

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2560

Introduced by Assembly Member Obernolte

February 19, 2016

An act to amend Sections ~~8704, 8720.1, 8743, 8744, 8748.5, 8760, 8770, 8773.3, 8775.2, 8783, and 8804~~ Section 5096.21 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2560, as amended, Obernolte. ~~Professional Land Surveyors' Act. Accountants: practice privileges: out-of-state individuals.~~

Existing law provides for the licensure and regulation of the practice of accountancy by the California Board of Accountancy within the Department of Consumer Affairs. Existing law authorizes the board to make a determination based on specified factors about whether allowing individuals from a particular state to practice pursuant to a practice privilege violates the board's duty to protect the public and requires the board, if it were to make such a determination, to require those individuals, except as specified, to file the notification form and pay specified fees as a condition to exercising a practice privilege in this state.

This bill would authorize the board to adopt emergency regulations in order to implement the above-described provisions.

~~The Professional Land Surveyors' Act provides for the licensure and regulation of land surveyors by the Board for Professional Engineers, Land Surveyors, and Geologists, which is within the Department of Consumer Affairs, and requires any person practicing, or offering to~~

~~practice, land surveying in the state to submit evidence that he or she is qualified to practice and to be licensed under the act.~~

~~This bill would change masculine pronouns, as specified, throughout that act and make other nonsubstantive changes.~~

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

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

1 SECTION 1. Section 5096.21 of the Business and Professions
 2 Code is amended to read:

3 5096.21. (a) (1) On and after January 1, 2016, if the board
 4 determines, through a majority vote of the board at a regularly
 5 scheduled meeting, that allowing individuals from a particular
 6 state to practice in this state pursuant to a practice privilege as
 7 described in Section 5096, violates the board’s duty to protect the
 8 public, pursuant to Section 5000.1, the board shall require, by
 9 regulation, out-of-state individuals licensed from that state, as a
 10 condition to exercising a practice privilege in this state, to file the
 11 notification form and pay the applicable fees as required by former
 12 Section 5096, as added by Chapter 921 of the Statutes of 2004,
 13 and regulations adopted thereunder.

14 (2) *The board may adopt emergency regulations, in accordance*
 15 *with the Administrative Procedure Act (Chapter 3.5 (commencing*
 16 *with Section 11340) of Part 1 of Division 3 of Title 2 of the*
 17 *Government Code), to implement this subdivision. The adoption*
 18 *of the regulations shall be deemed an emergency and necessary*
 19 *for the immediate preservation of the public peace, health, safety,*
 20 *or general welfare for purposes of Sections 11346.1 and 11349.6*
 21 *of the Government Code.*

22 (b) The board shall, at minimum, consider the following factors
 23 in making the determination required by subdivision (a):

24 (1) Whether the state timely and adequately addresses
 25 enforcement referrals made by the board to the accountancy
 26 regulatory board of that state, or otherwise fails to respond to
 27 requests the board deems necessary to meet its obligations under
 28 this article.

29 (2) Whether the state makes the disciplinary history of its
 30 licensees publicly available through the Internet in a manner that
 31 allows the board to adequately link consumers to an Internet Web

1 site to obtain information that was previously made available to
2 consumers about individuals from the state prior to January 1,
3 2013, through the notification form.

4 (3) Whether the state imposes discipline against licensees that
5 is appropriate in light of the nature of the alleged misconduct.

6 (c) Notwithstanding subdivision (a), if (1) the National
7 Association of State Boards of Accountancy (NASBA) adopts
8 enforcement best practices guidelines, (2) the board, upon a
9 majority vote at a regularly scheduled board meeting, issues a
10 finding after a public hearing that those practices meet or exceed
11 the board's own enforcement practices, (3) a state has in place and
12 is operating pursuant to enforcement practices substantially
13 equivalent to the best practices guidelines, and (4) disciplinary
14 history of a state's licensees is publicly available through the
15 Internet in a manner that allows the board to link consumers to an
16 Internet Web site to obtain information at least equal to the
17 information that was previously available to consumers through
18 the practice privilege form filed by out-of-state licensees pursuant
19 to former Section 5096, as added by Chapter 921 of the Statutes
20 of 2004, no practice privilege form shall be required to be filed by
21 any licensee of that state as required by subdivision (a), nor shall
22 the board be required to report on that state to the Legislature as
23 required by subdivision (d).

24 (d) (1) The board shall report to the relevant policy committees
25 of the Legislature, the director, and the public, upon request,
26 preliminary determinations made pursuant to this section no later
27 than July 1, 2015. The board shall, prior to January 1, 2016, and
28 thereafter as it deems appropriate, review its determinations made
29 pursuant to subdivision (b) to ensure that it is in compliance with
30 this section.

31 (2) This subdivision shall become inoperative on July 1, 2017,
32 pursuant to Section 10231.5 of the Government Code.

33 (e) On or before July 1, 2014, the board shall convene a
34 stakeholder group consisting of members of the board, board
35 enforcement staff, and representatives of the accounting profession
36 and consumer representatives to consider whether the provisions
37 of this article are consistent with the board's duty to protect the
38 public consistent with Section 5000.1, and whether the provisions
39 of this article satisfy the objectives of stakeholders of the
40 accounting profession in this state, including consumers. The

1 group, at its first meeting, shall adopt policies and procedures
2 relative to how it will conduct its business, including, but not
3 limited to, policies and procedures addressing periodic reporting
4 of its findings to the board.

5 (f) On or before January 1, 2018, the board shall prepare a report
6 to be provided to the relevant policy committees of the Legislature,
7 the director, and the public, upon request, that, at minimum,
8 explains in detail all of the following:

9 (1) How the board has implemented this article and whether
10 implementation is complete.

11 (2) Whether this article is, in the opinion of the board, more,
12 less, or equivalent in the protection it affords the public than its
13 predecessor article.

14 (3) Describes how other state boards of accountancy have
15 addressed referrals to those boards from the board, the timeframe
16 in which those referrals were addressed, and the outcome of
17 investigations conducted by those boards.

18 (g) This section shall remain in effect only until January 1, 2019,
19 and as of that date is repealed, unless a later enacted statute, that
20 is enacted before January 1, 2019, deletes or extends that date.

21 ~~SECTION 1. Section 8704 of the Business and Professions~~
22 ~~Code is amended to read:~~

23 ~~8704. Any person practices land surveying when he or she~~
24 ~~professes to be a land surveyor or is in responsible charge of land~~
25 ~~surveying work.~~

26 ~~SEC. 2. Section 8720.1 of the Business and Professions Code~~
27 ~~is amended to read:~~

28 ~~8720.1. Each review committee shall consist of no fewer than~~
29 ~~three licensed land surveyors appointed by the board. Each member~~
30 ~~of a committee shall have the same qualifications and shall be~~
31 ~~subject to the same rules and regulations as if he or she were a~~
32 ~~member of the board.~~

33 ~~SEC. 3. Section 8743 of the Business and Professions Code is~~
34 ~~amended to read:~~

35 ~~8743. The names and addresses of at least four land surveyors~~
36 ~~or civil engineers, duly qualified to practice in the place in which~~
37 ~~such practice has been conducted, each of whom has sufficient~~
38 ~~knowledge of the applicant to enable him or her to certify to the~~
39 ~~applicant's professional integrity, ability, and fitness to receive a~~

1 license, shall be submitted with the application for the second
2 division of the examination.

3 ~~SEC. 4. Section 8744 of the Business and Professions Code is~~
4 ~~amended to read:~~

5 ~~8744. The applicant for the second division of the examination~~
6 ~~shall state in his or her application that, should he or she be~~
7 ~~licensed, he or she will support the Constitution of this state and~~
8 ~~of the United States, and that he or she will faithfully discharge~~
9 ~~the duties of a licensed land surveyor.~~

10 ~~SEC. 5. Section 8748.5 of the Business and Professions Code~~
11 ~~is amended to read:~~

12 ~~8748.5. If an applicant for license as a land surveyor or~~
13 ~~certification as a land surveyor-in-training is found by the board~~
14 ~~to lack the qualifications required for admission to the examination~~
15 ~~for such license or certification, the board may, in accordance with~~
16 ~~the provisions of Section 158 of this code, refund to him or her~~
17 ~~one-half of the amount of his or her application fee.~~

18 ~~SEC. 6. Section 8760 of the Business and Professions Code is~~
19 ~~amended to read:~~

20 ~~8760. Every licensed land surveyor or registered civil engineer~~
21 ~~may administer and certify oaths:~~

22 ~~(a) When it becomes necessary to take testimony for the~~
23 ~~identification or establishment of old, lost, or obliterated corners.~~

24 ~~(b) When a corner or monument is found in a perishable~~
25 ~~condition and it appears desirable that evidence concerning it be~~
26 ~~perpetuated.~~

27 ~~(c) When the importance of the survey makes it desirable to~~
28 ~~administer an oath to his or her assistants for the faithful~~
29 ~~performance of his or her duty.~~

30 ~~A record of oaths shall be preserved as part of the field notes of~~
31 ~~the survey and a memorandum of them shall be made on the record~~
32 ~~of survey filed under this article.~~

33 ~~SEC. 7. Section 8770 of the Business and Professions Code is~~
34 ~~amended to read:~~

35 ~~8770. The record of survey filed with the county recorder of~~
36 ~~any county shall be securely fastened by him or her into a suitable~~
37 ~~book provided for that purpose.~~

38 ~~He or she shall keep proper indexes of such record of survey by~~
39 ~~the name of grant, tract, subdivision, or United States subdivision.~~

1 The original map shall be stored for safekeeping in a reproducible
 2 condition. It shall be proper procedure for the recorder to maintain
 3 for public reference a set of counter maps that are prints of the
 4 original maps and the original maps to be produced for comparison
 5 upon demand.

6 ~~SEC. 8.— Section 8773.3 of the Business and Professions Code~~
 7 ~~is amended to read:~~

8 ~~8773.3.— In every case where a corner record is filed pursuant~~
 9 ~~to Section 8773, the licensed land surveyor or registered civil~~
 10 ~~engineer shall reconstruct or rehabilitate the monument of such~~
 11 ~~corner, and accessories to such corner, so that the same shall be~~
 12 ~~left by him or her in such physical condition that it remains as~~
 13 ~~permanent a monument as is reasonably possible and so that the~~
 14 ~~same may be reasonably expected to be located with facility at all~~
 15 ~~times in the future.~~

16 ~~SEC. 9.— Section 8775.2 of the Business and Professions Code~~
 17 ~~is amended to read:~~

18 ~~8775.2.— Maps, documents, or reports prepared by, or under the~~
 19 ~~direction of, a licensed photogrammetric surveyor shall carry his~~
 20 ~~or her signature and certificate number, which will indicate his or~~
 21 ~~her responsibility for the work.~~

22 ~~SEC. 10.— Section 8783 of the Business and Professions Code~~
 23 ~~is amended to read:~~

24 ~~8783.— A plea or verdict of guilty or a conviction following a~~
 25 ~~plea of nolo contendere made to a charge substantially related to~~
 26 ~~the qualifications, functions, and duties of a land surveyor is~~
 27 ~~deemed to be a conviction within the meaning of this article. The~~
 28 ~~board may order the license or certificate suspended or revoked,~~
 29 ~~or may decline to issue a license or certificate, when the time for~~
 30 ~~appeal has elapsed, the judgment of conviction has been affirmed~~
 31 ~~on appeal, or when an order granting probation is made suspending~~
 32 ~~the imposition of sentence, irrespective of a subsequent order under~~
 33 ~~the provisions of Section 1203.4 of the Penal Code allowing such~~
 34 ~~person to withdraw his or her plea of guilty and to enter a plea of~~
 35 ~~not guilty, or setting aside the verdict of guilty, or dismissing the~~
 36 ~~accusation, information, or indictment.~~

37 ~~SEC. 11.— Section 8804 of the Business and Professions Code~~
 38 ~~is amended to read:~~

39 ~~8804.— The renewal or reinstatement of any certificate of~~
 40 ~~registration of a civil engineer under Chapter 7 (commencing with~~

1 ~~Section 6700), who is also a licensed land surveyor, shall not~~
2 ~~include the renewal or restoration of his or her land surveyor's~~
3 ~~license without the payment of the surveyor's renewal fee or~~
4 ~~penalty.~~

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