

AMENDED IN ASSEMBLY MAY 1, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 678

Introduced by Assembly Member Papan

February 22, 2001

An act to amend Section 7031 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 678, as amended, Papan. Contractors.

Existing law prohibits any unlicensed contractor from bringing or maintaining an action to recover compensation in any court in this state.

This bill would authorize a person who utilizes an unlicensed contractor to bring an action in any court of competent jurisdiction in this state for recovery of compensation paid to the unlicensed contractor for performance of any act or contract *unless the person knew that the contractor was unlicensed prior to making any payments to the contractor.*

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 7031 of the Business and Professions
2 Code is amended to read:
3 7031. (a) Except as provided in subdivision (e), no person
4 engaged in the business or acting in the capacity of a contractor,
5 may bring or maintain any action, or recover in law or equity in any

1 action, in any court of this state for the collection of compensation
2 for the performance of any act or contract where a license is
3 required by this chapter without alleging that he or she was a duly
4 licensed contractor at all times during the performance of that act
5 or contract, regardless of the merits of the cause of action brought
6 by the person, except that this prohibition shall not apply to
7 contractors who are each individually licensed under this chapter
8 but who fail to comply with Section 7029.

9 (b) A person who utilizes the services of an unlicensed
10 contractor may bring an action in any court of competent
11 jurisdiction in this state to recover all compensation paid to the
12 unlicensed contractor for performance of any act or contract,
13 *unless the person knew that the contractor was unlicensed prior to*
14 *the time that any payments were made to the contractor.*

15 (c) A security interest taken to secure any payment for the
16 performance of any act or contract for which a license is required
17 by this chapter is unenforceable if the person performing the act
18 or contract was not a duly licensed contractor at all times during
19 the performance of the act or contract.

20 (d) If licensure or proper licensure is controverted, then proof
21 of licensure pursuant to this section shall be made by production
22 of a verified certificate of licensure from the Contractors' State
23 License Board which establishes that the individual or entity
24 bringing the action was duly licensed in the proper classification
25 of contractors at all times during the performance of any act or
26 contract covered by the action. Nothing herein shall require any
27 person or entity controverting licensure or proper licensure to
28 produce a verified certificate. When licensure or proper licensure
29 is controverted, the burden of proof to establish licensure or proper
30 licensure shall be on the licensee.

31 (e) The judicial doctrine of substantial compliance shall not
32 apply under this section where the person who engaged in the
33 business or acted in the capacity of a contractor has never been a
34 duly licensed contractor in this state. However, the court may
35 determine that there has been substantial compliance with
36 licensure requirements under this section if it is shown at an
37 evidentiary hearing that the person who engaged in the business or
38 acted in the capacity of a contractor (1) had been duly licensed as
39 a contractor in this state prior to the performance of the act or
40 contract, (2) acted reasonably and in good faith to maintain proper



1 licensure, and (3) did not know or reasonably should not have
2 known that he or she was not duly licensed. Subdivision (b) of
3 Section 143 does not apply to contractors subject to this
4 subdivision.

5 (f) The exceptions to the prohibition against the application of
6 the judicial doctrine of substantial compliance found in
7 subdivision (e) shall apply to all contracts entered into on or after
8 January 1, 1992, and to all actions or arbitrations arising
9 therefrom, except that the amendments to subdivisions (e) and (f)
10 enacted during the 1994 portion of the 1993–94 Regular Session
11 of the Legislature shall not apply to either of the following:

12 (1) Any legal action or arbitration commenced prior to January
13 1, 1995, regardless of the date on which the parties entered into the
14 contract.

15 (2) Any legal action or arbitration commenced on or after
16 January 1, 1995, if the legal action or arbitration was commenced
17 prior to January 1, 1995, and was subsequently dismissed.

