



ages and reminded licensees that they may not make demands for treble damages on non-sufficient funds checks without first having a court judgment for such damages. Licensees were also reminded that treble damages on partially paid checks will only be assessed on the unpaid portion of the check.

The *Bulletin* also reported that the Bureau has finally moved to its new site located at 400 R Street, Suite 2001, Sacramento, CA 95814-6234.

LEGISLATION:

SB 1083 (Robbins) would provide that persons licensed as collection agencies are deemed to be attorneys-in-fact for purposes of depositing or transferring client funds to or from individual or pooled client trust deposits with banks, and that the authorized signatures and instructions of these licensees on items deposited and transfers made to and from the trust deposits of their clients are valid, whether or not the principal-agent relationship is indicated on the item or instruction. This bill is currently pending in the Senate Judiciary Committee.

AB 1180 (Murray), as amended July 1, would substantially revise existing law applicable to private investigators. Among other things, AB 1180 would extend DCA's rulemaking authority to cover private investigators and their employees; extend that rulemaking authority to the establishment of procedures, qualifications, fees, and conditions under which licensed private investigators and security guards who hold valid firearms qualifications cards will be issued a permit by the DCA Director to carry a concealed firearm; and exempt from the Private Investigators Act guards or messengers of common carriers, banks, and other financial institutions while in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within California, if certain conditions are met. This bill is pending in the Senate Business and Professions Committee.

SB 315 (Deddeh), as amended June 20, would exclude newspaper carriers and other independent delivery contractors engaged in the collection of subscriptions or wholesale payments for newspapers from the term "collection agency" as used in the Collection Agency Act. SB 315 would also extend the sunset date of the Collection Agency Act from June 30, 1992 until June 30, 1993. This bill is pending in the Assembly Committee on Banking, Finance, and Bonded Indebtedness.

RECENT MEETINGS:

At its October meeting, PSAB reported that it is currently completing its stun-gun update and would report its findings in the next *Private Investigators Bulletin*. The Board also stated that, to ensure compliance with Board regulations, it would begin to perform "spot checks" on investigators with little or no prior warning. The Board reported that during summer 1991, licensees reported nineteen shootings and four fatalities. The Board also reported that it would release training manuals for taser gun use and a draft of the Disciplinary Review Committee's guidelines at its January meeting.

FUTURE MEETINGS:

To be announced.

CONTRACTORS STATE LICENSE BOARD

Registrar: David Phillips

(916) 366-5153

Toll-Free Information Number:
1-800-321-2752

The Contractors State License Board (CSLB) licenses contractors to work in California, handles consumer complaints, and enforces existing laws pertaining to contractors. The Board is authorized pursuant to the Contractors State License Law (CSLL), Business and Professions Code section 7000 *et seq.*; CSLB's regulations are codified in Division 8, Title 16 of the California Code of Regulations (CCR).

The thirteen-member Board, consisting of seven public members, five contractors and one labor member, generally meets every other month. The Board maintains six committees: legislative, enforcement, licensing, public information, strategic planning, and budget/administration. In addition, the Board maintains a Fire Protections Systems Ad Hoc Committee. Committees meet every one to three months, and present recommendations for requested action at the full Board meetings.

MAJOR PROJECTS:

CSLB Reconsiders Its Complaint Disclosure Policy. On October 3, representatives of the Department of Consumer Affairs (DCA) and CSLB met to discuss the Board's proposed amendment to its complaint disclosure policy, codified at section 863, Division 8, Title 16 of the CCR (Rule 863). The proposed amendment would preclude CSLB from disclosing pending complaints against a contractor to an inquiring consumer until such complaints are

fully investigated and referred for legal action. "Legal action" means referral of the complaint for the issuance of a citation, accusation, statement of issues, or the initiation of criminal action or injunctive proceedings. (See CRLR Vol. 11, No. 4 (Fall 1991) pp. 70-71; Vol. 11, No. 3 (Summer 1991) p. 69; and Vol. 11, No. 2 (Spring 1991) pp. 65-66 for extensive background information.)

In response to CSLB's proposed amendment, the Center for Public Interest Law (CPIL) raised numerous objections to the proposal, maintaining that the proposed amendment is contrary to the public interest because it is not authorized by the Business and Professions Code; CSLB has shown no necessity to justify revision of the rule; and the proposed amendment is contrary to CSLB's enabling statute. CPIL prefers the current version of Rule 863, which permits CSLB to disclose to an inquiring consumer the nature of complaints pending against a contractor once those complaints have survived a thorough screening process and have been referred to a CSLB Deputy Registrar for formal investigation.

DCA Director Jim Conran must approve the proposed amendment to Rule 863; if he rejects it, CSLB may forward the rule change to the Office of Administrative Law for approval only upon a unanimous Board vote. As a result of the October 3 meeting between the staffs of DCA and CSLB, the Board was scheduled to reconsider the proposed amendment to Rule 863 at its January 17 meeting in San Diego.

Other Proposed Regulatory Changes. On January 17, CSLB was scheduled to conduct a public hearing on two separate proposed regulatory revisions. First, CSLB proposes to amend section 832.07, Title 16 of the CCR, regarding Class C-7 Low Voltage Contractors. Among other things, the proposed changes would delete language authorizing C-7 low voltage contractors to install low voltage fire alarm systems. Because of the safety considerations involved in fire alarm system installation, representatives from the State Fire Marshal's office, several fire departments, and the fire alarm industry have expressed support for removing low voltage fire alarm systems from the scope of the C-7 classification. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 71 for background information.) C-7 contractors are currently authorized to install and maintain low voltage systems which are energy limited and do not exceed 91 volts, including telephone systems, sound systems, cable television systems, closed-circuit video



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systems, satellite dish antennas, instrumentation and temperature controls, low voltage landscape lighting, and low voltage fire alarms. The proposed amendment to the C-7 classification reflects concern that C-7 contractors who lack experience in fire alarm installation may install systems incorrectly. Class C-10 electrical contractors, who are allowed to install all fire alarm systems, are attempting to implement a program allowing C-7 contractors experienced in fire alarm system installation to take an examination and be "grandparented in" to the C-10 class.

Second, CSLB proposes to adopt new section 832.28, Title 16 of the CCR, which would create a new specialty license classification for Class C-28 Lock and Security Equipment Contractors. Currently, no such specialty classification exists; instead, contractors who work in lock and security equipment must obtain several separate C-61 class licenses, which require a general business and law exam but no specialty exam. The proposed regulation would provide that a lock and security equipment contractor evaluates, sets up, installs, maintains, and repairs all doors and door assemblies, gates, locks and locking devices, panic and fire rated exit devices, manual and automatic operated gate and door closures and releases, jail and prison locking devices, and permanently installed or built-in safes and vaults. This classification would include but is not limited to master key systems, metal window guards, security doors, card-activated and electronic access control systems for control equipment, motion and other types of detectors, and computer systems for control and audit of control systems and other associated equipment.

CSLB Arbitration Programs Evaluated. The California State University Real Estate and Land Use Institute recently released its evaluation of CSLB's Voluntary Arbitration Program (VARB) and Mandatory Arbitration (MARB) Pilot Project. To qualify for VARB, a consumer-contractor dispute must meet the following conditions: (1) "financial injury" of \$2,500 to \$25,000; (2) the complaint must involve an apparent violation of workmanship standards, abandonment, etc.; (3) the contractor must have a good record and have a license in good standing; (4) it must be in the public interest to resolve the complaint through arbitration rather than through disciplinary action; and (5) the contract involved in the complaint must contain no previous agreement to arbitrate a dispute through another process. The MARB program utilizes the same crite-

ria except that the financial injury may not exceed \$2,500. (See CRLR Vol. 9, No. 4 (Fall 1989) p. 52; Vol. 9, No. 1 (Winter 1989) pp. 43-44; and Vol. 7, No. 4 (Fall 1987) p. 45 for background information.)

The findings made by the Institute include the following:

-Complaints are resolved through arbitration in an average of 106 days from the date they are received by CSLB to the issuance of an award, as compared to 185 days per complaint for completion of an investigation and filing of a legal action.

-Under reasonable circumstances, complainants may expect to be reimbursed for damages under the arbitration programs.

-MARB accounts for closing 6% of the 31,000 complaints received annually by CSLB.

-CSLB staff agree that MARB offers a superior method for resolving some complaints, that it should be continued, and that its financial injury limit should be increased to \$5,000.

-Both complainants and respondents gave the arbitration programs above average ratings; for example, 88% of complainants and 64% of respondents stated they were satisfied with MARB.

Based on its findings, the Institute concluded that both MARB and VARB are in the best interest of the public and recommended that MARB be permanently funded.

Budget Change Proposals Approved. Of the nine original 1992-93 budget change proposals (BCPs) approved by CSLB, the Board submitted eight to the Department of Finance (DOF), withdrawing the \$100,000 BCP for field office relocation. Along with the eight original BCPs, CSLB submitted a new ninth BCP, seeking \$429,000 in increased Attorney General funds; the total amount of augmented funding submitted to DOF was \$4.6 million. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 71 and Vol. 11, No. 3 (Summer 1991) p. 69 for background information.)

DOF subsequently approved six of the nine BCPs, rejecting CSLB's requests for \$453,000 for ongoing support of its automated phone response system; \$57,000 for additional staff for the Board's information systems unit; and the \$429,000 for increased Attorney General funds. As a result, the total amount of increased funding authorized by DOF is \$3.36 million, including \$1.5 million for statewide expansion of CSLB's Unlicensed Activity Unit; \$868,000 for support of the Board's consumer complaint arbitration program; and \$676,000 for implementation of a

public information plan. These budget augmentations must now be approved by the legislature.

Licensing Revisions Proposed. At CSLB's October 11 meeting, the Board agreed to seek amendments to Business and Professions Code section 7075.1, to enable family members to continue doing business under the license originally issued to the qualifier of the family business, as well as allow a contractor to retain his/her individual license number when applying for a corporate license.

The Board also agreed to seek the repeal of Business and Professions Code section 7065.1(c), which provides that CSLB's Registrar may waive the examination for a contractor's license if the qualifying individual is an employee of a corporation seeking to replace its former qualifying individual and has been employed by that corporation, provided that for five of the seven years immediately preceding the application for licensure (1) the qualifying individual has been continually employed by the corporation in a supervisory capacity in the same classification being applied for; and (2) the corporation has held an active license in good standing in the same classifications being applied for. According to CSLB, this provision has led to widespread abuse in the industry and must be repealed.

LEGISLATION:

AB 1439 (Archie-Hudson) would require the Registrar to, on or before July 1, 1992, adopt regulations exempting bidders under the Target Area Contract Preference Act from bonding requirements, subject to specified conditions. This bill is pending in the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development.

AB 497 (Bentley) would permit the Registrar to refer specified complaints to arbitration if there is evidence that the complainant has suffered or is likely to suffer damages in an amount greater than \$5,000 and less than \$25,000, and would provide for mandatory referral to arbitration when the contract price or the demand for damages is equal to or less than \$5,000. This bill is pending in the Assembly Consumer Protection Committee.

AB 2192 (Frazee), as amended July 1, would require CSLB to provide for and collect \$3 from applicants for new or renewal licenses issued under the CSLL, to be deposited by the Controller into a Trust Account in the Special Deposit Fund for the exclusive support of the California Uniform Construction



Cost Accounting Commission. This bill is pending in the Senate Business and Professions Committee.

AB 1969 (Arias), as amended June 26, is a CSLB-sponsored bill which would appropriate \$500,000 from the Contractors License Fund to CSLB, without regard to fiscal year, to be made available for expenditure in the event of a state of emergency declared by the Governor, to fund the programs and activities of CSLB related to the emergency. This bill is pending in the Senate Appropriations Committee.

SB 56 (Ayala). Existing law authorizes the Registrar to deny, suspend, or revoke the license of any contractor for a willful departure in any material respect from accepted trade standards for good and workmanlike construction, unless the departure is in accordance with plans and specifications prepared by or under the direct supervision of an architect. As amended May 21, this bill would define "willful," as applied to the intent with which an act is done or omitted, as a purpose or willingness to knowingly commit an act or make an omission. This bill is pending in the Assembly Consumer Protection Committee.

AB 1746 (Eaves). Existing law requires every employer, at the time of each payment of wages, to furnish each employee with an itemized written statement showing specified information, and to keep those records for at least three years. As amended April 30, this bill would provide that any holder of a state contractor's license who violates the statement or records requirement twice within a five-year period shall, upon notice by the Labor Commissioner to CSLB, be ineligible for license renewal by CSLB. This bill is pending in the Senate Business and Professions Committee.

Future Legislation. At this writing, the Board is seeking an author to introduce legislation to double the existing statutory ceilings on licensing fees; current licensing fees are set at their statutory limits. The Board is also seeking an author to introduce legislation to increase the maximum civil penalty from \$4,500 to \$15,000 for licensed and unlicensed contractors who violate Business and Professions Code sections 7114 or 7118.

LITIGATION:

On September 5, the California Supreme Court denied CSLB's petition for review of the Third District Court of Appeal's decision in *Pinney v. Registrar of Contractors*, No. C007052 (June 6, 1991), in which the appellate court struck down the Board's disci-

plinary action against a licensed contractor for his failure to produce documents demanded by the Registrar without a search warrant or administrative subpoena. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 72 for background information.)

RECENT MEETINGS:

At its October 11 meeting, CSLB adopted staff's recommendation to change the method in which the Board tracks and reports the pendency of consumer complaints to a time-sensitive method, rather than simply counting the number of complaints without regard to age. The assumption underlying such a policy is that most consumers are interested in how quickly complaints are processed, not in how many complaints are in the pipeline or backlog. CSLB's Enforcement Committee has established a new goal to process 90% of all complaints in less than 180 days and to reduce the median number of days to process a complaint to 40. Complaints older than 180 days will be considered aged complaints and will be given priority attention. (See CRLR Vol. 11, No. 4 (Fall 1991) p. 73 for background information.)

CSLB's Public Information Committee distributed the Board's booklet entitled *The 51 Most Commonly Asked Questions About Getting a California Contractors License*, which is available from CSLB and provides information regarding the licensing procedure. The Committee also distributed the second edition of its *Consumer Guide to Asbestos*, which provides important information to consumers regarding asbestos and health, where asbestos can be found in the home, general guidelines for handling products containing asbestos, disposal, and choosing a contractor competent to work with asbestos.

At CSLB's October 11 meeting, the Board approved the Administration/Budget Committee's 1991-92 strategic goals, which are to effectively manage fiscal resources; enhance all programs through additional automation; and ensure that the examination program is relevant and timely. The Board also approved the Public Information Committee's goals, which are to increase consumer and contractor awareness of and cooperation with CSLB by means of increased statewide public education, and to obtain resources to accomplish specified tasks. Also, the Board approved the Licensing Committee's goals, which are to ensure that the sections of law defining the general licensing classifications reflect the scope of work performed by

those classifications; ensure that the regulation defining the C-36 plumbing contractor classification reflects the scope of work performed by those contractors; eliminate certification requirements for contractors who only bid on asbestos-related work but who do not perform the work; ensure that a qualifying individual has direct participation in the activities of the entity he/she is qualifying for; and ensure timely processing and issuance of applications and renewals. CSLB also approved the goals of its Enforcement Committee, which are to ensure prompt resolution of complaints; reduce unlicensed contracting; and improve field office services to the public. Finally, the Board approved the goals of its Legislative Committee, which are to assist staff in developing statutory and regulatory changes and continue to improve CSLB's relationship with legislators and their staffs.

Also at CSLB's October 11 meeting, Registrar David Phillips reported that staff is continuing to reduce the number of aged complaints pending in its backlog. According to Phillips, four districts had fewer than fifteen complaints over six months old and three districts eliminated all complaints over twelve months old. Phillips also noted that staff had obtained a median closure of 48 days, compared to 158 days in prior years.

FUTURE MEETINGS:

April 24 in Oakland.
July 17 in Los Angeles.

BOARD OF COSMETOLOGY

Executive Officer: Denise Ostton
(916) 445-7061

In 1927, the California legislature enacted the Cosmetology Act, establishing the Board of Cosmetology (BOC). The Board is empowered to require reasonably necessary precautions designed to protect public health and safety in establishments related to any branch of cosmetology. BOC's enabling legislation is found in Business and Professions Code section 7300 *et seq.*; the Board's regulations are codified in Division 9, Title 16 of the California Code of Regulations (CCR).

Pursuant to this legislative mandate, the Board regulates and issues separate licenses to salons, electrologists, manicurists, cosmetologists, and cosmeticians. It sets training requirements, examines applicants, issues certificates of registration and licenses, hires investigators from the Department of