

AMENDED IN ASSEMBLY JUNE 8, 2016

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN ASSEMBLY JULY 1, 2015

AMENDED IN SENATE APRIL 21, 2015

**SENATE BILL**

**No. 465**

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**Introduced by ~~Senator Hill~~ *Senators Hill and Hancock***

February 25, 2015

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~~An act to amend Section 7124.6 of, and to add Sections 7071.18 and 7071.20 to, the Business and Professions Code, relating to professions and vocations. An act to add Sections 7021 and 7071.18 to the Business and Professions Code, and to add Section 18924.5 to the Health and Safety Code, relating to building construction.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 465, as amended, Hill. ~~Contractors: discipline.~~ *Building construction: contractors: discipline: reporting: building standards.*

*(1) Existing law, the Contractors' State License Law, provides for the licensure, regulation, and discipline of contractors by the Contractors' State License Board. Existing law requires the board, with the approval of the Director of Consumer Affairs, to appoint a registrar of contractors to serve as the executive officer and secretary of the board. Under existing law, protection of the public is required to be the highest priority for the Contractors' State License Board in exercising its licensing, regulatory, and disciplinary functions.*

*Under existing law, the Division of Occupational Safety and Health has the power, jurisdiction, and supervision over every employment and place of employment in this state, which is necessary to adequately enforce and administer all laws and lawful standards and orders, or*

*special orders requiring such employment and place of employment to be safe, and requiring the protection of the life, safety, and health of every employee in such employment or place of employment.*

*This bill, by January 1, 2018, would require the board to enter into an interagency agreement with the Division of Occupational Safety and Health to ensure that specified disciplinary information relating to a licensed contractor is timely reported to the board. The bill, by January 1, 2018, would also require the board to enter into an interagency agreement with any other state or local agency the board deems to be in possession of information relevant to its priority to protect the public. By requiring a local agency to enter into an interagency agreement with the board, the bill would impose a state-mandated local program.*

*This bill would require a licensee to report to the registrar within 90 days of the date that the licensee has knowledge of the conviction of the licensee for any felony or any other crime substantially related to the qualifications, functions, and duties of a licensed contractor.*

*By January 1, 2018, this bill would require the board to report to the Legislature the results of a study to determine if the boards' ability to protect the public would be enhanced by regulations requiring licensees to report judgments, arbitration awards against them, or settlement payments of claims for construction defects they have made in excess of a certain amount to be determined by the board, as provided. The bill would require the board to consult with licensees, insurers, consumers, and other interested parties during the development of the study.*

*(2) Under existing law, there exists the California Building Standards Commission. Existing law requires the California Building Standards Commission to, among other things, review the standards of adopting state agencies and approve, return for amendment with recommended changes, or reject building standards submitted to the commission for its approval, as provided.*

*This bill would require the California Building Standards Commission to convene a specified working group to investigate existing building standards associated with the construction, inspection, and maintenance of exterior elevated elements. By January 1, 2018, the bill would require the working group to report to the California Building Standards Commission any findings and possible recommendations for statutory changes or changes to the California Building Standards Code. By January 1, 2018, the bill would also require the working group to provide that report to a specified legislative committee. However, if, at*

*any time, it is determined by the working group that one or more changes to the California Building Standards Code are needed as soon as possible in order to protect the public, the bill would require the working group to submit the proposed changes to the California Building Standards Commission for consideration as soon as possible.*

*(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law requires the board, with the approval of the Director of Consumer Affairs, to appoint a registrar of contractors to serve as the executive officer and secretary of the board.~~

~~This bill would require a licensee to report to the registrar within 90 days of the date that the licensee has knowledge of the conviction of the licensee of any felony or any other crime substantially related to the qualifications, functions, and duties of a licensed contractor, or any civil action settlement or administrative action resulting in a settlement worth \$50,000 or more, or a binding arbitration or administrative action resulting in binding arbitration worth \$25,000 or more, resulting from specified acts. Failure to comply with this requirement would be grounds for disciplinary action. The bill would also require any insurer providing professional liability insurance to a licensee or a state or local government agency that self-insures that licensee to, within 30 days of payment of all or any portion of a civil action settlement or binding arbitration award against the licensee, report to the registrar the name of the licensee, the amount of value of the settlement or binding arbitration award, the amount paid, and the identity of the payee. The bill would make these provisions operative if the Legislature appropriates moneys from the Contractors' License Fund for these purposes and grants sufficient hiring authority to the board.~~

~~Existing law requires the registrar of contractors to make available to the public the date, nature, and status of complaints against a licensee that have been referred for investigation regarding allegations that if proven would present a risk of harm to the public.~~

~~The bill would require the registrar to make available to the public all civil action settlements, binding arbitration awards, and administrative actions pursuant to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: ~~no~~-yes.

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

1     SECTION 1. Section 7021 is added to the Business and  
 2     Professions Code, to read:

3     7021. (a) By January 1, 2018, the board shall enter into an  
 4     interagency agreement with the Division of Occupational Safety  
 5     and Health to ensure that any citation, fine, or any other actions  
 6     taken by the division against a licensed contractor, along with any  
 7     other information the division may possess regarding a licensed  
 8     contractor, is timely reported to the board.

9     (b) By January 1, 2018, the board shall enter into an interagency  
 10    agreement with any other state or local agency the board deems  
 11    to be in possession of any information relevant to its priority to  
 12    protect the public described in Section 7000.6.

13    SEC. 2. Section 7071.18 is added to the Business and  
 14    Professions Code, to read:

15    7071.18. (a) Notwithstanding any other law, a licensee shall  
 16    report to the registrar in writing the occurrence of any of the  
 17    following within 90 days after the licensee obtains knowledge of  
 18    the event:

19    (1) The conviction of the licensee for any felony.

20    (2) The conviction of the licensee for any other crime that is  
 21    substantially related to the qualifications, functions, and duties of  
 22    a licensed contractor.

23    (b) By January 1, 2018, the board shall report to the Legislature  
 24    the results of a study to determine if the boards' ability to protect  
 25    the public as described in Section 7000.6 would be enhanced by  
 26    regulations requiring licensees to report judgments, arbitration  
 27    awards against them, or settlement payments of claims for  
 28    construction defects they have made in excess of a certain amount  
 29    to be determined by the board. The board shall consult with  
 30    licensees, insurers, consumers, and other interested parties during  
 31    the development of the study. The study shall include, but not be  
 32    limited to, criteria used by insurers or others to differentiate

1 *between settlements that are for nuisance value and those that are*  
2 *not, the practice of other boards within the department, and any*  
3 *other criteria considered reasonable by the board. The board shall*  
4 *submit the report to the Legislature in accordance with Section*  
5 *9795 of the Government Code.*

6 *SEC. 3. Section 18924.5 is added to the Health and Safety*  
7 *Code, to read:*

8 *18924.5. (a) The California Building Standards Commission*  
9 *shall convene a working group to investigate existing building*  
10 *standards associated with the construction, inspection, and*  
11 *maintenance of exterior elevated elements.*

12 *(b) The working group shall include, but not be limited to,*  
13 *representatives from the Department of Housing and Community*  
14 *Development, the Division of the State Architect- Structural Safety,*  
15 *the Office of the State Fire Marshal, local building officials and*  
16 *plan checkers, structural engineers, apartment owners and*  
17 *managers, building industry, wood, steel and concrete industries,*  
18 *and any other interested parties.*

19 *(c) The working group shall review related documents and*  
20 *reports, including, but not limited to, forensic reports related to*  
21 *exterior elevated element failures in California, reports and studies*  
22 *used in the development of national and state building codes, and*  
23 *any other material deemed relevant to determine if any changes*  
24 *need to be made to the construction specifications or inspection*  
25 *requirements, excluding routine inspections that occur after project*  
26 *completion, contained within the California Building Standards*  
27 *Code.*

28 *(d) (1) By January 1, 2018, the working group shall report to*  
29 *the California Building Standards Commission any findings and*  
30 *possible recommendations for statutory changes or changes to the*  
31 *California Building Standards Code. By January 1, 2018, the*  
32 *working group shall also provide that report to the Senate*  
33 *Committee on Business, Professions and Economic Development.*

34 *(2) Notwithstanding paragraph (1), if, at any time, it is*  
35 *determined by the working group that one or more changes to the*  
36 *California Building Standards Code are needed as soon as possible*  
37 *in order to protect the public, the working group shall submit the*  
38 *proposed changes to the California Building Standards*  
39 *Commission for consideration as soon as possible.*

1     *SEC. 4. If the Commission on State Mandates determines that*  
2 *this act contains costs mandated by the state, reimbursement to*  
3 *local agencies and school districts for those costs shall be made*  
4 *pursuant to Part 7 (commencing with Section 17500) of Division*  
5 *4 of Title 2 of the Government Code.*

6     ~~SECTION 1. Section 7071.18 is added to the Business and~~  
7 ~~Professions Code, to read:~~

8     ~~7071.18. (a) Notwithstanding any other law, a licensee shall~~  
9 ~~report to the registrar in writing the occurrence of any of the~~  
10 ~~following within 90 days after the licensee obtains knowledge of~~  
11 ~~the event:~~

12     ~~(1) The conviction of the licensee for any felony.~~

13     ~~(2) The conviction of the licensee for any other crime that is~~  
14 ~~substantially related to the qualifications, functions, and duties of~~  
15 ~~a licensed contractor.~~

16     ~~(3) Any civil action settlement or administrative action resulting~~  
17 ~~in a settlement against the licensee in any action involving fraud,~~  
18 ~~deceit, misrepresentation, breach or violation of contract,~~  
19 ~~negligence, incompetence, or recklessness by the licensee in the~~  
20 ~~practice of contracting, if the amount or value of the settlement is~~  
21 ~~fifty thousand dollars (\$50,000) or greater.~~

22     ~~(4) A binding arbitration award or administrative action resulting~~  
23 ~~in a binding arbitration award against the licensee in any action~~  
24 ~~involving fraud, deceit, misrepresentation, breach or violation of~~  
25 ~~contract, negligence, incompetence, or recklessness by the licensee~~  
26 ~~in the practice of contracting, if the amount or value of the~~  
27 ~~settlement is twenty-five thousand dollars (\$25,000) or greater.~~

28     ~~(b) Failure of a licensee to report to the registrar pursuant to~~  
29 ~~subdivision (a) shall be grounds for disciplinary action.~~

30     ~~(c) For the purposes of this section, "conviction" means a plea~~  
31 ~~or verdict of guilty in a criminal proceeding, or a conviction~~  
32 ~~following a plea of nolo contendere.~~

33     ~~(d) This section shall become operative only if the Legislature~~  
34 ~~appropriates moneys from the Contractors' License Fund for the~~  
35 ~~purposes of this section and grants sufficient hiring authority to~~  
36 ~~the board.~~

37     ~~SEC. 2. Section 7071.20 is added to the Business and~~  
38 ~~Professions Code, to read:~~

39     ~~7071.20. (a) Within 30 days of payment of all or any portion~~  
40 ~~of a civil action settlement or arbitration award against a licensee,~~

1 as described in Section 7017.18, the insurer providing professional  
2 liability insurance to the licensee shall report to the registrar the  
3 name of the licensee, the amount of value of the settlement or  
4 binding arbitration award, the amount paid, and the identity of the  
5 payee.

6 ~~(b) Within 30 days of payment of all or any portion of a civil  
7 action settlement or arbitration award against a licensee, as  
8 described in Section 7017.18, a state or local government agency  
9 that self-insures shall report to the registrar the name of the  
10 licensee, the amount of value of the settlement or binding  
11 arbitration award, the amount paid, and the identity of the payee.~~

12 ~~(c) This section shall become operative only if the Legislature  
13 appropriates moneys from the Contractors' License Fund for the  
14 purposes of this section and grants sufficient hiring authority to  
15 the board.~~

16 ~~SEC. 3. Section 7124.6 of the Business and Professions Code  
17 is amended to read:~~

18 ~~7124.6. (a) The registrar shall make available to members of  
19 the public the date, nature, and status of all complaints on file  
20 against a licensee that do either of the following:~~

21 ~~(1) Have been referred for accusation.~~

22 ~~(2) Have been referred for investigation after a determination  
23 by board enforcement staff that a probable violation has occurred,  
24 and have been reviewed by a supervisor, and regard allegations  
25 that if proven would present a risk of harm to the public and would  
26 be appropriate for suspension or revocation of the contractor's  
27 license or criminal prosecution.~~

28 ~~(b) The board shall create a disclaimer that shall accompany  
29 the disclosure of a complaint that shall state that the complaint is  
30 an allegation. The disclaimer may also contain any other  
31 information the board determines would be relevant to a person  
32 evaluating the complaint.~~

33 ~~(c) A complaint resolved in favor of the contractor shall not be  
34 subject to disclosure.~~

35 ~~(d) Except as described in subdivision (c), the registrar shall  
36 make available to members of the public the date, nature, and  
37 disposition of all legal actions.~~

38 ~~(e) Disclosure of legal actions shall be limited as follows:~~

39 ~~(1) Citations shall be disclosed from the date of issuance and  
40 for five years after the date of compliance if no additional~~

1 disciplinary actions have been filed against the licensee during the  
2 five-year period. If additional disciplinary actions were filed against  
3 the licensee during the five-year period, all disciplinary actions  
4 shall be disclosed for as long as the most recent disciplinary action  
5 is subject to disclosure under this section. At the end of the  
6 specified time period, those citations shall no longer be disclosed.

7 (2) Accusations that result in suspension, stayed suspension, or  
8 stayed revocation of the contractor's license shall be disclosed  
9 from the date the accusation is filed and for seven years after the  
10 accusation has been settled, including the terms and conditions of  
11 probation if no additional disciplinary actions have been filed  
12 against the licensee during the seven-year period. If additional  
13 disciplinary actions were filed against the licensee during the  
14 seven-year period, all disciplinary actions shall be posted for as  
15 long as the most recent disciplinary action is subject to disclosure  
16 under this section. At the end of the specified time period, those  
17 accusations shall no longer be disclosed.

18 (3) All revocations that are not stayed shall be disclosed  
19 indefinitely from the effective date of the revocation.

20 (f) The registrar shall make available to the public all civil action  
21 settlements, binding arbitration awards, and administrative actions  
22 pursuant to paragraph (2) of subdivision (a).