

AMENDED IN ASSEMBLY APRIL 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1793**

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**Introduced by Assembly Member Holden**

February 4, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1793, as amended, Holden. Contractors: license requirements: recovery actions.

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 authorizes a person who utilizes an unlicensed contractor to bring an action in any court of competent jurisdiction in this state for recovery of compensation paid to the unlicensed contractor for performance of any act or contract. Existing law authorizes a court to determine that a contractor has substantially complied with licensure requirements if specified conditions are met. Existing law also requires a contractor to demonstrate that he or she acted promptly and in good faith to reinstate his or her license upon learning it was invalid in order to meet substantial compliance of these licensure requirements.

This bill would instead require a court to find that a contractor is in substantial compliance with the licensure requirements if prescribed evidentiary standards are met. *The bill, for purposes of a person seeking recovery of moneys paid to an unlicensed contractor, also would delete the requirement that the contractor be duly licensed at all times during the performance of the work in order for the contractor to receive*

compensation. The bill instead would authorize a contractor to retain compensation for the portion of the work performed while the contractor was duly licensed.

The bill would declare that its provisions are declaratory of existing law.

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~~, *contract for which compensation is sought*,  
11 regardless of the merits of the cause of action brought by the  
12 ~~person, except that this person~~. *This prohibition shall not apply to*  
13 *contractors who are each individually licensed under this chapter*  
14 *but who fail to comply with Section 7029.*

15 (b) Except as provided in subdivision (e), a person who utilizes  
16 the services of an unlicensed contractor may bring an action in  
17 any court of competent jurisdiction in this state to recover all  
18 compensation paid to the unlicensed contractor for performance  
19 of any act or ~~contract~~. *contract, except that this right to recover*  
20 *from an unlicensed contractor shall not apply to any compensation*  
21 *paid to the contractor for work performed during a time when the*  
22 *contractor was duly licensed.*

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

28 (d) If licensure or proper licensure is controverted, then proof  
29 of licensure pursuant to this section shall be made by production  
30 of a verified certificate of licensure from the Contractors' State

1 License Board which establishes that the individual or entity  
2 bringing the action was duly licensed in the proper classification  
3 of contractors ~~at all times~~ during the performance of any act or  
4 contract ~~covered by the action.~~ *for which compensation is sought.*  
5 Nothing in this subdivision shall require any person or entity  
6 controverting licensure or proper licensure to produce a verified  
7 certificate. When licensure or proper licensure is controverted, the  
8 burden of proof to establish licensure or proper licensure shall be  
9 on the licensee.

10 (e) The judicial doctrine of substantial compliance shall not  
11 apply under this section where the person who engaged in the  
12 business or acted in the capacity of a contractor has never been a  
13 duly licensed contractor in this state. However, notwithstanding  
14 subdivision (b) of Section 143, the court shall determine that there  
15 has been substantial compliance with licensure requirements under  
16 this section if it is shown at an evidentiary hearing that the person  
17 who engaged in the business or acted in the capacity of a contractor  
18 (1) had been duly licensed as a contractor in this state prior to the  
19 performance of the act or contract, (2) acted reasonably and in  
20 good faith to maintain proper licensure, and (3) acted promptly  
21 and in good faith to remedy the failure to comply with the licensure  
22 requirements ~~under this section~~ upon learning of the failure.

23 (f) The exceptions to the prohibition against the application of  
24 the judicial doctrine of substantial compliance found in subdivision  
25 (e) shall apply to all contracts entered into on or after January 1,  
26 1992, and to all actions or arbitrations arising therefrom, except  
27 that the amendments to subdivisions (e) and (f) enacted during the  
28 1994 portion of the 1993–94 Regular Session of the Legislature  
29 shall not apply to either of the following:

30 (1) Any legal action or arbitration commenced prior to January  
31 1, 1995, regardless of the date on which the parties entered into  
32 the contract.

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

36 ~~SEC. 2. The amendment of Section 7031 of the Business and~~  
37 ~~Professions Code made by this act does not constitute a change~~  
38 ~~in, but is declaratory of, existing law.~~

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