.

6 *SEC. 4. Section 8776 of the Business and Professions Code is*  
 7 *amended to read:*

8 ~~8776. (a) A licensee shall report to the board in writing the~~  
 9 ~~occurrence of any of the following events that occurred on or after~~  
 10 ~~January 1, 2008, within 90 days of the date the licensee has~~  
 11 ~~knowledge of the event:~~

12 ~~(1) The conviction of the licensee of any felony.~~

13 ~~(2) The conviction of the licensee of any other crime that is~~  
 14 ~~substantially related to the qualifications, functions, and duties of~~  
 15 ~~a licensed land surveyor.~~

16 *8776. (a) A licensee shall report to the board in writing the*  
 17 *occurrence of any of the following events that occurred on or after*  
 18 *January 1, 2008, within 90 days of the date the licensee has*  
 19 *knowledge of the event:*

20 *(1) The conviction of the licensee of any felony.*

21 *(2) The conviction of the licensee of any other crime that is*  
 22 *substantially related to the qualifications, functions, and duties of*  
 23 *a licensed land surveyor.*

24 ~~(3) Any~~

25 ~~(3) A civil action judgment, settlement, arbitration award, or~~  
 26 ~~administrative action resulting in a judgment, settlement, or~~  
 27 ~~arbitration award settlement against the licensee in any action~~  
 28 ~~alleging fraud, deceit, misrepresentation, breach or violation of~~  
 29 ~~contract, negligence, incompetence, or recklessness by the licensee~~  
 30 ~~in the practice of land surveying if the amount or value of the~~  
 31 ~~judgment, settlement, or arbitration award is fifty thousand dollars~~  
 32 ~~(\$50,000) or greater. settlement is greater than fifty thousand~~  
 33 ~~dollars (\$50,000).~~

34 *(4) A civil action judgment or binding arbitration award or*  
 35 *administrative action resulting in a judgment or binding arbitration*  
 36 *award against the licensee in any action alleging fraud, deceit,*  
 37 *misrepresentation, breach or violation of contract, negligence,*  
 38 *incompetence, or recklessness by the licensee in the practice of*  
 39 *land surveying if the amount or value of the judgment or binding*

1 *arbitration award is twenty-five thousand dollars (\$25,000) or*  
 2 *greater.*

3 (b) The report required by subdivision (a) shall be signed by  
 4 the licensee and set forth the facts that constitute the reportable  
 5 event. If the reportable event involves the action of an  
 6 administrative agency or court, the report shall set forth the title  
 7 of the matter, court or agency name, docket number, and the dates  
 8 the reportable event occurred.

9 (c) A licensee shall promptly respond to oral or written inquiries  
 10 from the board concerning the reportable events, including inquiries  
 11 made by the board in conjunction with license renewal.

12 (d) Nothing in this section shall impose a duty upon any licensee  
 13 to report to the board the occurrence of any of the events set forth  
 14 in subdivision (a) either by or against any other licensee.

15 (e) Failure of a licensee to report to the board in the time and  
 16 manner required by this section shall be grounds for disciplinary  
 17 action.

18 (f) For purposes of this section, a conviction includes the initial  
 19 plea, verdict, or finding of guilt; a plea of no contest; or  
 20 pronouncement of sentence by a trial court even though the  
 21 conviction may not be final or sentence actually imposed until all  
 22 appeals are exhausted.

23 *SEC. 5. Section 8776.1 of the Business and Professions Code*  
 24 *is amended to read:*

25 8776.1. Within 30 days of entry of a conviction described in  
 26 paragraphs (1) and (2) of subdivision (a) of Section ~~8776~~ or 8776,  
 27 *a settlement described in paragraph (3) of subdivision (a) of*  
 28 *Section 8776, or a judgment described in paragraph ~~(3)~~ (4) of*  
 29 *subdivision (a) of Section ~~8776~~ 8776 by a court of this state that*  
 30 *has been notified that the defendant is a licensee of the board, the*  
 31 *court that rendered the conviction or judgment shall report that*  
 32 *fact to the board and provide the board with a copy of the*  
 33 *~~conviction~~ conviction, settlement, or judgment and any orders or*  
 34 *opinions of the court accompanying or ordering the ~~conviction~~*  
 35 *conviction, settlement, or judgment.*

36 *SEC. 6. Section 8776.2 of the Business and Professions Code*  
 37 *is amended to read:*

38 8776.2. (a) Within 30 days of payment of all or any portion  
 39 of any civil action judgment, settlement, or *binding* arbitration  
 40 award described in Section 8776 against a licensee of the board

1 in which the amount or value of the judgment, settlement, or  
2 *binding* arbitration award is *greater than* fifty thousand dollars  
3 ~~(\$50,000) or greater, (\$50,000)~~, any insurer providing professional  
4 liability insurance to that licensee shall report to the board the  
5 name of the licensee; the amount or value of the judgment,  
6 settlement, or *binding* arbitration award; the amount paid by the  
7 insurer; and the identity of the payee.

8 (b) Within 30 days of payment of all or any portion of any civil  
9 action judgment, settlement, or *binding* arbitration award described  
10 in Section 8776 against a licensee of the board in which the amount  
11 or value of the judgment, settlement, or *binding* arbitration award  
12 is *greater than* fifty thousand dollars ~~(\$50,000) or greater,~~  
13 ~~(\$50,000)~~, any state or local government agency that self insures  
14 that licensee shall report to the board the name of the licensee; the  
15 amount or value of the judgment, settlement, or *binding* arbitration  
16 award; the amount paid; and the identity of the payee.

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