

AMENDED IN ASSEMBLY MAY 4, 2016

AMENDED IN ASSEMBLY APRIL 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1793

Introduced by Assembly Member Holden

February 4, 2016

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~~

remove 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.

Existing law authorizes a person who provides work authorized for a site improvement to have a lien against the property equal to the value of the work. Existing law provides that a security interest taken to secure payment for site improvements is unenforceable if the contractor was not licensed during all times during the performance of the improvements.

The bill would make the security interest enforceable for work performed while the contractor was duly licensed.

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 during the performance of that act
- 10 or contract for which compensation is sought, regardless of the
- 11 merits of the cause of action brought by the person. This prohibition
- 12 shall not apply to contractors who are each individually licensed
- 13 under this chapter but who fail to comply with Section 7029.
- 14 (b) Except as provided in subdivision (e), a person who utilizes
- 15 the services of an unlicensed contractor may bring an action in
- 16 any court of competent jurisdiction in this state to recover all
- 17 compensation paid to the unlicensed contractor for performance
- 18 of any act or contract, except that this right to recover from an
- 19 unlicensed contractor shall not apply to any compensation paid to
- 20 the contractor for work performed during a time when the
- 21 contractor was duly licensed.

1 (c) A security interest taken to secure any payment for the
2 performance of any act or contract for which a license is required
3 by this chapter is ~~unenforceable if the person performing the act~~
4 ~~or contract was not a duly licensed contractor at all times during~~
5 ~~the performance of the act or contract.~~ *enforceable for work*
6 *performed while the contractor was duly licensed.*

7 (d) If licensure or proper licensure is controverted, then proof
8 of licensure pursuant to this section shall be made by production
9 of a verified certificate of licensure from the Contractors' State
10 License Board which establishes that the individual or entity
11 bringing the action was duly licensed in the proper classification
12 of contractors during the performance of any act or contract for
13 which compensation is sought. Nothing in this subdivision shall
14 require any person or entity controverting licensure or proper
15 licensure to produce a verified certificate. When licensure or proper
16 licensure is controverted, the burden of proof to establish licensure
17 or proper licensure shall be on the licensee.

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

31 (f) The exceptions to the prohibition against the application of
32 the judicial doctrine of substantial compliance found in subdivision
33 (e) shall apply to all contracts entered into on or after January 1,
34 1992, and to all actions or arbitrations arising therefrom, except
35 that the amendments to subdivisions (e) and (f) enacted during the
36 1994 portion of the 1993–94 Regular Session of the Legislature
37 shall not apply to either of the following:

38 (1) Any legal action or arbitration commenced prior to January
39 1, 1995, regardless of the date on which the parties entered into
40 the contract.

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

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