

AMENDED IN SENATE JULY 3, 2001
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:

1 7031. (a) Except as provided in subdivision (e), no person
2 engaged in the business or acting in the capacity of a contractor,
3 may bring or maintain any action, or recover in law or equity in any
4 action, in any court of this state for the collection of compensation
5 for the performance of any act or contract where a license is
6 required by this chapter without alleging that he or she was a duly
7 licensed contractor at all times during the performance of that act
8 or contract, regardless of the merits of the cause of action brought
9 by the person, except that this prohibition shall not apply to
10 contractors who are each individually licensed under this chapter
11 but who fail to comply with Section 7029.

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

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

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

34 (e) The judicial doctrine of substantial compliance shall not
35 apply under this section where the person who engaged in the
36 business or acted in the capacity of a contractor has never been a
37 duly licensed contractor in this state. However, the court may
38 determine that there has been substantial compliance with
39 licensure requirements under this section if it is shown at an
40 evidentiary hearing that the person who engaged in the business or



1 acted in the capacity of a contractor (1) had been duly licensed as
2 a contractor in this state prior to the performance of the act or
3 contract, (2) acted reasonably and in good faith to maintain proper
4 licensure, and (3) did not know or reasonably should not have
5 known that he or she was not duly licensed. Subdivision (b) of
6 Section 143 does not apply to contractors subject to this
7 subdivision.

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

15 (1) Any legal action or arbitration commenced prior to January
16 1, 1995, regardless of the date on which the parties entered into the
17 contract.

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

