

AMENDED IN ASSEMBLY JUNE 12, 2013

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 679

Introduced by Senator Berryhill

February 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

SB 679, as amended, Berryhill. Licensees: reporting requirements.

Existing law establishes, within the Department of Consumer Affairs, the Board 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, 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 within 90 days of the date the licensee has knowledge of the event, including, 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 revise those provisions to instead require a licensee to report to the board 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 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 \$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~~ *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~~ *award* 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:
- 7 (1) The conviction of the licensee of any felony.
- 8 (2) The conviction of the licensee of any other crime that is
- 9 substantially related to the qualifications, functions, and duties of
- 10 a licensed professional engineer.
- 11 (3) A civil action settlement or administrative action resulting
- 12 in a settlement against the licensee in any action alleging fraud,
- 13 deceit, misrepresentation, breach or violation of contract,

1 negligence, incompetence, or recklessness by the licensee in the
2 practice of professional engineering if the amount or value of the
3 settlement is greater than fifty thousand dollars (\$50,000).

4 (4) A civil action judgment or binding arbitration award or
5 administrative action resulting in a judgment or binding arbitration
6 award against the licensee in any action alleging fraud, deceit,
7 misrepresentation, breach or violation of contract, negligence,
8 incompetence, or recklessness by the licensee in the practice of
9 professional engineering if the amount or value of the judgment
10 or binding arbitration award is twenty-five thousand dollars
11 (\$25,000) or greater.

12 (b) The report required by subdivision (a) shall be signed by
13 the licensee and set forth the facts that constitute the reportable
14 event. If the reportable event involves the action of an
15 administrative agency or court, the report shall set forth the title
16 of the matter, court or agency name, docket number, and the date
17 the reportable event occurred.

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

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

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

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

32 SEC. 2. Section 6770.1 of the Business and Professions Code
33 is amended to read:

34 6770.1. Within 30 days of entry of a conviction described in
35 paragraphs (1) and (2) of subdivision (a) of Section 6770, a
36 settlement described in paragraph (3) of subdivision (a) of Section
37 6770, or a judgment described in paragraph (4) of subdivision (a)
38 of Section 6770, by a court of this state that has been notified that
39 the defendant is a licensee of the board, the court that rendered the
40 conviction, settlement, or judgment shall report that fact to the

1 board and provide the board with a copy of the conviction,
2 settlement, or judgment and any orders or opinions of the court
3 accompanying or ordering the conviction, settlement, or judgment.

4 SEC. 3. Section 6770.2 of the Business and Professions Code
5 is amended to read:

6 6770.2. (a) Within 30 days of payment of all or any portion
7 of any civil action judgment, settlement, or binding arbitration
8 award described in Section 6770 against a licensee of the ~~board~~
9 ~~in which the amount or value of the judgment, settlement, or~~
10 ~~binding arbitration award is greater than fifty thousand dollars~~
11 ~~(\$50,000); board, any insurer providing professional liability~~
12 ~~insurance to that licensee shall report to the board the name of the~~
13 ~~licensee; the amount or value of the judgment, settlement, or~~
14 ~~binding arbitration award; the amount paid by the insurer; and the~~
15 ~~identity of the payee.~~

16 (b) Within 30 days of payment of all or any portion of any civil
17 action judgment, settlement, or binding arbitration award described
18 in Section 6770 against a licensee of the ~~board in which the amount~~
19 ~~or value of the judgment, settlement, or binding arbitration award~~
20 ~~is greater than fifty thousand dollars (\$50,000); board, any state~~
21 ~~or local government agency that self-insures self-insures that~~
22 ~~licensee shall report to the board the name of the licensee; the~~
23 ~~amount or value of the judgment, settlement, or binding arbitration~~
24 ~~award; the amount paid; and the identity of the payee.~~

25 SEC. 4. Section 8776 of the Business and Professions Code is
26 amended to read:

27 8776. (a) A licensee shall report to the board in writing the
28 occurrence of any of the following events that occurred on or after
29 January 1, 2008, within 90 days of the date the licensee has
30 knowledge of the event:

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

32 (2) The conviction of the licensee of any other crime that is
33 substantially related to the qualifications, functions, and duties of
34 a licensed land surveyor.

35 (3) A civil action settlement or administrative action resulting
36 in a settlement against the licensee in any action alleging fraud,
37 deceit, misrepresentation, breach or violation of contract,
38 negligence, incompetence, or recklessness by the licensee in the
39 practice of land surveying if the amount or value of the settlement
40 is greater than fifty thousand dollars (\$50,000).

1 (4) A civil action judgment or binding arbitration award or
2 administrative action resulting in a judgment or binding arbitration
3 award against the licensee in any action alleging fraud, deceit,
4 misrepresentation, breach or violation of contract, negligence,
5 incompetence, or recklessness by the licensee in the practice of
6 land surveying if the amount or value of the judgment or binding
7 arbitration award is twenty-five thousand dollars (\$25,000) or
8 greater.

9 (b) The report required by subdivision (a) shall be signed by
10 the licensee and set forth the facts that constitute the reportable
11 event. If the reportable event involves the action of an
12 administrative agency or court, the report shall set forth the title
13 of the matter, court or agency name, docket number, and the dates
14 the reportable event occurred.

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

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

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

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

29 SEC. 5. Section 8776.1 of the Business and Professions Code
30 is amended to read:

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

1 SEC. 6. Section 8776.2 of the Business and Professions Code
2 is amended to read:
3 8776.2. (a) Within 30 days of payment of all or any portion
4 of any civil action judgment, settlement, or binding arbitration
5 award described in Section 8776 against a licensee of the board
6 ~~in which the amount or value of the judgment, settlement, or~~
7 ~~binding arbitration award is greater than fifty thousand dollars~~
8 ~~(\$50,000); board, any insurer providing professional liability~~
9 insurance to that licensee shall report to the board the name of the
10 licensee; the amount or value of the judgment, settlement, or
11 binding arbitration award; the amount paid by the insurer; and the
12 identity of the payee.
13 (b) Within 30 days of payment of all or any portion of any civil
14 action judgment, settlement, or binding arbitration award described
15 in Section 8776 against a licensee of the board ~~in which the amount~~
16 ~~or value of the judgment, settlement, or binding arbitration award~~
17 ~~is greater than fifty thousand dollars (\$50,000); board, any state~~
18 or local government agency that ~~self-insures~~ *self-insures* that
19 licensee shall report to the board the name of the licensee; the
20 amount or value of the judgment, settlement, or binding arbitration
21 award; the amount paid; and the identity of the payee.