

CONTRACTORS' STATE LICENSE BOARD

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Protection of the public shall be the highest priority for Contractors' State License Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

— Business and Professions Code § 7000.6

Created in 1929, the Contractors' State License Board (CSLB) licenses and regulates construction contractors, handles consumer complaints, and enforces existing laws pertaining to contractors. A consumer protection agency within the Department of Consumer Affairs (DCA), CSLB is authorized pursuant to the Contractors' State License Law (CSLL), and Business and Professions Code section 7000 et seq.; the Board's regulations are codified in Division 8, Title 16 of the California Code of Regulations (CCR). CSLB licenses almost 290,000 contractors in California.

CSLB licenses general engineering contractors (classified as "A"), general building contractors ("B"), and approximately 40 specialty contractor categories ("C"); in addition, the Board registers home improvement salespersons who market contractor services to consumers. The fifteen-member Board consists of one general engineering contractor, two general building contractors, two specialty contractors, one member from a labor organization representing building trades, one local building official, and eight public members (including one who represents a statewide senior citizen organization). Under

Business and Professions Code section 7002(b), a representative of a labor organization is eligible to serve as a public member of CSLB. The Board currently maintains five committees: executive, enforcement, licensing, legislation, and public affairs.

On June 15, 2018, Governor Brown reappointed Linda Clifford as an “A” general contractor member of CSLB. At its August 2018 meeting, the Board elected Ms. Clifford to serve as Board Secretary.

At this writing, CSLB has three Board vacancies which must be appointed by the Governor: a “C” contractor member; a public member; and a public member from a senior citizen organization.

MAJOR PROJECTS

Sunset Review

At its September 20, 2018 [meeting](#), CSLB approved its [draft 2018 Sunset Review Report](#). The statute that creates the Board—Business and Professions Code section 7000—expires on January 1, 2020, thus requiring the legislature to evaluate the Board and pass legislation during 2019 to extend the Board’s existence. The Board’s final report is due to the legislature by December 1, 2018. The Board will testify at a Sunset Review Hearing in early 2019.

The draft Report has 12 sections, 11 substantive and one reserved for attachments. The substantive sections include: Background and Description of CSLB and the regulated profession; Performance Measures and Customer Satisfaction Surveys; Fiscal and Staff; Licensing Program; Enforcement Program; Public Information Policies; Online Practice Issues; Workforce Development and Job Creation; Current Issues; Board Action and Response to Prior Sunset Issues; New Issues; and Attachments.

At the meeting, Board Chair Marlo Richardson explained that, as part of the Sunset Review Process, the Board must provide an update on “Prior Issues” identified in the Board’s last Sunset Report in 2014 and present “New Issues” now affecting the Board. Linda Clifford recommended three new issues to include in the report including: license suspension for unsatisfied judgements, charging an additional \$20 fee to C-10 (Electrician) and C-7 (Low Voltage Systems) contractors to support the electrician certification program, and an arborist certification program. The Board approved the draft Report and authorized staff to incorporate Board member recommendations, make final edits, and for the Board Chair to authorize final edits. The final Sunset Review Report is due to the Legislature December 1, 2018.

Remodel / Home Improvement Contractor

At its August 3, 2018 [meeting](#), the Licensing Committee recommended that CSLB conduct a stakeholders meeting to consider whether the Board should add a classification for a new non-structural remodeling/home improvement license classification. Currently there is growing market demand for contractors who perform construction work on residential properties without regularly performing framing or rough carpentry. Under the current classifications, a “B” General Building contractor may perform this work, however, applicants with experience in multiple trades but limited or no framing or rough carpentry experience do not meet the minimum requirements for the “B” General Building Contractor license. A new license classification, with defined limits, such as monetary dollar amount and exclusion of self-performing any life safety trades without the appropriate specialty classification, would create a pathway to licensure for skilled workers to contract and perform remodeling and home improvement services, thereby removing a

barrier to licensure which could bring individuals out of the underground economy and further CSLB's consumer protection goals.

At its September 2018 [meeting](#) the Board followed the recommendation of the Licensing Committee and directed staff to meet with industry stakeholders to develop a proposal regarding a new remodeling/home improvement licensing classification. On October 1, 2018, staff began using coding protocols to track the specific reason when an applicant is denied a "B" General Building license. The data will be compiled to quantify the impact of the experience requirements for the "B" license to help the Board determine if a new classification is warranted. Staff expects the collected data to be ready at the end of December and will present the data along with other information to the Board in 2019.

Arborist Certification Program and Specialty "C" License Classification

At the September 2018 Board [meeting](#), the Licensing Committee reported that staff developed timelines for the development of regulations and a trade exam for a specialty tree service license classification. At its April 2018 meeting, the board voted to develop an arborist health and safety certification program and a specialty "C" license classification [[23:2 CRLR 128](#)]. The timeline estimates the development of the specialty "C" license classification will take approximately 30 months—18 months for the classification to be defined in regulation and then examination development 12 months from the adoption of the regulations. Staff will hold stakeholder meetings by January 2019 to: determine the scope, name, and legal definition of the trade; determine what experience meets CSLB's 4-year requirement; address grandfathering of licensees, testing requirements for current

licensees, and trade exam waivers; and to address the relationship of the new classification to the C-27 landscaping and D-49 tree service classifications.

At its August 3, 2018 meeting, the Licensing Committee voted to develop a legislative proposal to provide CSLB with authority to discipline a licensee, performing defined tree service work that does not provide their employees with Cal/OSHA-developed training and defined safety equipment. After the August meeting, the California Division of Occupational Safety and Health (DOSH) informed CSLB that it was unable to support rulemaking authority for CSLB to create a tree worker certification because DOSH has existing authority to require contractors to provide training and equipment to workers engaged in tree work (CCR, Title 8, Division 1, Chapter 4, Subchapter 7, Group 3, Article 12).

At its September 2018 [meeting](#), after considering the information from DOSH, the board voted to reconsider their prior action directing staff to develop an arborist health and safety certification program. With the support of DOSH, the board voted to refer the matter to the Legislative Committee to develop a legislative proposal which would mandate that DOSH transmit to CSLB final citations issued against contractors for violations of safety regulations applicable to tree worker safety and would provide CSLB the authority to initiate disciplinary action against a licensee upon receipt of a DOSH finding a licensee committed violations of tree worker safety requirements.

Disaster Response

During CSLB's September 20, 2018 [meeting](#), staff reported that from June 2018 to August 2018, CSLB contributed a total of 475 staff hours to assist wildfire Local Assistance Centers and Disaster Relief Centers. CSLB is making efforts to prevent fire

survivors from being victimized again and encourages individuals to only hire licensed contractors when rebuilding their homes. The focus is to educate fire survivors of the reasons why to hire a licensed contractor and enforce state laws against unlicensed contractors. In addition, CSLB also sends employees from Statewide Investigative Fraud Team (SWIFT) to homes to teach homeowners to beware of unlicensed contractors. Further, SWIFT investigators will conduct random sweeps to affected areas after a disaster to ensure contractors are licensed. In July 2018, SWIFT conducted 70 sting operations with other state agencies, law enforcement, and local district attorneys. In addition, SWIFT worked with other state and local agencies to conduct 427 days of enforcement sweeps throughout the state. With multiple disaster responses in place, CSLB will continue to help individuals who have suffered through a wildfire to not be re-victimized by unlicensed contractors.

Solar Task Force

On June 29, 2018, CSLB published the [Solar Energy Disclosure Document](#). The document, developed by CSLB and the California Public Utilities Commission (CPUC), was mandated by [AB 1070 \(Gonzalez Fletcher\) \(Chapter 662, Statutes of 2017\)](#), which added sections 7169 and 7170 to the Business and Professions Code.

Beginning January 1, 2019, Contractors must provide the disclosure agreement to consumers prior to the completion of a sale, financing or lease of a system. Under Business and Professions Code section 7170, beginning July 1, 2019, CSLB will be required to receive and review complaints and consumer questions about solar energy systems companies and solar contractors, and must compile a yearly report that will be available on both the CSLB and the CPUC websites for the public. The report shall contain the

following: (1) the number and types of complaints; (2) the ZIP Code where the consumer complaint originated; and (3) the disposition of all complaints received against a solar contractor. Solar contractors have been subject to numerous complaints, and the Solar Energy System Disclosure Document may be able to identify and combat issues consumers are facing with the growing solar industry. It is the hope that the Solar Energy System Disclosure Document will help solar energy companies and solar contractors improve their relationships with customers and reduce complaints.

As of January 1, 2018, CSLB must comply with Business and Professions Code sections 7169 and 7170. During its [meeting](#) on June 7–8, 2018, CSLB reviewed and discussed the Solar Energy System Disclosure Document, and authorized the Registrar to conduct stakeholder meetings to review the second portion of the disclosure document to make it more user-friendly. Further, CSLB held a stakeholders meeting on August 24, 2018 to receive input from consumers and the industry for additional disclosure content. At its September 20, 2018 meeting, the board discussed the potential for additional stakeholder meetings and future regulations.

Contractors will be required to comply with the new requirement by providing the disclosure agreement to consumers established by AB 1070 beginning January 1, 2019, and CSLB will be required to review complaints and questions to post the findings by July 1, 2019.

LEGISLATION

[SB 721 \(Hill\)](#), as amended August 6, 2018, amends section 1954 of the Civil Code and adds Article 2.2, commencing with section 17973 to Chapter 5 of Part 1.5 of Division

13 of the Health and Safety Code, relating to building standards. The new section establishes minimum inspection and repair requirements for decks and balconies, referred to as “exterior elevated elements,” in all buildings containing three or more multifamily dwelling units. The new section defines “exterior elevated elements” to mean the following types of structures, including their supports and railings:

balconies, decks, porches, stairways, walkways, and entry structures that extend beyond exterior walls of the building and which have a walking surface that is elevated more than six feet above ground level, are designed for human occupancy or use, and rely in whole or in substantial part on wood or wood-based products for structural support or stability of the exterior elevated element.

Inspections must be conducted by a licensed architect; licensed civil or structural engineer; certified building inspector or building official from an association recognized by the local jurisdiction, or a contractor licensed by CSLB holding any or all of the “A,” “B,” or “C-5” licenses with a minimum of five years’ experience, as a holder of the license, in constructing multistory wood frame buildings.

This bill is a follow-up to [SB 465 \(Hill\) \(Chapter 372, Statutes of 2016\)](#), which was the legislature’s first response to the June 2015 collapse of a balcony at a Berkeley apartment building that killed six and injured seven. SB 465 established more oversight over the construction industry by requiring DOSH to transmit copies of any citations or other actions taken by the division against a contractor. CSLB conducted a study, as directed by SB 465, regarding the efficacy of a self-reporting requirement for licensees and concluded that requiring licensees to report judgments, arbitration awards, or settlement payments of construction defect claims would be a good investigative tool and would therefore enhance the Board’s ability to protect the public.

Added section 17973 continues the trend toward enhanced protection of the public by requiring the inspections described above to be conducted every six years and by imposing a civil penalty on property owners for failure to correct any deficiencies cited.

SB 721 does not impose any requirements on CSLB. Governor Brown signed SB 721 on September 17, 2018 (Chapter 445, Statutes of 2018).

[SB 1465 \(Hill\)](#), as amended August 20, 2018, adds sections 7071.20–7071.22 to the Business and Professions Code requiring licensee disclosure of final judgments in certain civil actions. Added section 7071.20 requires that licensees report to the registrar any civil action in which they are a named defendant and the amount of the judgment is \$1 million or more. Under existing law, protection of consumers is required to be the highest priority for CSLB in exercising its licensing, regulatory, and disciplinary functions.

At the June 7, 2018 meeting, the board voted to “support” this bill. Governor Brown signed SB 1465 on September 18, 2018 (Chapter 514, Statutes of 2018).

[SB 981 \(Dodd\)](#), as amended August 23, 2018, amends section 17577.3 of the Business and Professions Code to allow delivery and installation of water treatment devices during the consumer’s “three day right of rescission” period. The amended section removes a reference to “contractor” and replaces it with “seller” and specifies that installation of a water treatment system prior to the expiration of the rescission period makes the seller financially responsible for the removal of the treatment system and for restoring the property to “substantially as good condition” as it was prior to the installation, should the consumer decide to cancel the contract.

A contract for the sale of a water treatment device is considered a home solicitation contract or offer making it subject to Business and Professions Code section 7163, a “truth

in lending” consumer protection which prevents contractors from delivering or installing during the rescission period. The rescission period affords homeowners time to be certain about their purchase. According to the sponsor, unlicensed contractors are installing water treatment devices within the three-day rescission period, thus putting licensed contractors at a competitive disadvantage.

Governor Brown signed SB 981 on September 29, 2018 (Chapter 932, Statutes of 2018).

[SB 1042 \(Monning\)](#), as amended April 10, 2018, is a CSLB-sponsored bill that adds section 7099.8 to the Business and Professions Code to make explicit CSLB’s authority to host settlement conferences on contested citations, and to formalize the existing citation conference process as currently conducted by CSLB. Specifically, the new section permits a cited licensee to request a formal administrative hearing on a contested citation in addition to, or instead of, the formal hearing to resolve a citation. CSLB is attempting to minimize the number of appeals referred for a formal hearing by encouraging contractors to take advantage of the informal office conference mechanism, which is less expensive for all parties and achieves resolution more quickly. [[23:2 CRLR 130](#)]

The new section provides that a cited individual wishing to contest the citation must submit a written request for an administrative hearing within 15 days. In addition to, or instead of an administrative hearing, the person cited may contest the citation by submitting a written request for an informal citation conference to the chief of the enforcement division or a designee. The citation conference shall be held within 60 days of the request. The citation conference is informal and is not subject to the Administrative Procedure Act. If a citation conference is held any request for an administrative hearing is deemed withdrawn.

After the citation conference the chief of the enforcement division or their designee will affirm, modify, or dismiss the citation. An affirmed or modified citation must be contested by requesting an administrative hearing in writing within 30 days after service.

CSLB adopted a “support” position at its April 13 [meeting](#). Governor Brown signed SB 1042 on July 16, 2018 (Chapter 110, Statutes of 2018).

[SB 1087 \(Roth\)](#), as amended August 23, 2018, amends sections of, and adds section 22690.5 to, the Financial Code, and amends section 5940 of the Streets and Highways Code, to reform and strengthen the consumer protections of the Property Assessed Clean Energy (PACE) program. PACE programs are government agency established programs which allow property owners to pay for improvements and energy-efficient appliances by borrowing from private lenders and repaying the loan as a line item on their property tax bill.

The amendments to the Financial Code strengthen consumer protections by requiring lenders to confirm property owners meet specific financial criteria to qualify for the program and requires property owners receive a written disclosure about the terms of the program. Additionally, the Department of Business Oversight will create and maintain a list of names of PACE solicitors and solicitors’ agents who have been ordered to stop soliciting activities.

On June 7, 2018, CSLB took a “support” position of the bill. Governor Brown signed SB 1087 on September 27, 2018 (Chapter 798, Statutes of 2018).

[AB 2138 \(Chiu and Low\)](#), as amended August 24, 2018, amends sections 7.5, 480, 481, 482, 488, 493 and 11345.2 and adds section 480.2 to the Business and Professions Code. AB 2138 limits the circumstances under which state regulatory boards under the

DCA may deny professional licensure to individuals who have previously been convicted of certain specified crimes in the 7 years preceding the date of application and

require[s] DCA boards to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession a board regulates; develop procedures when requesting or taking disciplinary action based on an applicant's criminal history; and require[s] boards to annually report specified de-identified information relating to Board action pertaining to applicants with criminal convictions, including the number of licensees who were affected, whether they provided evidence of rehabilitation or mitigation; whether they appealed; the final disposition; and the voluntarily provided information on [the] race or gender of any applicant.

[\[23:2 CRLR 67\]](#)

AB 2138's provisions become operative on July 1, 2020. Governor Jerry Brown signed AB 2138 on September 30, 2018 (Chapter 995, Statutes of 2018).

[AB 2371 \(Carrillo\)](#), as amended August 17, 2018, adds sections 7065.06 and 7195.5 to the Business and Professions Code, and amends sections 65592, 65596, and 65596.5 of, and adds section 65596.7 to the Government Code, relating to water use efficiency. New section 7065.06 requires CSLB to confer with the Department of Water Resources and the California Landscape Contractors Association prior to revising the examinations for the landscaping contractor's license (C-27) to determine whether any updates or revisions to the exams are needed to reflect new and emerging landscape irrigation efficiency practices; ensure that the exams include questions that are specific to water use efficiency and sustainable practices; and ensure that the reference study material for the exams continues to include the most current version of the Model Water Efficient Landscape Ordinance at section 490, Title 23 of the CCR.

New section 7195.5 allows for a home inspection report on a dwelling unit on a parcel containing an in-ground landscaping irrigation system, which is under the exclusive

control of the owner or occupant of the dwelling, to include documentation of the examination of numerous detailed elements of the irrigation system by either a home inspector or a certified landscape irrigation auditor for purposes of improving landscape water use and irrigation efficiency.

The amendments and additions to the Government Code do not directly affect CSLB. Governor Brown signed AB 2371 September 28, 2018 (Chapter 867, Statutes of 2018).

[AB 2705 \(Holden\)](#), as amended August 7, 2018, is a CSLB-sponsored bill that amends section 7126 of the Business and Professions Code to make unlicensed persons acting in the capacity of a contractor subject to existing criminal penalties that apply to licensed contractors for failing to secure the payment of workers' compensation and makes this crime subject to a two-year statute of limitations.

Governor Brown signed AB 2705 on September 10, 2018 (Chapter 323, Statutes of 2018).

[AB 3126 \(Brough\)](#), as amended August 20, 2018, amends sections 7071.17, 7074, 7091, and 7137 of, adds section 7071.4 to, and repeals section 7071.12 of, the Business and Professions Code, to delete the ability of an applicant for licensure as a contractor or a licensed contractor to post a cash deposit in lieu of a required bond. [\[23:2 CRLR 134\]](#) These changes are enacted to help protect consumers by ensuring funds are readily available for compensation upon the finding that they have suffered harm by a licensee.

This CSLB-sponsored bill requires each licensee subject to bonding requirements to maintain the requisite bond as executed by an admitted surety insurer in the appropriate amount or to deposit cash or a cashier's check with the CSLB. Other methods of deposit,

including, but not limited to, certificates of deposit are prohibited from satisfying a bond requirement. The bill becomes operative on January 1, 2019. Any licensees currently using an existing alternative in lieu of a bond filed with CSLB are required to replace the alternative with a surety bond or cash deposit by January 1, 2020.

The bill also creates the Contractors' Deposit Fund in the State Treasury for these purposes. The Governor signed AB 3126 on September 29, 2018 (Chapter 925, Statutes of 2018).

[**SB 988 \(Galgiani\)**](#), as amended May 3, 2018, adds section 7196.2 to the Business and Professions Code to require a home inspector who observes any shade of yellow corrugated stainless-steel tubing (CSST) during a home inspection to include that observation and a specified notification in a home inspection report. The statement reads, “[M]anufacturers of yellow CSST believe that yellow CSST is safer if properly bonded and grounded as required by the manufacturer’s installation instructions. Proper bonding and grounding of this product can only be determined by a licensed electrical contractor.” As many as half of yellow CSST installations in the United States were completed prior to code updates and were thus not properly bonded which can result in serious consequences whenever lightning strikes nearby. [[23:2 CRLR 136](#)] Home inspectors are only required to document their observation of yellow CSST in the home inspection report; they are not required to inspect for yellow CSST.

SB 988 was signed by the Governor on August 27, 2018 (Chapter 225, Statutes of 2018).

LITIGATION

Contractors' State License Bd. v. Superior Court. On April 26, 2018 in *Contractors' State License Bd. v. Superior Court*, 23 Cal. App. 5th 125 (2018), the First District Court of Appeals held that the trial court erroneously denied CSLBS's motion for a protective order, and that Registrar Dave Fogt did not have to appear for a deposition in a declaratory judgment action brought against the Board by Black Diamond Electric ("BDE"). Specifically, the court held that agency heads and top governmental executives are not subject to deposition absent a two-prong showing by the deposing party that 1) the government official has direct personal, factual information pertaining to material issues in the action; and 2) the information to be gained from the deposition is not available through any other source. The Court found BDE failed to make this showing and issued the peremptory writ in the first instance.

CSLB seeks a writ of mandate and a stay to prevent the "apex deposition" of the Registrar David R. Fogt. BDE, a licensed electrical contractor, is the real party of interest and is the subject of a disciplinary hearing due to allegations that uncertified BDE employees performed work that required certification. The disciplinary hearing is currently pending before the Office of Administrative Hearings. BDE noticed Fogt's deposition in a declaratory judgment that BDE brought against CSLB, and CSLB sought a protective order to prevent the deposition. The trial court denied the motion for a protective order, and CSLB then sought writ review.

Under California law, the head of a government agency is not subject to deposition unless under the exception of the official having direct personal factual information of material issues in the action and the deposing party showing the information to be gained

from the deposition is not available through another source. (*Westly v. Superior Court*, 125 Cal. App. 4th 907, 911 (2004)).

BDE sought to depose Fogt concerning CSLB's operating definitions of electrician and direct supervision for purpose of enforcement. The agency head or governmental executive title applies to Fogt because as the Registrar of CSLB, he qualifies as a top governmental executive. BDE failed to make the two-prong showing required to compel Fogt's deposition in spite of his status as a governmental executive. First, the information that BDE seeks is a question of law not fact. It is a legal issue to determine whether CSLB's interpretation and manner of enforcement of the specified Labor Code provisions are consistent with the statutes at issue. Further, BDE failed to show that the information is unavailable from any other source. Specifically, there are published reports and interpretations where BDE could glean the information. Because BDE failed to satisfy the two-prong showing the court issued the peremptory writ in the first instance, issuing a protective order in favor of CSLB against the deposition of Registrar Fogt.

RECENT MEETINGS

At the August 3, 2018 [meeting](#), CSLB highlighted staff shortages likely due to budget cuts and the increased workload caused the Solar Task Force and all the solar-related complaints. CSLB conducted a study for the Sunset Review Report that shows an increase of 188 additional complaints per month from the fiscal year of 2016–17 to 2017–18. The Sunset Review will be released December 2018 and the final analysis compiled for the review will help decide how to address the vacancies and the increased workload of the staff.

At the September 20, 2018 [meeting](#), the Public Affairs Office discussed an August 2018 media event. The Public Affairs Office worked with the CSLB enforcement staff and the California Department of Insurance to publicize an educational outreach operation for survivors of the Carr Wildfire. The focus of the event was for disaster survivors to beware of unlicensed contractors and it was covered by local print and television outlets.