

AMENDED IN ASSEMBLY MARCH 15, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 249

Introduced by Assembly Member Bill Berryhill

February 3, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

AB 249, as amended, Bill Berryhill. Contractors.

Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors. Existing law authorizes a person who utilizes an unlicensed contractor to bring an action in any court of competent jurisdiction in this state for recovery of all compensation paid to the unlicensed contractor for performance of any act or contract.

This bill would, ~~instead,~~ *limit the action for recovery of compensation paid to services for the construction or improvement of residential property, as specified.* It would also authorize a person who utilizes the services of an unlicensed contractor for the construction or improvement of ~~residential property, as specified,~~ *other than specified residential property* to bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the contractor for performance of any act or contract during the time the contractor was not properly licensed.

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

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

SECTION 1. Section 7031 of the Business and Professions Code is amended to read:

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

(b) Except as provided in subdivision ~~(e)~~, a (e):

(1) A person who utilizes the services of an unlicensed contractor for the construction or improvement of residential property consisting of one to four units may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the contractor for performance of any act or ~~contract~~ contract.

(2) *A person who utilizes the services of an unlicensed contractor for any construction or improvement of property other than residential property consisting of one to four units may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the contractor for performance of any act or contract during the time the contractor was not properly licensed.*

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

(d) If licensure or proper licensure is controverted, then proof of licensure pursuant to this section shall be made by production of a verified certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or

1 contract covered by the action. Nothing in this subdivision shall
2 require any person or entity controverting licensure or proper
3 licensure to produce a verified certificate. When licensure or proper
4 licensure is controverted, the burden of proof to establish licensure
5 or proper licensure shall be on the licensee.

6 (e) The judicial doctrine of substantial compliance shall not
7 apply under this section where the person who engaged in the
8 business or acted in the capacity of a contractor has never been a
9 duly licensed contractor in this state. However, notwithstanding
10 subdivision (b) of Section 143, the court may determine that there
11 has been substantial compliance with licensure requirements under
12 this section if it is shown at an evidentiary hearing that the person
13 who engaged in the business or acted in the capacity of a contractor
14 (1) had been duly licensed as a contractor in this state prior to the
15 performance of the act or contract, (2) acted reasonably and in
16 good faith to maintain proper licensure, (3) did not know or
17 reasonably should not have known that he or she was not duly
18 licensed when performance of the act or contract commenced, and
19 (4) acted promptly and in good faith to reinstate his or her license
20 upon learning it was invalid.

21 (f) The exceptions to the prohibition against the application of
22 the judicial doctrine of substantial compliance found in subdivision
23 (e) shall apply to all contracts entered into on or after January 1,
24 1992, and to all actions or arbitrations arising therefrom, except
25 that the amendments to subdivisions (e) and (f) enacted during the
26 1994 portion of the 1993–94 Regular Session of the Legislature
27 shall not apply to either of the following:

28 (1) Any legal action or arbitration commenced prior to January
29 1, 1995, regardless of the date on which the parties entered into
30 the contract.

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