



Chief may assess for violation of various provisions of the Business and Professions Code or the CCR. According to section 1383.2, in no case shall the total amount assessed exceed \$2,500 for each investigation.

Proposed section 1383.3 would provide that, in assessing an administrative fine and issuing an order of abatement, the Chief shall give due consideration to the following factors: the nature and severity of the violation; the good or bad faith of the cited person; the history of previous violations; evidence that the violation was willful; the extent to which the cited person or entity has cooperated with the Bureau; the extent to which the cited person has mitigated or attempted to mitigate any loss caused by the violation; the extent of the consumer injury which is a direct and proximate result of the violation; and such other matters as justice may require.

Proposed sections 1383.4 and 1383.5 discuss the penalties for failure to comply with an order of abatement and the procedure for contesting citations, respectively. Finally, proposed section 1383.6 would provide that the BHFTI Chief may issue citations against any unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the Bureau and who is not otherwise exempt from licensure. Each citation shall contain an order of abatement fixing a reasonable period of time for abatement of a violation and may contain assessment of an administrative fine ranging from \$100 to \$2,500 for each investigation. The section would provide that any sanction authorized by the Bureau shall be separate from and in addition to any other civil or criminal remedies.

The Bureau is scheduled to conduct a public hearing on these proposed regulations on July 6 in Sacramento.

Debate Continues Over Fee Increases. BHFTI's license fees are currently set at their statutory ceilings; if legislation is not enacted raising the maximum fee amounts, the Bureau may have to eliminate its \$132,000 budget for state-of-the-art scientific equipment. [13:1 CRLR 41] According to Chief Damant, the funds are essential for the Bureau to carry out its mandated functions, since equipment wears out and becomes obsolete after only a few years. SB 574 (Boatwright) would increase the maximum fee for a furniture manufacturer, wholesale furniture dealer, bedding manufacturer, wholesale bedding dealer, or supply dealer license from \$360 to \$540; increase the maximum fee for a custom upholsterer, bedding renovator, or sanitizer license from \$240 to \$360; increase the maximum fee for a retail furniture dealer

or retail bedding dealer license from \$80 to \$120; and create a retail furniture and bedding dealer's license, with a maximum licensing fee of \$240 and a minimum fee of \$40. Although representatives of the furnishings and insulation industry have expressed support for these fee increases, industry members have cautioned that they will oppose the fee increases if the legislature once again decides to transfer fees from BHFTI's special fund to the general fund during this year's budget process. [12:4 CRLR 84]

LEGISLATION

AB 622 (Knight), as introduced February 22, would eliminate BHFTI and continue the enforcement and administration of the Home Furnishings and Thermal Insulation Act by the DCA Director. [A. CPGE&ED]

SB 574 (Boatwright), as amended May 17, would—among other things—define the term “seating furniture”; place responsibility for compliance with the Home Furnishings Act not only on the manufacturer and wholesaler, but also on the retailer or any person having in his/her possession any article of upholstered furniture, bedding, or filling materials with intent to resell contrary to the provisions of the Act; and increase the maximum license fees which BHFTI may assess (see MAJOR PROJECTS). [A. CPGE&ED]

SB 842 (Presley), as amended April 13, would permit BHFTI to issue interim orders of suspension and other restrictions, as specified, against its licensees. (See agency update on DCA for more information.) [A. CPGE&ED]

AB 2182 (Lee). Under existing law, BHFTI licenses and regulates insulation manufacturers who sell insulation material in California. As amended May 5, this bill would instead authorize the State Fire Marshal to license insulation manufacturers who sell insulation material in this state, and would require all insulation material manufactured for sale or use in California and all insulation material sold or offered for sale by a manufacturer, wholesaler, or retailer for use in this state to be flame retardant, as specified. [A. W&M]

BOARD OF LANDSCAPE ARCHITECTS

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Authorized in Business and Professions Code section 5615 *et seq.*, the Board of Landscape Architects (BLA) licenses

those who design landscapes and supervise implementation of design plans. Prior to 1993, applicants were required to pass the written examination of the national Council of Landscape Architectural Registration Boards (CLARB) in order to qualify for licensure. However, following years of dissatisfaction, BLA decided in May 1992 to discontinue its use of CLARB's exam; commencing in 1993, applicants must instead pass the Board's own Professional Examination for Landscape Architects (PELA) in order to qualify for licensure. [12:4 CRLR 86] In addition, an applicant must have the equivalent of six years of landscape architectural experience. This may be a combination of education from a school with a Board-approved program in landscape architecture and field experience.

In addition to licensing landscape architects, the Board investigates verified complaints against landscape architects, prosecutes violations of the Practice Act, and establishes criteria for approving schools of landscape architecture. BLA's regulations are codified in Division 26, Title 16 of the California Code of Regulations (CCR).

BLA consists of seven members who serve four-year terms. One of the members must be a resident of and practice landscape architecture in southern California, and one member must be a resident of and practice landscape architecture in northern California. Three members of the Board must be licensed to practice landscape architecture in the state of California. The other four members are public members and must not be licentiates of the Board.

MAJOR PROJECTS

Board Holds Public Hearing on Proposed Regulations. On February 19, BLA held a public hearing concerning its proposed amendments to sections 2606, 2620, 2623, and 2671, repeal of sections 2624, 2625, and 2626, and adoption of sections 2614 and 2615, Title 16 of the CCR. [13:1 CRLR 43]

During the public hearing, many of those in attendance attempted to—once again—debate with the Board about its decision to break from CLARB and discontinue its use of CLARB's Landscape Architects Registration Examination (LARE). In response, BLA members reiterated that the decision was made after substantial and thorough public debate and after numerous attempts to resolve BLA's differences with CLARB. [13:1 CRLR 42]

In response to some of the comments received regarding specific regulatory



proposals, BLA made minor modifications to the some of the language. For example, new section 2614 attempts to provide a transition program for candidates who have passed part(s) of the LARE and are now required to take the PELA. Proposed section 2614(c) would have provided that a candidate who has received credit for sections 1-7 of the 1992 or 1993 LARE from the Board or another state licensing authority and who has passed either section 6 of the 1988 through 1991 UNE (CLARB's previous licensing exam) or section 8 of the 1992 LARE is deemed to have met the Board's examination requirements and is eligible for licensure. BLA decided to omit this subsection, instead simply requiring that a candidate who is transferring credit from the UNE or LARE to the PELA and has not previously received BLA credit for section 8 (California) of the LARE shall be required to take and pass either section 1 (objective) or section 4 (California) of the PELA; however, a candidate who has been granted transfer credit from the LARE to section 1 of the PELA may not apply such transfer credit to also fulfill his/her requirement to have passed the California section of the PELA.

BLA also modified its proposed amendments to section 2623, regarding the procedure candidates must follow in inspecting their exam and appealing a failing score. As modified, proposed new section 2623(c)(2) would provide that an examinee may appeal a failing score on a graphic performance section of the examination only if he/she has obtained a score which is within two standard errors of measurement below the passing score on that graphic performance section; the standard error of measurement shall be based upon the standard deviation and reliability coefficient obtained from a statistical analysis of the graphic performance section.

BLA adopted the entire rulemaking package, subject to the modifications noted above. On February 24, the Board released the modified language for an additional fifteen-day public comment period. At this writing, the action awaits review and approval by the Office of Administrative Law.

Board Reports on Florida Presentation. At its February 19 meeting, BLA noted that the Florida Board of Landscape Architecture has followed California's lead and voted to release a request for proposals for development of a new Florida exam to be administered commencing in 1994. Because of Florida's increasing dissatisfaction with the content, format, and grading of the LARE, the Florida

Board invited BLA representatives to make a presentation concerning the PELA at its January meeting; the California panel consisted of Executive Officer Jeanne Brode, Board President Larry Chimbole, and Anita Kamouri and Mark Blankenship, Project Manager and Director, respectively, of H.R. Strategies, BLA's PELA vendor.

According to Brode, the Florida Board voiced many of the same concerns BLA had in the last few years concerning the LARE; for example, the Florida Board believes CLARB's exam is inherently unfair when the seven sections are graded on a non-compensatory basis. In addition, Florida had received letters from other states also indicating similar concerns.

At BLA's February meeting, former Board member Rae Price inquired whether the Florida trip was financed from BLA funds; Brode confirmed that the Board's out-of-state travel budget was partially used for the trip, and noted that BLA was invited to Florida by the Florida Board for the purpose of explaining BLA's break with the LARE. Brode also justified the use of BLA funds insofar as the Board had decided not to attend CLARB's 1992 annual conference in Pittsburgh.

LAO Proposes To Eliminate BLA. In its *Analysis of the 1993-94 Budget Bill*, one of the recommendations made by the Legislative Analyst's Office (LAO) for streamlining state government proposed that the legislature eliminate the state's regulatory role in thirteen currently-regulated areas. Particularly relevant to BLA is LAO's recommendation that the state stop regulating several consumer-related business activities. In determining whether the state should continue to regulate a particular area, LAO recommended that the state consider whether the board or bureau protects the public from a potential health or safety risk that could result in death or serious injury; whether the board or bureau protects the consumer from severe financial harm; and whether there are federal mandates that require the state to regulate certain activities. Based on these criteria, LAO recommended that the state remove its regulatory authority over activities currently regulated by BLA, among other DCA bureaus and agencies. At this writing, LAO's recommendation has not been amended into any pending legislation.

LEGISLATION

AB 1848 (Cortese). Under existing law, a design professional is entitled to a specified design professional's lien on real property for which a work of improvement is planned and for which governmental

approval is obtained, as specified; existing law defines the term "design professional" to include architects, engineers, and land surveyors. As introduced March 5, this bill would expand that definition to include licensed landscape architects for purposes of that provision. [A. *Jud*]

AB 1807 (Bronshvag), as amended May 3, would reduce the time within which a landscape architect may renew his/her expired license from five to three years. [A. *W&M*]

SB 842 (Presley), as amended April 13, would permit BLA to issue interim orders of suspension and other license restrictions, as specified, against its licensees. [A. *CPGE&ED*]

RECENT MEETINGS

At its February meeting, BLA noted that the initial overall pass rate on the 1992 LARE was 24.6%. [13:1 *CRLR 42-43*] After BLA reviewed appeals and conducted a grading workshop, the overall pass rate was 34.5%; staff noted that once the transition plan is adopted as part of the Board's regulations (*see* MAJOR PROJECTS), the overall pass rate will increase to 36.6%.

Also at its February meeting, BLA reviewed the availability and cost of its recently-released *Candidates Handbook*. Executive Officer Jeanne Brode reported that all candidates, Board members, staff, and review course providers in California received a handbook free of charge; all others requesting a copy were charged \$50.

At its May 7 meeting, the Board tentatively agreed to offer the PELA twice per year; at this writing, the Board is expected to finalize that decision at its July meeting after reviewing a cost summary. BLA also agreed to extend its current contract with H.R. Strategies, its exam vendor, for two additional years.

FUTURE MEETINGS

October 15 in Sacramento.

MEDICAL BOARD OF CALIFORNIA

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The Medical Board of California (MBC) is an administrative agency within the state Department of Consumer Affairs (DCA). The Board, which consists of twelve physicians and seven non-phy-