

Assembly Bill No. 1793

CHAPTER 244

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

[Approved by Governor August 30, 2016. Filed with
Secretary of State August 30, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1793, 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, 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 revise certain of the criteria for a court to find that a contractor is in substantial compliance with the licensure 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.

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

SECTION 1. Section 7031 of the Business and Professions Code is amended to read:

7031. (a) Except as provided in subdivision (e), no person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract where a license is required by this chapter without alleging that he or she was a duly licensed contractor at all times during the performance of that act or contract regardless of the merits of the cause of action brought by the person, except that this prohibition shall not apply to contractors who

are each individually licensed under this chapter but who fail to comply with Section 7029.

(b) Except as provided in subdivision (e), a person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

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

(d) If licensure or proper licensure is controverted, then proof of licensure pursuant to this section shall be made by production of a verified certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action. Nothing in this subdivision shall require any person or entity controverting licensure or proper licensure to produce a verified certificate. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure shall be on the licensee.

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

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

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

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