

AMENDED IN SENATE AUGUST 2, 2016

AMENDED IN ASSEMBLY MAY 4, 2016

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~~ *met, including that the contractor did not know or should not reasonably have known, that he or she was not duly licensed when the performance under the contract occurred*. 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 revise certain of the criteria for 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 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. requirements, including removing the condition that the contractor did not know or should not have reasonably have known, that he or she was unlicensed during performance of the contract.~~

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

1 (b) Except as provided in subdivision (e), a person who utilizes  
2 the services of an unlicensed contractor may bring an action in  
3 any court of competent jurisdiction in this state to recover all  
4 compensation paid to the unlicensed contractor for performance  
5 of any act or contract, ~~except that this right to recover from an~~  
6 ~~unlicensed contractor shall not apply to any compensation paid to~~  
7 ~~the contractor for work performed during a time when the~~  
8 ~~contractor was duly licensed.~~ *contract.*

9 (c) A security interest taken to secure any payment for the  
10 performance of any act or contract for which a license is required  
11 by this chapter is ~~enforceable for work performed while the~~  
12 ~~contractor was duly licensed.~~ *unenforceable if the person*  
13 *performing the act or contract was not a duly licensed contractor*  
14 *at all times during the performance of the act or contract.*

15 (d) If licensure or proper licensure is controverted, then proof  
16 of licensure pursuant to this section shall be made by production  
17 of a verified certificate of licensure from the Contractors' State  
18 License Board which establishes that the individual or entity  
19 bringing the action was duly licensed in the proper classification  
20 of contractors *at all times* during the performance of any act or  
21 contract ~~for which compensation is sought.~~ *covered by the action.*  
22 Nothing in this subdivision shall require any person or entity  
23 controverting licensure or proper licensure to produce a verified  
24 certificate. When licensure or proper licensure is controverted, the  
25 burden of proof to establish licensure or proper licensure shall be  
26 on the licensee.

27 (e) The judicial doctrine of substantial compliance shall not  
28 apply under this section where the person who engaged in the  
29 business or acted in the capacity of a contractor has never been a  
30 duly licensed contractor in this state. However, notwithstanding  
31 subdivision (b) of Section 143, the court ~~shall~~ *may* determine that  
32 there has been substantial compliance with licensure requirements  
33 under this section if it is shown at an evidentiary hearing that the  
34 person who engaged in the business or acted in the capacity of a  
35 contractor (1) had been duly licensed as a contractor in this state  
36 prior to the performance of the act or contract, (2) acted reasonably  
37 and in good faith to maintain proper licensure, and (3) acted  
38 promptly and in good faith to remedy the failure to comply with  
39 the licensure requirements upon learning of the failure.

1 (f) The exceptions to the prohibition against the application of  
2 the judicial doctrine of substantial compliance found in subdivision  
3 (e) shall apply to all contracts entered into on or after January 1,  
4 1992, and to all actions or arbitrations arising therefrom, except  
5 that the amendments to subdivisions (e) and (f) enacted during the  
6 1994 portion of the 1993–94 Regular Session of the Legislature  
7 shall not apply to either of the following:

8 (1) Any legal action or arbitration commenced prior to January  
9 1, 1995, regardless of the date on which the parties entered into  
10 the contract.

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