

ASSEMBLY BILL

No. 772

Introduced by Assembly Member Margett

February 26, 1997

An act to amend Section 7071.17 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 772, as introduced, Margett. Contractors.

Existing law requires the licensure of persons engaged in business as a contractor. Existing law provides that when any licensee is named as a judgment debtor in an unsatisfied final judgment, the qualifying person and any member of that licensee or personnel of the licensee are automatically prohibited from serving as an officer, director, associate, partner, owner, qualifying individual, or other personnel of record of another licensee. Existing law provides that this suspension constitutes a disassociation of the qualifying individual or a license cancellation, and provides that if a qualifier who is disassociated is not replaced within 90 days, this shall result in the automatic suspension of the license.

This bill would instead, with respect to the effect of the prohibition against serving as an officer, director, associate, partner, owner, qualifying individual, or other personnel of another licensee, provide that the prohibition shall cause the license of any other existing renewable licensed entity with any of the same personnel of record as the judgment debtor licensee to be suspended until the license of the judgment

debtor is reinstated or until those same personnel of record disassociate themselves from the renewable licensed entity.

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 7071.17 of the Business and
2 Professions Code is amended to read:
3 7071.17. (a) Notwithstanding any other provision of
4 law, the board shall require, as a condition precedent to
5 accepting an application for licensure, renewal,
6 reinstatement, or to change officers or other personnel of
7 record, that an applicant, previously found to have failed
8 or refused to pay a contractor, subcontractor, consumer,
9 materials supplier, or employee based on an entered and
10 unsatisfied final judgment from a court of law, file or have
11 on file with the board a judgment bond sufficient to
12 guarantee payment of an amount equal to the unsatisfied
13 final judgment or judgments. The applicant shall have 90
14 days from the date of notification by the board to file the
15 bond or the application shall become void and the
16 applicant shall reapply for issuance, reinstatement, or
17 reactivation of a license. The board may not issue,
18 reinstate, or reactivate a license until the judgment bond
19 is filed with the board. The judgment bond is in addition
20 to the contractor's bond. The bond shall be on file for a
21 minimum of one year, after which the bond may be
22 removed by submitting proof of satisfaction of all debts.
23 The applicant may provide the board with a notarized
24 copy of any accord, reached with any individual holding
25 an unsatisfied final judgment, to satisfy a debt in lieu of
26 filing the bond. The board shall include on the license
27 application for issuance, reinstatement, or reactivation, a
28 statement, to be made under penalty of perjury, as to
29 whether there are any entered and unsatisfied judgments
30 against the applicant on behalf of contractors,
31 subcontractors, consumers, materials suppliers, or the
32 applicant's employees. Notwithstanding any other
33 provision of law, if it is found that the applicant falsified



1 the statement then the license will be retroactively
2 suspended to the date of issuance and the license will stay
3 suspended until the judgment bond, satisfaction of
4 judgment, or notarized copy of an accord reached with
5 any individual holding an unsatisfied final judgment is
6 filed.

7 (b) Notwithstanding any other provision of law, the
8 licensee shall notify the registrar in writing of any entered
9 and unsatisfied judgments within 90 days from the date
10 of judgment. If the licensee fails to notify the registrar in
11 writing within 90 days, the license shall be automatically
12 suspended on the date that the registrar is informed, or
13 is made aware of the unsatisfied judgment. The
14 suspension shall not be removed until proof of satisfaction
15 of judgment, or in lieu thereof, a notarized copy of an
16 accord is submitted to the registrar. If the licensee notifies
17 the registrar in writing within 90 days of the date of
18 judgment of any entered and unsatisfied judgments, the
19 board shall require as a condition to the continual
20 maintenance of the license that the licensee file or have
21 on file with the board a judgment bond sufficient to
22 guarantee payment of an amount equal to the unsatisfied
23 judgment or judgments. The licensee has 90 days from
24 date of notification by the board to file the bond or at the
25 end of the 90 days the license shall be automatically
26 suspended. The licensee may provide the board with a
27 notarized copy of any accord, reached with any individual
28 holding an unsatisfied final judgment, to satisfy a debt in
29 lieu of filing the bond.

30 (c) By operation of law, failure to maintain the bond
31 or failure to abide by the accord shall result in the
32 automatic suspension of any license to which this section
33 applies.

34 (d) A license that is suspended for failure to file the
35 bond, maintain the bond, or abide by the accord, can only
36 be reinstated when proof of satisfaction of all debts is
37 made, or when a notarized copy of an accord, reached
38 with any individual holding an unsatisfied final judgment,
39 has been filed.



1 (e) This section applies only with respect to an
2 unsatisfied judgment that is substantially related to the
3 construction activities of a licensee licensed under this
4 chapter, or to the qualifications, functions, or duties of the
5 license being applied for.

6 (f) This section shall not apply to an applicant or
7 licensee when a bankruptcy proceeding has been filed.

8 (g) Except as otherwise provided, the judgment bond
9 shall remain in full force in the amount posted until the
10 entire debt is satisfied. If, at the time of renewal, the
11 licensee submits proof of partial satisfaction of the
12 outstanding final judgment, the board may authorize the
13 judgment bond be reduced to the amount of the
14 unsatisfied portion of the outstanding judgment. When
15 the licensee submits proof of satisfaction of all debts, the
16 judgment bond requirement may be removed.

17 (h) The board shall take the actions required by this
18 section upon notification by any party having knowledge
19 of the outstanding judgment upon a showing of proof of
20 the judgment.

21 (i) For the purposes of this section, the term
22 “judgment” includes any final arbitration award.

23 (j) The qualifying person and any member of the
24 licensee or personnel of the licensee named as a judgment
25 debtor in an unsatisfied final judgment from a court of law
26 shall be automatically prohibited from serving as an
27 officer, director, associate, partner, owner, qualifying
28 individual, or other personnel of record of another
29 licensee. ~~The suspension of a license under this section
30 shall constitute a disassociation of the qualifying
31 individual pursuant to Section 7068.2, or license
32 cancellation pursuant to Section 7076, as applicable. The
33 date of suspension shall constitute the date of
34 disassociation of the qualifying individual for the purpose
35 of Section 7068.2 or license cancellation for the purpose
36 of Section 7076. Except in the case of a qualifying partner,
37 any qualifier disassociated pursuant to this section shall be
38 replaced within 90 days of the date of disassociation.
39 Failure to replace the qualifier within 90 days of the
40 disassociation shall result in the automatic suspension of~~



1 ~~the license or removal of the qualifier's classification.~~ *This*
2 *prohibition shall cause the license of any other existing*
3 *renewable licensed entity with any of the same personnel*
4 *of record as the judgment debtor licensee to be*
5 *suspended until the license of the judgment debtor is*
6 *reinstated or until those same personnel of record*
7 *disassociate themselves from the renewable licensed*
8 *entity.*

9 (k) For purposes of this section, a cash deposit may be
10 submitted in lieu of the judgment bond.

