

AMENDED IN ASSEMBLY MAY 17, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2370

Introduced by Assembly Member Honda

February 24, 2000

An act to amend Sections ~~144 and 7123~~ of 7069, 7150.1, 7150.3, 7153.1, and 7153.3 of, and to add Sections 7150.4, 7150.5, 7150.6, and 7150.7 to, the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 2370, as amended, Honda. Contractors: criminal history checks.

(1) Existing law allows the Contractors' State License Board to deny licensure as a contractor to applicants who have been convicted of crimes, or have committed dishonest or fraudulent acts, related to the qualifications, functions, or duties of contractors.

This bill would additionally allow the board to deny certification as a home improvement contractor to applicants who have been convicted of crimes, or have committed dishonest or fraudulent acts, related to the qualifications, functions, or duties of home improvement contractors. This bill would require the board to notify an applicant denied certification of the reason for the denial and of his or her right to a hearing.

(2) Existing law requires licensed contractors providing home improvement services, to obtain certification from the

board and comply with the laws relevant to home improvement work.

This bill would exempt from the requirement of certification as a home improvement contractor, licensed contractors who receive less than 10% of their annual contracting income from the business of home improvement and who file a self-certification, under penalty of perjury, with the board prior to performing home improvement work.

Because a violation of this provision would constitute perjury, the bill would expand the scope of a crime, thereby creating a state-mandated local program.

(3) Existing law requires applicants for certification as a home improvement contractor to pass an examination and hold a valid contractor's license.

This bill would require an applicant, on and after July 1, 2001, to submit their fingerprints into an electronic fingerprinting system administered by the Department of Justice. This bill would require a home improvement contractor, on and after July 1, 2001, who was certified before July 1, 2001, to reapply for certification as a home improvement contractor at the time his or her contractor's license is due for renewal.

(4) Existing law requires the registration of home improvement salespersons with the board.

This bill would require an applicant for registration as a home improvement salesperson, and home improvement salespersons at the time of renewal of their registration, to submit their fingerprints into an electronic fingerprinting system administered by the Department of Justice.

(5) 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 no reimbursement is required by this act for a specified reason.

~~Existing law requires certain boards and committees to require license applicants to furnish a full set of fingerprints for purposes of conducting a criminal history record check.~~

~~This bill would additionally authorize the Contractors' State License Board to require contractors or home improvement~~



~~salespersons to furnish a full set of fingerprints for those purposes.~~

~~Existing law provides that a conviction of a crime substantially related to the qualifications, functions, and duties of a contractor constitutes a cause for disciplinary action under the Contractors' State License Law.~~

~~This bill would extend the applicability of that provision to home improvement salespersons.~~

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 144 of the Business and~~
2 *SECTION 1. The Legislature finds that, compared to*
3 *commercial property owners, homeowners contracting*
4 *for home improvement and repair work are more*
5 *vulnerable to untrustworthy contractors. This legislation*
6 *authorizes the board to fingerprint licensees, applicants*
7 *for licenses, and home improvement salespersons.*
8 *Fingerprinting these licensees will allow the board to*
9 *identify and, if necessary, exclude from certification*
10 *individuals whose criminal history indicates that*
11 *exclusion is necessary to safeguard the public.*
12 *Fingerprinting these licensees may also assist the board*
13 *to identify individuals who failed to truthfully and*
14 *accurately disclose criminal convictions as required*
15 *during the application process. The board is directed to*
16 *report to the Assembly Committee on Consumer*
17 *Protection, Governmental Efficiency and Economic*
18 *Development and the Senate Committee on Business*
19 *and Professions on the number and basis of license and*
20 *certification denials that result from this new*
21 *information.*
22 *SEC. 2. Section 7069 of the Business and Professions*
23 *Code is amended to read:*
24 *7069. (a) An applicant, and each officer, director,*
25 *partner, associate and responsible managing employee*
26 *thereof, shall not have committed acts or crimes which*
27 *are grounds for denial of licensure under Section 480.*



1 (b) An applicant for home improvement certification
2 shall not have committed acts or crimes which are
3 grounds for denial of certification under Section 7150.4.

4 SEC. 3. Section 7150.1 of the Business and Professions
5 Code is amended to read:

6 7150.1. (a) A home improvement contractor,
7 including a swimming pool contractor, is a contractor as
8 defined and licensed under this chapter, unless
9 exempted under this section, who is engaged in the
10 business of home improvement either full time or part
11 time. A home improvement contractor shall satisfy all
12 requirements imposed by this article.

13 (b) A licensee who receives less than 10 percent of his
14 or her annual contracting income from the business of
15 home improvement is eligible for exemption from
16 certification provided that, prior to performing home
17 improvement work, the licensee files a self-certification
18 with the board, declaring under penalty of perjury, that
19 the licensee is eligible for exemption. Within 12 months
20 of filing the self-certification, the licensee shall provide a
21 statement verified by an independent certified public
22 accountant that the home improvement business
23 accounts for less than 10 percent of the licensee's business
24 income. The basis for the self-certification and the
25 independent auditor's statement are subject to audit and
26 investigation by the board.

27 (c) A licensee exempt from certification as a home
28 improvement contractor under subdivision (b) shall
29 comply with the laws applicable to home improvement.

30 SEC. 4. Section 7150.3 of the Business and Professions
31 Code is amended to read:

32 7150.3. (a) In order to qualify for certification as a
33 home improvement contractor, an applicant shall do all
34 of the following:

35 (1) Apply to the board on a form prescribed by the
36 registrar.

37 (2) Hold a current and valid contractor's license.

38 (3) Take and pass an open book examination on the
39 business and contracting skills and laws related to home
40 improvement contracting. In the case of a partnership,



1 corporation, or other entity, in the situation in which the
2 contractor's license has been obtained by appearance of
3 a qualifying individual, that qualifying individual shall
4 take and pass the examination.

5 (4) *On and after July 1, 2001, pursuant to Section*
6 *7150.7, submit fingerprints of natural persons listed on the*
7 *license in the following categories:*

8 (A) *Sole owners.*

9 (B) *General partners.*

10 (C) *Qualifying individuals.*

11 (b) *On and after July 1, 2001, an individual who*
12 *possesses a home improvement contractor's certificate*
13 *issued before July 1, 2001 shall reapply for certification as*
14 *a home improvement contractor at the time his or her*
15 *contractor's license is due for renewal. In order to qualify*
16 *for recertification as a home improvement contractor,*
17 *the applicant shall do the following:*

18 (1) *Apply to the board on a form prescribed by the*
19 *registrar.*

20 (2) *Hold a current and valid contractor's license.*

21 (3) *Pursuant to Section 7150.7, submit fingerprints of*
22 *natural persons listed on the license in the following*
23 *categories:*

24 (A) *Sole owners.*

25 (B) *General partners.*

26 (C) *Qualifying individuals.*

27 (c) *This section shall remain in effect only until*
28 *January 1, 2004, and as of that date is repealed, unless a*
29 *later enacted statute, that is enacted before January 1,*
30 *2004, deletes or extends that date.*

31 *SEC. 5. Section 7150.4 is added to the Business and*
32 *Professions Code, to read:*

33 *7150.4. (a) A board may deny a home improvement*
34 *certification regulated by this code on the grounds that*
35 *the applicant has one of the following:*

36 (1) *Been convicted of a crime. A conviction within the*
37 *meaning of this section means a plea or verdict of guilty*
38 *or a conviction following a plea of nolo contendere. Any*
39 *action which a board is permitted to take following the*
40 *establishment of a conviction may be taken when the*



1 time for appeal has elapsed, or the judgment of conviction
2 has been affirmed on appeal, or when an order granting
3 probation is made suspending the imposition of sentence,
4 irrespective of a subsequent order under the provisions
5 of Section 1203.4 of the Penal Code.

6 (2) Done any act involving dishonesty, fraud, or deceit
7 with the intent to substantially benefit himself or herself
8 or another, or substantially injure another.

9 (3) Done any act which if done by a licentiate of the
10 business or profession in question, would be a grounds for
11 suspension or revocation of license.

12 The board may deny a certification pursuant to this
13 section only if the crime or act is substantially related to
14 the qualifications, functions, or duties of a home
15 improvement contractor.

16 (b) Notwithstanding any other provision of this code,
17 except for a person required by the state or county to
18 register as a sex offender, no person shall be denied a
19 license solely on the basis that he or she has been
20 convicted of a felony if he or she has obtained a certificate
21 of rehabilitation under Section 4852.01 and following of
22 the Penal Code or that he or she has been convicted of a
23 misdemeanor if he or she has met all applicable
24 requirements of the criteria of rehabilitation developed
25 by the board to evaluate the rehabilitation of a person
26 when considering the denial of a certification.

27 (c) A board may deny a certificate regulated by this
28 code on the ground that the applicant knowingly made
29 a false statement of fact required to be revealed in the
30 application for a contractor's license.

31 SEC. 6. Section 7150.5 is added to the Business and
32 Professions Code, to read:

33 7150.5. (a) The board shall develop criteria to aid it,
34 when considering the denial of a certification, and to
35 determine whether a crime or act is substantially related
36 to the qualifications, functions, or duties of a home
37 improvement contractor.

38 (b) The board shall develop criteria to evaluate the
39 rehabilitation of a person when considering the denial of
40 a certification. The board shall take into account all



1 *competent evidence of rehabilitation furnished by the*
2 *applicant.*

3 *SEC. 7. Section 7150.6 is added to the Business and*
4 *Professions Code, to read:*

5 *7150.6. Upon denial of an application for a home*
6 *improvement certification license, the board shall notify*
7 *the applicant of the following:*

8 *(a) The reason for the denial.*

9 *(b) That the applicant has the right to a hearing under*
10 *Chapter 5 (commencing with Section 11500) of Part 1 of*
11 *Division 3 of Title 2 of the Government Code if written*
12 *request for a hearing is made within 60 days after service*
13 *of the notice of denial. Unless written request for a*
14 *hearing is made within the 60-day period, the applicant's*
15 *right to a hearing is deemed waived.*

16 *Service of the notice of denial may be made in the*
17 *manner authorized for service of summons in civil*
18 *actions, or by registered mail addressed to the applicant*
19 *at the latest address filed by the applicant in writing with*
20 *the board in his or her application or otherwise. Service*
21 *by mail is complete on the date of mailing.*

22 *SEC. 8. Section 7150.7 is added to the Business and*
23 *Professions Code, to read:*

24 *7150.7. (a) Individuals who are required to submit*
25 *fingerprints to the board shall submit their fingerprints*
26 *into an electronic fingerprinting system administered by*
27 *the Department of Justice. Fingerprints shall be entered*
28 *into the system through a terminal operated by a law*
29 *enforcement agency or facility authorized by the*
30 *Department of Justice to conduct electronic*
31 *fingerprinting. The enforcement agency or authorized*
32 *facility may charge a fee sufficient to reimburse it for the*
33 *costs incurred in providing this service.*

34 *(b) Upon receipt of an applicant's electronic*
35 *fingerprints, the Department of Justice shall determine*
36 *whether the applicant has been convicted of any crime*
37 *and forward the information to the board. The*
38 *Department of Justice's determination shall be based on*
39 *its own data base and the Federal Bureau of*
40 *Investigation's data base.*



1 (c) *The Department of Justice shall monitor the status*
2 *of fingerprinted individuals to determine the occurrence*
3 *of criminal convictions and upon identifying a criminal*
4 *conviction, shall forward the information to the board.*

5 *SEC. 9. Section 7153.1 of the Business and Professions*
6 *Code is amended to read:*

7 7153.1. ~~The~~ *An individual applying for registration as*
8 *a home improvement—salesman salesperson shall submit*
9 *to the following to the registrar—*

10 (a) *An application in writing containing the statement*
11 *that he desires the issuance of a registration under the*
12 *terms of this article.*

13 (b) *Fingerprints submitted pursuant to Section 7150.7.*

14 *The application shall be made on a form prescribed by*
15 *the registrar and shall be accompanied by the fee fixed by*
16 *this chapter.*

17 *The registrar may refuse to register the applicant*
18 *under the grounds specified in Section 480.*

19 *SEC. 10. Section 7153.3 of the Business and*
20 *Professions Code is amended to read:*

21 7153.3. (a) *To renew a registration, the registrant*
22 *shall before the time at which the registration would*
23 *otherwise expire, apply for renewal on a form prescribed*
24 *by the registrar and pay a renewal fee prescribed by this*
25 *chapter.*

26 (b) *A registrant who has not already submitted*
27 *fingerprinting pursuant to Section 7150.7 shall do so as*
28 *part of his or her registration renewal after January 1,*
29 *2001.*

30 (c) *An application for renewal of registration is*
31 *delinquent if the application is not postmarked by the*
32 *date on which the registration would otherwise expire. A*
33 *registration may, however, still be renewed at any time*
34 *within three years after its expiration upon the filing of an*
35 *application for renewal on a form prescribed by the*
36 *registrar and the payment of the renewal fee prescribed*
37 *by this chapter and a delinquent renewal penalty in the*
38 *amount of twenty-five dollars (\$25). If a registration is not*
39 *renewed within three years, the person shall make*
40 *application for registration pursuant to Section 7153.1.*



1 ~~(e)~~
 2 (d) The registrar may refuse to renew a registration
 3 for failure by the registrant to complete the application
 4 for renewal of registration. If a registrant fails to return
 5 the application rejected for insufficiency or
 6 incompleteness within 90 days from the original date of
 7 rejection, the application and fee shall be deemed
 8 abandoned. Any application abandoned may not be
 9 reinstated. However, the person may file a new
 10 application for registration pursuant to Section 7153.1.

11 The registrar may review and accept the petition of a
 12 person who disputes the abandonment of his or her
 13 renewal application upon a showing of good cause. This
 14 petition shall be received within 90 days of the date the
 15 application for renewal is deemed abandoned.

16 *SEC. 11. No reimbursement is required by this act*
 17 *pursuant to Section 6 of Article XIII B of the California*
 18 *Constitution because the only costs that may be incurred*
 19 *by a local agency or school district will be incurred*
 20 *because this act creates a new crime or infraction,*
 21 *eliminates a crime or infraction, or changes the penalty*
 22 *for a crime or infraction, within the meaning of Section*
 23 *17556 of the Government Code, or changes the definition*
 24 *of a crime within the meaning of Section 6 of Article*
 25 *XIII B of the California Constitution.*

26 ~~Professions Code is amended to read:~~

27 ~~144. (a) Notwithstanding any other provision of law,~~
 28 ~~an agency designated in subdivision (b) shall require an~~
 29 ~~applicant to furnish to the agency a full set of fingerprints~~
 30 ~~for purposes of conducting criminal history record~~
 31 ~~checks. Any agency designated in subdivision (b) may~~
 32 ~~obtain and receive, at its discretion, criminal history~~
 33 ~~information from the Department of Justice and the~~
 34 ~~United States Federal Bureau of Investigation.~~

35 ~~(b) Subdivision (a) applies to the following boards or~~
 36 ~~committees:~~

- 37 ~~(1) Board of Accountancy.~~
- 38 ~~(2) State Athletic Commission.~~
- 39 ~~(3) Board of Behavioral Sciences.~~
- 40 ~~(4) Court Reporters Board of California.~~



- 1 ~~(5) State Board of Guide Dogs for the Blind.~~
- 2 ~~(6) California State Board of Pharmacy.~~
- 3 ~~(7) Board of Registered Nursing.~~
- 4 ~~(8) Veterinary Medical Board.~~
- 5 ~~(9) Registered Veterinary Technician Examining~~
- 6 ~~Committee.~~
- 7 ~~(10) Board of Vocational Nurse and Psychiatric~~
- 8 ~~Technician Examiners.~~
- 9 ~~(11) Respiratory Care Board.~~
- 10 ~~(12) Hearing Aid Dispensers Examining Committee.~~
- 11 ~~(13) Physical Therapy Board of California.~~
- 12 ~~(14) Physician Assistant Examining Committee.~~
- 13 ~~(15) Speech Language Pathology and Audiology~~
- 14 ~~Examining Committee.~~
- 15 ~~(16) Medical Board of California.~~
- 16 ~~(17) Board of Nursing Home Administrators.~~
- 17 ~~(18) Board of Optometry.~~
- 18 ~~(19) Acupuncture Committee.~~
- 19 ~~(20) Cemetery and Funeral Programs.~~
- 20 ~~(21) Bureau of Security and Investigative Services.~~
- 21 ~~(22) Division of Investigation.~~
- 22 ~~(23) Board of Psychology.~~
- 23 ~~(24) Contractors' State License Board.~~
- 24 ~~SEC. 2. Section 7123 of the Business and Professions~~
- 25 ~~Code is amended to read:~~
- 26 ~~7123. (a) A conviction of a crime substantially~~
- 27 ~~related to the qualifications, functions, and duties of a~~
- 28 ~~licensed contractor or home improvement salesperson~~
- 29 ~~constitutes a cause for disciplinary action. The record of~~
- 30 ~~the conviction shall be conclusive evidence thereof.~~
- 31 ~~(b) As part of an application for renewal of a~~
- 32 ~~contractor's license or a home improvement salesperson's~~
- 33 ~~registration, the board shall require all applicants to~~
- 34 ~~furnish to the board a full set of fingerprints for the~~
- 35 ~~purpose of conducting a criminal history record check.~~
- 36 ~~The board may also obtain and receive, at its discretion,~~
- 37 ~~criminal history information from the Department of~~



1 ~~Justice and the United States Federal Bureau of~~
2 ~~Investigation.~~

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