

**ASSEMBLY BILL**

**No. 1920**

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**Introduced by Assembly Member Bill Berryhill**

February 22, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1920, as introduced, Bill Berryhill. Contractors: compensation.

Existing law, the Contractors' State License Law, provides for the licensing and regulation of contractors in the state by the Contractors' State License Board. Existing law prohibits a person acting in the capacity of a contractor from bringing an action to collect compensation for work performed as a contractor without alleging that he or she was a licensed contractor at the time the work was performed, except as specified. Existing law also authorizes a person who utilizes the services of an unlicensed contractor to bring an action in court to recover moneys paid to the unlicensed contractor for the performance of any act or contract.

The bill would authorize a person acting in the capacity of a contractor without a license to bring or maintain an action for recovery of compensation for any act or contract if the person had previously been licensed as a contractor in this state within 180 days of commencement of the work and the board has retroactively reinstated the contractor's license from the date the work commenced through the date of completion. The bill would prohibit an action for recovery of compensation against a contractor that satisfies these conditions. The bill would authorize a licensed contractor who performs work outside the scope of his or her license to bring or maintain an action to recover

compensation for the portion of the work that was performed within the scope of his or her license if the value of the unlicensed work does not exceed 20% of the contract price. The bill would limit the liability of a contractor performing work outside the scope of his or her license to the value of the unlicensed work if it does not exceed 20% of the contract price.

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) (1) 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  
 6 any action, in any court of this state for the collection of  
 7 compensation for the performance of any act or contract where a  
 8 license is required by this chapter without alleging that he or she  
 9 was a duly licensed contractor at all times during the performance  
 10 of that act or contract, regardless of the merits of the cause of action  
 11 brought by the person, except that this prohibition shall not apply  
 12 to contractors who are each individually licensed under this chapter  
 13 but who fail to comply with Section 7029.  
 14 (2) *This subdivision shall not apply if the person who engaged*  
 15 *in the business or acted in the capacity of a contractor (A) had*  
 16 *been previously licensed as a contractor in this state in the*  
 17 *appropriate classification for the work contracted or performed*  
 18 *within the 180-day period immediately preceding commencement*  
 19 *of the work, and (B) the board has acted to retroactively reinstate*  
 20 *the license from the date work commenced through the date of*  
 21 *completion.*  
 22 (3) *If a contractor holding a valid license contracted for, or*  
 23 *performed a portion of, any work outside of his or her license*  
 24 *classification and the value of the unlicensed work does not exceed*  
 25 *20 percent of the contract price, the contractor shall not be*  
 26 *prevented from bringing or maintaining an action to recover*  
 27 *compensation payable for that portion of work contracted or*  
 28 *performed for which the contractor was duly licensed.*

1 (b) (1) Except as provided in subdivision (e), a person who  
2 utilizes the services of an unlicensed contractor may bring an action  
3 in any court of competent jurisdiction in this state to recover all  
4 compensation paid to the unlicensed contractor for performance  
5 of any act or contract.

6 (2) *This subdivision shall not apply if the unlicensed contractor*  
7 *(A) had been previously licensed as a contractor in this state in*  
8 *the appropriate classification for the work contracted or performed*  
9 *within the 180-day period immediately preceding commencement*  
10 *of the work, and (B) the board has acted to retroactively reinstate*  
11 *the license from the date work commenced through the date of*  
12 *completion.*

13 (3) *If an action brought under this subdivision is based on a*  
14 *claim that a contractor holding a valid license contracted for, or*  
15 *performed a portion of, any work outside of his or her license*  
16 *classification and the value of the unlicensed work does not exceed*  
17 *20 percent of the contract price, any action to recover*  
18 *compensation previously paid to the contractor shall be limited*  
19 *to the value of that portion of the work contracted or performed*  
20 *that was outside the classification for which the contractor was*  
21 *duly licensed.*

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

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

38 (e) The judicial doctrine of substantial compliance shall not  
39 apply under this section where the person who engaged in the  
40 business or acted in the capacity of a contractor has never been a

1 duly licensed contractor in this state. However, notwithstanding  
2 subdivision (b) of Section 143, the court may determine that there  
3 has been substantial compliance with licensure requirements under  
4 this section if it is shown at an evidentiary hearing that the person  
5 who engaged in the business or acted in the capacity of a contractor  
6 (1) had been duly licensed as a contractor in this state prior to the  
7 performance of the act or contract, (2) acted reasonably and in  
8 good faith to maintain proper licensure, (3) did not know or  
9 reasonably should not have known that he or she was not duly  
10 licensed when performance of the act or contract commenced, and  
11 (4) acted promptly and in good faith to reinstate his or her license  
12 upon learning it was invalid.

13 (f) The exceptions to the prohibition against the application of  
14 the judicial doctrine of substantial compliance found in subdivision  
15 (e) shall apply to all contracts entered into on or after January 1,  
16 1992, and to all actions or arbitrations arising therefrom, except  
17 that the amendments to subdivisions (e) and (f) enacted during the  
18 1994 portion of the 1993–94 Regular Session of the Legislature  
19 shall not apply to either of the following:

20 (1) Any legal action or arbitration commenced prior to January  
21 1, 1995, regardless of the date on which the parties entered into  
22 the contract.

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