

AMENDED IN ASSEMBLY MAY 26, 2000

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 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~~ *authorize* 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 *next* 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, *on and after July 1, 2001*, an applicant for registration as a home improvement salesperson, and home improvement salespersons at the time of renewal of their *next* registration *if they have not yet submitted fingerprints*, 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.



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

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

1 SECTION 1. The Legislature finds that, compared to
2 commercial property owners, homeowners contracting
3 for home improvement and repair work are more
4 vulnerable to untrustworthy contractors. This legislation
5 authorizes the board to fingerprint licensees, applicants
6 for licenses, and home improvement salespersons.
7 Fingerprinting these licensees will allow the board to
8 identify and, if necessary, exclude from certification
9 individuals whose criminal history indicates that
10 exclusion is necessary to safeguard the public.
11 Fingerprinting these licensees may also assist the board
12 to identify individuals who failed to truthfully and
13 accurately disclose criminal convictions as required
14 during the application process. The board is directed to
15 report to the Assembly Committee on Consumer
16 Protection, Governmental Efficiency and Economic
17 Development and the Senate Committee on Business
18 and Professions on the number and basis of license and
19 certification denials that result from this new
20 information.

21 SEC. 2. Section 7069 of the Business and Professions
22 Code is amended to read:

23 7069. (a) An applicant, and each officer, director,
24 partner, associate and responsible managing employee
25 thereof, shall not have committed acts or crimes which
26 are grounds for denial of licensure under Section 480.

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

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

32 7150.1. (a) A home improvement contractor,
33 including a swimming pool contractor, is a contractor as
34 defined and licensed under this chapter, unless exempted
35 under this section, who is engaged in the business of home



1 improvement either full time or part time. A home
2 improvement contractor shall satisfy all requirements
3 imposed by this article.

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

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

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

23 7150.3. (a) In order to qualify for certification as a
24 home improvement contractor, an applicant shall do all
25 of the following:

26 (1) Apply to the board on a form prescribed by the
27 registrar.

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

29 (3) Take and pass an open book examination on the
30 business and contracting skills and laws related to home
31 improvement contracting. In the case of a partnership,
32 corporation, or other entity, in the situation in which the
33 contractor's license has been obtained by appearance of
34 a qualifying individual, that qualifying individual shall
35 take and pass the examination.

36 (4) On and after July 1, 2001, pursuant to Section
37 7150.7, submit fingerprints of natural persons listed on the
38 license in the following categories:

39 (A) Sole owners.

40 (B) General partners.



1 (C) Qualifying individuals.

2 (b) On and after July 1, 2001, an individual who
3 possesses a home improvement contractor's certificate
4 issued before July 1, 2001—~~shall~~, *may* reapply for
5 certification as a home improvement contractor at the
6 *next* time his or her contractor's license is due for
7 renewal. In order to qualify for—~~recertification~~
8 *certification* as a home improvement contractor, the
9 applicant shall do the following:

10 (1) Apply to the board on—~~a~~ *the renewal* form
11 prescribed by the registrar.

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

13 (3) Pursuant to Section 7150.7, submit fingerprints of
14 natural persons listed on the license in the following
15 categories:

16 (A) Sole owners.

17 (B) General partners.

18 (C) Qualifying individuals.

19 ~~(e) This section shall remain in effect only until~~
20 ~~January 1, 2004, and as of that date is repealed, unless a~~
21 ~~later enacted statute, that is enacted before January 1,~~
22 ~~2004, deletes or extends that date.~~

23 SEC. 5. Section 7150.4 is added to the Business and
24 Professions Code, to read:

25 7150.4. (a) A board may deny a home improvement
26 certification regulated by this code on the grounds that
27 the applicant has one of the following:

28 (1) Been convicted of a crime. A conviction within the
29 meaning of this section means a plea or verdict of guilty
30 or a conviction following a plea of nolo contendere. Any
31 action which a board is permitted to take following the
32 establishment of a conviction may be taken when the
33 time for appeal has elapsed, or the judgment of conviction
34 has been affirmed on appeal, or when an order granting
35 probation is made suspending the imposition of sentence,
36 irrespective of a subsequent order under the provisions
37 of Section 1203.4 of the Penal Code.

38 (2) Done any act involving dishonesty, fraud, or deceit
39 with the intent to substantially benefit himself or herself
40 or another, or substantially injure another.



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

4 The board may deny a certification pursuant to this
5 section only if the crime or act is substantially related to
6 the qualifications, functions, or duties of a home
7 improvement contractor.

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

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

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

25 7150.5. (a) The board shall develop criteria to aid it,
26 when considering the denial of a certification, and to
27 determine whether a crime or act is substantially related
28 to the qualifications, functions, or duties of a home
29 improvement contractor.

30 (b) The board shall develop criteria to evaluate the
31 rehabilitation of a person when considering the denial of
32 a certification. *The criteria shall include consideration of*
33 *the time period that has elapsed since an applicant has*
34 *been convicted of a crime and the time period that has*
35 *elapsed since an applicant has completed any sentence*
36 *associated with the conviction of a crime.* The board shall
37 take into account all competent evidence of
38 rehabilitation furnished by the applicant.

39 SEC. 7. Section 7150.6 is added to the Business and
40 Professions Code, to read:



1 7150.6. Upon denial of an application for a home
2 improvement certification license, the board shall notify
3 the applicant of the following:

4 (a) The reason for the denial.

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

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

18 SEC. 8. Section 7150.7 is added to the Business and
19 Professions Code, to read:

20 7150.7. (a) Individuals who are required to submit
21 fingerprints to the board shall submit their fingerprints
22 into an electronic fingerprinting system administered by
23 the Department of Justice. Fingerprints shall be entered
24 into the system through a terminal operated by a law
25 enforcement agency or facility authorized by the
26 Department of Justice to conduct electronic
27 fingerprinting. The enforcement agency or authorized
28 facility may charge a fee sufficient to reimburse it for the
29 costs incurred in providing this service.

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

37 (c) The Department of Justice shall monitor the status
38 of fingerprinted individuals to determine the occurrence
39 of criminal convictions and upon identifying a criminal
40 conviction, shall forward the information to the board.



1 SEC. 9. Section 7153.1 of the Business and Professions
2 Code is amended to read:

3 7153.1. ~~An~~ *On and after July 1, 2001, an* individual
4 applying for registration as a home improvement
5 salesperson shall submit the following to the registrar:

6 (a) An application in writing containing the statement
7 that he *or she* desires the issuance of a registration under
8 the terms of this article.

9 (b) Fingerprints submitted pursuant to Section 7150.7.

10 The application shall be made on a form prescribed by
11 the registrar and shall be accompanied by the fee fixed by
12 this chapter.

13 The registrar may refuse to register the applicant
14 under the grounds specified in Section 480.

15 SEC. 10. Section 7153.3 of the Business and
16 Professions Code is amended to read:

17 7153.3. (a) To renew a registration, the registrant
18 shall before the time at which the registration would
19 otherwise expire, apply for renewal on a form prescribed
20 by the registrar and pay a renewal fee prescribed by this
21 chapter.

22 (b) A registrant who has not already submitted
23 ~~fingerprinting~~ *fingerprints* pursuant to Section 7150.7
24 shall do so as part of his or her *next* registration renewal
25 after ~~January~~ *July 1, 2001*.

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

37 (d) The registrar may refuse to renew a registration
38 for failure by the registrant to complete the application
39 for renewal of registration. If a registrant fails to return
40 the application rejected for insufficiency or



1 incompleteness within 90 days from the original date of
2 rejection, the application and fee shall be deemed
3 abandoned. Any application abandoned may not be
4 reinstated. However, the person may file a new
5 application for registration pursuant to Section 7153.1.

6 The registrar may review and accept the petition of a
7 person who disputes the abandonment of his or her
8 renewal application upon a showing of good cause. This
9 petition shall be received within 90 days of the date the
10 application for renewal is deemed abandoned.

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

