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**AB-1278 Contractor licensing: judgment debtor prohibition.** (2017-2018)

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Date Published: 10/05/2017 09:00 PM

**Assembly Bill No. 1278**

**CHAPTER 506**

An act to amend Section 7071.17 of the Business and Professions Code, relating to contractors.

[ Approved by Governor October 05, 2017. Filed with Secretary of State October 05, 2017. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1278, Low. Contractor licensing: judgment debtor prohibition.

Existing law, the Contractors' State License Law, provides for licensing and regulation of contractors by the Contractors' State License Board. That law requires the board, with the approval of the Director of Consumer Affairs, to appoint a registrar of contractors to serve as the executive officer and secretary of the board.

That law directs the board to require, as a condition precedent to accepting an application for licensure, renewal, reinstatement, or to change officers or other personnel of record, that an applicant for a license, previously found to have failed or refused to pay a contractor, subcontractor, consumer, materials supplier, or employee based on a specified unsatisfied final judgment, to file or have on file with the board a bond sufficient to guarantee payment of an amount equal to the unsatisfied judgment or judgments, as specified. That law requires a licensee to notify the registrar in writing of a specified unsatisfied final judgment imposed on the licensee within 90 days of the imposition, and to file or have on file with the board a bond sufficient to guarantee payment of an amount equal to specified unsatisfied judgments within 90 days from date of notification. That law requires the license of a licensee who does not comply with these requirements to be automatically suspended. That law prohibits the suspension from being removed until proof of satisfaction of the judgment, or in lieu thereof, a notarized copy of an accord, is submitted to the registrar.

The bill would revise and recast the provisions relating to notice of an unsatisfied judgment, a sufficient bond for that judgment, and suspension for failure to comply.

The Contractors' State License Law also requires the qualifying person and any partner of the licensee or personnel of the licensee named as a judgment debtor in an unsatisfied final judgment to be automatically prohibited from serving as an officer, director, associate, partner, owner, manager, qualifying individual, or other personnel of record of another licensee. That law requires the license of any other existing renewable licensed entity with any of the same personnel of record as the judgment debtor licensee to be suspended until the license of the judgment debtor is reinstated or until those same personnel of record disassociate themselves from the renewable licensed entity.

This bill instead would, if a judgment is entered against a licensee, require a qualifying person or personnel of record of the licensee at the time of the activities on which the judgment is based to be automatically prohibited from serving as a qualifying individual or other personnel of record on another license, until the judgment is satisfied.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 7071.17 of the Business and Professions Code is amended to read:

**7071.17.** (a) Notwithstanding any other provision of law, the board shall require, as a condition precedent to accepting an application for licensure, renewal, reinstatement, or to change officers or other personnel of record, that an applicant, previously found to have failed or refused to pay a contractor, subcontractor, consumer, materials supplier, or employee based on an unsatisfied final judgment, file or have on file with the board a bond sufficient to guarantee payment of an amount equal to the unsatisfied final judgment or judgments. The applicant shall have 90 days from the date of notification by the board to file the bond or the application shall become void and the applicant shall reapply for issuance, reinstatement, or reactivation of a license. The board may not issue, reinstate, or reactivate a license until the bond is filed with the board. The bond required by this section is in addition to the contractor's bond. The bond shall be on file for a minimum of one year, after which the bond may be removed by submitting proof of satisfaction of all debts. The applicant may provide the board with a notarized copy of any accord, reached with any individual holding an unsatisfied final judgment, to satisfy a debt in lieu of filing the bond. The board shall include on the license application for issuance, reinstatement, or reactivation, a statement, to be made under penalty of perjury, as to whether there are any unsatisfied judgments against the applicant on behalf of contractors, subcontractors, consumers, materials suppliers, or the applicant's employees. Notwithstanding any other provision of law, if it is found that the applicant falsified the statement then the license will be retroactively suspended to the date of issuance and the license will stay suspended until the bond, satisfaction of judgment, or notarized copy of any accord applicable under this section is filed.

(b) (1) Notwithstanding any other provision of law, all licensees shall notify the registrar in writing of any unsatisfied final judgment imposed on the licensee. If the licensee fails to notify the registrar in writing within 90 days, the license shall be automatically suspended on the date that the registrar is informed, or is made aware of the unsatisfied final judgment.

(2) The suspension shall not be removed until proof of satisfaction of the judgment, or in lieu thereof, a notarized copy of an accord is submitted to the registrar.

(3) If the licensee notifies the registrar in writing within 90 days of the imposition of any unsatisfied final judgment, the licensee shall, as a condition to the continual maintenance of the license, file or have on file with the board a bond sufficient to guarantee payment of an amount equal to all unsatisfied judgments applicable under this section.

(4) The licensee has 90 days from date of notification by the board to file the bond or at the end of the 90 days the license shall be automatically suspended. In lieu of filing the bond required by this section, the licensee may provide the board with a notarized copy of any accord reached with any individual holding an unsatisfied final judgment.

(c) By operation of law, failure to maintain the bond or failure to abide by the accord shall result in the automatic suspension of any license to which this section applies.

(d) A license that is suspended for failure to comply with the provisions of this section can only be reinstated when proof of satisfaction of all debts is made, or when a notarized copy of an accord has been filed as set forth under this section.

(e) This section applies only with respect to an unsatisfied final judgment that is substantially related to the construction activities of a licensee licensed under this chapter, or to the qualifications, functions, or duties of the license.

(f) Except as otherwise provided, this section shall not apply to an applicant or licensee when the financial obligation covered by this section has been discharged in a bankruptcy proceeding.

(g) Except as otherwise provided, the bond shall remain in full force in the amount posted until the entire debt is satisfied. If, at the time of renewal, the licensee submits proof of partial satisfaction of the financial obligations covered by this section, the board may authorize the bond to be reduced to the amount of the unsatisfied portion of the outstanding judgment. When the licensee submits proof of satisfaction of all debts, the bond requirement may be removed.

(h) The board shall take the actions required by this section upon notification by any party having knowledge of the outstanding judgment upon a showing of proof of the judgment.

(i) For the purposes of this section, the term "judgment" also includes any final arbitration award where the time to file a petition for a trial de novo or a petition to vacate or correct the arbitration award has expired, and no petition is pending.

(j) (1) If a judgment is entered against a licensee, then a qualifying person or personnel of record of the licensee at the time of the activities on which the judgment is based shall be automatically prohibited from serving as a qualifying individual or other personnel of record on another license until the judgment is satisfied.

(2) The prohibition described in paragraph (1) shall cause the license of any other existing renewable licensed entity with any of the same personnel of record as the judgment debtor licensee to be suspended until the license of the judgment debtor is reinstated or until those same personnel of record disassociate themselves from the renewable licensed entity.

(k) For purposes of this section, a cash deposit may be submitted in lieu of the bond.

(l) Notwithstanding subdivision (f), the failure of a licensee to notify the registrar of an unsatisfied final judgment in accordance with this section is cause for disciplinary action.