

AMENDED IN ASSEMBLY AUGUST 7, 2000

AMENDED IN SENATE MAY 1, 2000

AMENDED IN SENATE APRIL 3, 2000

SENATE BILL

No. 1524

Introduced by Senator Figueroa
(~~Coauthor: Assembly Member Davis~~)

February 17, 2000

An act to ~~amend Sections 7071.5 and 7071.10 of the Business and Professions Code, relating to contractors.~~ *add Section 12926.1 to the Insurance Code, relating to insurance.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1524, as amended, Figueroa. ~~Contractors: bond and liability insurance requirements~~ *Insurance: fines and penalties.*

Existing law requires the Insurance Commissioner to require from every insurer in the state full compliance with the provisions of the Insurance Code.

This bill would require that any fines, penalties, fees, and costs resulting from any matter involving compliance with or enforcement of any provisions of the Insurance Code or other laws involving any entity subject to the jurisdiction of the commissioner, be deposited in the appropriate fund as provided by law.

This bill would also provide that any funds ordered, or allocated by a settlement, to be used for public outreach shall be subject to specified limitations. It would also authorize an individual, a city attorney, a district attorney, or the Attorney

General to bring a legal action against the commissioner to enforce these provisions. It would require a court to order the commissioner to pay damages out of nonpublic funds to any prevailing party in any enforcement action arising out of a violation of the bill's provisions.

~~The Contractors' State License Law provides for the regulation of contractors by the Contractors' State License Board.~~

~~Existing law requires the board to require each applicant for a contractor's license, and each licensee upon reinstatement, renewal, or continued maintenance of a license, to file or have on file with the board a contractor's or individual's bond. Existing law requires the bond to be for the benefit of specified persons and entities, including a homeowner contracting for home improvements upon his or her personal family residence that is damaged as a result of a violation of the Contractors' State License Law.~~

~~This bill would permit a homeowner, for contractor's and individual's bonds issued on or after January 1, 2001, to perfect a claim against the bond without having to demonstrate to the surety's satisfaction that the underlying violation of the Contractors' State License Law was willful or deliberate.~~

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. It is the intent of the Legislature that in~~
 2 *SECTION 1. Section 12926.1 is added to the Insurance*
 3 *Code, to read:*
 4 *12926.1. (a) In any matter involving compliance with*
 5 *or enforcement of any of the provisions of this code or the*
 6 *other laws of this state involving any entity subject to the*
 7 *jurisdiction or authority of the commissioner, whether*
 8 *the matter is a formal administrative accusation or*
 9 *adjudication, a formal or potential judicial action, or other*
 10 *enforcement tool, and whether or not the matter is*
 11 *settled or prosecuted to resolution, the use of any funds*
 12 *that are imposed as fines or penalties of any sort, or*
 13 *collected by means of settlement, or paid or reserved in*



1 any manner as a result of the action, shall be subject to the
2 limitations of this section.

3 (b) Fines, penalties, fees, and costs shall be deposited
4 in the appropriate fund as provided by law.

5 (c) Any funds ordered, or allocated by a settlement, or
6 made available by whatever means, to be used for public
7 outreach of any sort, shall be subject to all of the following
8 limitations:

9 (1) The commissioner's name, likeness, or voice shall
10 not be used in any printed, audio, or visual material that
11 is released either for general distribution or to specific
12 recipients.

13 (2) The message shall be limited to information
14 relevant to the enforcement action or compliance issues
15 that generated the funds.

16 (3) The primary focus of any public outreach where
17 the purpose is to advise members of the public of rights
18 affecting pecuniary or property interests shall be to
19 provide specific information needed by the affected
20 persons to obtain or protect those rights.

21 (4) No funds subject to this subdivision shall be used
22 for general education of the public about insurance issues,
23 except to the extent that the education relates to the type
24 of violations that caused the enforcement or compliance
25 action, and otherwise complies with the limitations of this
26 section.

27 (5) No funds subject to this subdivision shall be spent
28 or otherwise disposed of unless the expenditure or
29 disposal has been approved by a court of competent
30 jurisdiction.

31 (d) (1) This section may be enforced by an individual,
32 a city attorney, a district attorney, or the Attorney
33 General, who may bring an action against the
34 commissioner in the superior court in any county where
35 a violation of this section has occurred.

36 (2) A court may issue injunctions or provide other
37 equitable remedies as appear to the court to be
38 appropriate, and shall order payment by the
39 commissioner from nonpublic funds to a prevailing party
40 who has brought an action under this section of an



1 amount sufficient to compensate the party for all
2 attorneys' fees, costs of litigation, and expenses incurred
3 in bringing and prosecuting the action. ~~order to perfect~~
4 ~~a claim against either a contractor's or individual's bond,~~
5 ~~a homeowner shall not have to demonstrate to the~~
6 ~~surety's satisfaction that there was a willful or deliberate~~
7 ~~violation of the Contractors' State License Law.~~

8 SEC. 2. Section 7071.5 of the Business and Professions
9 Code is amended to read:

10 7071.5. (a) ~~The contractor's bond required by this~~
11 ~~article shall be executed by an admitted surety in favor of~~
12 ~~the State of California, in a form acceptable to the~~
13 ~~registrar and filed with the registrar by the licensee or~~
14 ~~applicant. The contractor's bond shall be for the benefit~~
15 ~~of the following:~~

16 (1) ~~Any homeowner contracting for home~~
17 ~~improvement upon the homeowner's personal family~~
18 ~~residence damaged as a result of a violation of this chapter~~
19 ~~by the licensee.~~

20 (2) ~~Any person damaged as a result of a willful and~~
21 ~~deliberate violation of this chapter by the licensee, or by~~
22 ~~the fraud of the licensee in the execution or performance~~
23 ~~of a construction contract.~~

24 (3) ~~Any employee of the licensee damaged by the~~
25 ~~licensee's failure to pay wages.~~

26 (4) ~~Any person or entity, including an express trust~~
27 ~~fund described in Section 3111 of the Civil Code, to whom~~
28 ~~a portion of the compensation of an employee of a~~
29 ~~licensee is paid by agreement with that employee or the~~
30 ~~collective bargaining agent of that employee, damaged as~~
31 ~~the result of the licensee's failure to pay fringe benefits for~~
32 ~~its employees, including, but not limited to, employer~~
33 ~~payments described in Section 1773.1 of the Labor Code~~
34 ~~and regulations thereunder (without regard to whether~~
35 ~~the work was performed on a private or public work).~~
36 ~~Damage to an express trust fund is limited to actual~~
37 ~~employer payments required to be made on behalf of~~
38 ~~employees of the licensee, as part of the overall~~
39 ~~compensation of those employees, which the licensee fails~~
40 ~~to pay.~~



1 ~~(b) Notwithstanding any other provision of law, for a~~
2 ~~contractor's bond issued on or after January 1, 2001, a~~
3 ~~homeowner may perfect a claim against the bond without~~
4 ~~having to demonstrate to the surety's satisfaction that the~~
5 ~~underlying violation of this chapter was willful or~~
6 ~~deliberate.~~

7 ~~SEC. 3. Section 7071.10 of the Business and~~
8 ~~Professions Code is amended to read:~~

9 ~~7071.10. (a) The qualifying individual's bond~~
10 ~~required by this article shall be executed by an admitted~~
11 ~~surety insurer in favor of the State of California, in a form~~
12 ~~acceptable to the registrar and filed with the registrar by~~
13 ~~the qualifying individual. The qualifying individual's~~
14 ~~bond shall be for the benefit of the following persons:~~

15 ~~(1) Any homeowner contracting for home~~
16 ~~improvement upon the homeowner's personal family~~
17 ~~residence damaged as a result of a violation of this chapter~~
18 ~~by the licensee.~~

19 ~~(2) Any person damaged as a result of a willful and~~
20 ~~deliberate violation of this chapter by the licensee, or by~~
21 ~~the fraud of the licensee in the execution or performance~~
22 ~~of a construction contract.~~

23 ~~(3) Any employee of the licensee damaged by the~~
24 ~~licensee's failure to pay wages.~~

25 ~~(4) Any person or entity, including an express trust~~
26 ~~fund described in Section 3111 of the Civil Code, to whom~~
27 ~~a portion of the compensation of an employee of a~~
28 ~~licensee is paid by agreement with that employee or the~~
29 ~~collective bargaining agent of that employee, that is~~
30 ~~damaged as the result of the licensee's failure to pay~~
31 ~~fringe benefits for its employees including, but not~~
32 ~~limited to, employer payments described in Section~~
33 ~~1773.1 of the Labor Code and regulations adopted~~
34 ~~thereunder (without regard to whether the work was~~
35 ~~performed on a public or private work). Damage to an~~
36 ~~express trust fund is limited to employer payments~~
37 ~~required to be made on behalf of employees of the~~
38 ~~licensee, as part of the overall compensation of those~~
39 ~~employees, which the licensee fails to pay.~~



1 ~~(b) The qualifying individual's bond shall not be~~
2 ~~required in addition to the contractor's bond when the~~
3 ~~qualifying individual is himself or herself the proprietor~~
4 ~~under subdivision (a) or a general partner under~~
5 ~~subdivision (b) of Section 7068.~~

6 ~~(c) Notwithstanding any other provision of law, for an~~
7 ~~individual's bond issued on or after January 1, 2001, a~~
8 ~~homeowner may perfect a claim against the bond without~~
9 ~~having to demonstrate to the surety's satisfaction that the~~
10 ~~underlying violation of this chapter was willful or~~
11 ~~deliberate.~~

