

**TITLE 16. CONTRACTORS STATE LICENSE BOARD
NOTICE OF PROPOSED CHANGES IN THE REGULATIONS**

NOTICE IS HEREBY GIVEN that the Contractors State License Board (CSLB or Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held in the John C. Hall Hearing Room at the Contractors State License Board, 9821 Business Park Drive, Sacramento, California 95827, at 11:00 a.m. on April 28, 2020.

Written comments, including those sent by mail, facsimile, or email to the addresses listed under Contact Person in this Notice, must be received by CSLB at its office not later than 5:00 p.m. on April 28, 2020, or must be received by CSLB at the April 28, 2020 hearing. CSLB, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modification is sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

A. Authority and Reference Citations

Pursuant to the authority vested by Sections 480, 481, 482, 493, 7008, and 7073 of the Business and Professions Code, and to implement, interpret, or make specific Sections 7.5, 141, 480, 481, 482, 485, 486, 488, 490, 493, 496, 7066, 7069, 7073, 7090, 7102, 7123, and 7124 of said Code and Sections 530.55, 1203.4, 1203.4a, 1203.41, 1203.42, and 1203.425 of the Penal Code, CSLB is considering changes to Division 8 of Title 16 of the California Code of Regulations, as follows:

B. Informative Digest

Business and Professions Code section 7008 authorizes CSLB to adopt rules and regulations in accordance with the Administrative Procedure Act that are reasonably necessary to carry out the provisions of the Contractors State License Law.

Business and Professions Code section 480 presently authorizes boards in the Department of Consumer Affairs, including CSLB, to deny an application for licensure based on a conviction of a crime or act substantially related to the qualifications, functions, or duties of the business or profession for which application is made. Likewise, Business and Professions Code section 490 authorizes a board to suspend or revoke a license on the basis that the licensee was convicted of a crime substantially related to the qualifications, functions, or duties of the regulated business or profession. In addition, Business and Professions Code section 481 requires boards to develop criteria to help

evaluate whether a crime or act is substantially related to the qualifications, functions, or duties of the regulated business or profession.

Business and Professions Code section 482 requires boards to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license. Business and Professions Code section 493 establishes that the record of conviction of a crime by an applicant or licensee shall be conclusive evidence of the fact that the conviction occurred and authorizes a board to inquire into the circumstances surrounding the commission of a crime to fix the degree of discipline and for determining substantial relationship. Business and Professions Code section 7073 authorizes CSLB's Registrar to deny a license, including on the ground that the applicant committed a crime, and requires the Board to develop criteria, similar to the rehabilitation criteria, to establish the earliest date on which a denied applicant may reapply.

Consistent with the aforementioned authority, CSLB adopted regulations that set forth its substantial relationship criteria and rehabilitation criteria for crimes or acts considered substantially related to the qualifications, functions, and/or duties of a contractor licensee; criteria for inquiring into criminal convictions; and criteria for setting the earliest date on which a denied applicant may reapply for licensure (Title 16, California Code of Regulations sections 868 – 869.9).

Assembly Bill 2138 (Chapter 995, Statutes of 2018) ("AB 2138") will become fully operative on July 1, 2020. The bill amends the provisions of the Business and Professions Code that relate to a board's ability to deny a license or registration or to take disciplinary action against a licensee based on a substantially-related criminal conviction and will add new authority to deny a license based upon a professional misconduct finding by another licensing board.

This proposal generally seeks to update CSLB's current regulations consistent with this recently enacted legislation and to more accurately reflect CSLB's and its Registrar's (executive officer's) authority to consider denials, disciplinary action, and petitions for reinstatement and to process inquiries into the circumstances surrounding a criminal conviction. CSLB is proposing the following:

Amend Section 868. – Criteria to Aid in Determining if Crimes or Acts Are Substantially Related to Contracting Business.

The existing language of 16 CCR section 868 sets forth the criteria under which a crime is considered to be substantially related to the qualifications, functions, or duties of a licensee.

This proposal will amend the regulation, as described below.

Amendments to Section Title:

- Add "Professional Misconduct" to the list of grounds for denial and to which the substantial relationship criteria applies.

- Change “Contracting Business” to the “Qualifications, Functions, or Duties of a Licensee or Registrant” to clearly identify the elements to which the substantial relationship criteria specifically relate.
- Add “registration” and “registrant” throughout the section where “license” and “licensee” are referenced to reflect the fact that CSLB regulates both contractor licenses and home improvement salesperson registrations.

Amendments Throughout the Section:

- Change “code” to “Code” throughout the section in reference to the Business and Professions Code.
- Add “professional misconduct” throughout the section where crimes and acts are referenced.

Amendments to Existing Introductory Paragraph:

- Add “(a)” in front of the first sentence to make it a designated subsection.
- Add “Section 141” in reference to the sections of law that are subject to the provisions of this substantial relationship criteria regulation.
- Delete “as defined in Section 480 of the code” to accurately reflect the authority for the regulation.
- Delete “The crimes or acts shall include, but not be limited to, the following:” at the end of the first paragraph.

Addition of New Subsection (b):

- Add a new introductory sentence and three new specific criteria that CSLB must consider when making the substantial relationship determination for a crime as required by Business and Professions Code sections 481 and 493, as follows:
 1. The nature and gravity of the offense,
 2. The number of years elapsed since the date of the offense, and
 3. The nature and duties of a contractor or home improvement salesperson.

Amendments to Existing Text and Addition of New Subsection (c):

- Add a new introductory sentence that precedes the listing of what may be included as a substantially-related crime, professional misconduct, or act.
- Renumber existing subsection (a) to new subsection (c)(1) and add a phrase that would expand the provisions under this subsection to include violations of “other state or federal laws governing contractors or home improvement salespersons.”
- Renumber existing subsection (b) to new subsection (c)(2) and correct the reference citation to “California Code of Regulations, Title 16, Division 8.”

- Renumber existing subsection (c) to new subsection (c)(3) and add “professional misconduct” where crimes and acts are referenced to reflect the fact that the substantial relationship criteria relate to crimes, acts, and professional misconduct.
- Renumber existing subsection (d) to new subsection (c)(4) and add “professional misconduct” where crimes and acts are referenced to reflect the fact that the substantial relationship criteria relate to crimes, acts, and professional misconduct.
- Renumber existing subsection (e) to new subsection (c)(5) and add “professional misconduct” where crimes and acts are referenced to reflect the fact that the substantial relationship criteria relate to crimes, acts, and professional misconduct.

Amendments to Note Portion:

- Add a new reference to the Authority citation for Business and Professions Code section 493 regarding the substantial relationship criteria that relates to the denial, suspension, or revocation of a license.
- Add a new reference to the Reference citation for Business and Professions Code section 141 regarding disciplinary action of a licensee based on the substantially-related acts that lead to disciplinary action by another agency or jurisdiction of a license based on acts, as well as a new reference for Business and Professions Code section 493 regarding substantial relationship criteria that relates to the denial, suspension, or revocation of a license.

Adoption of Section 868.1. – Criteria to Aid in Determining if Financial Crimes Are Directly and Adversely Related to Fiduciary Qualifications, Functions, or Duties of a Licensee or Registrant for the Purpose of Considering Denials of Applications.

Revisions to Business and Professions Code section 480 create a new category of crime that can be grounds for denial of a license or registration – a felony financial crime that is “directly and adversely related to the fiduciary qualifications, functions, or duties” of the regulated business or profession. There is no existing regulatory language specifying whether a felony financial crime is “directly and adversely related” to the “fiduciary qualifications, functions, or duties” of a licensee or registrant.

This proposal would adopt the regulation, as described below.

Addition of New Introductory Paragraph:

- Add a new section, title, and introductory paragraph establishing that a financial crime currently classified as a felony shall be considered “directly and adversely related” to the profession(s) if the crime involves dishonesty, fraud, deceit, or theft and results in direct financial benefit or harm, or an attempted benefit or harm.
- Add a sentence introducing the more detailed listing of felony financial crimes.

Addition of New Subsection (a):

- Add a new subsection to identify a specific type of crime that shall be included as one that is directly and adversely related, including a crime that involves “false, altered, forged, counterfeit, or fraudulent document(s), or the acquisition or provision of fraudulent statement(s).”

Addition of New Subsection (b):

- Add a new subsection to identify a specific type of crime that shall be included as one that is directly and adversely related, including crimes that involve “use of personal identifying information for an unlawful purpose, including for the purpose of illegally obtaining money, credit, goods, services, real property, or medical information of another person (also known as identity theft).”

Addition of New Subsection (c):

- Add a new subsection to identify a specific type of crime that shall be included as one that is directly and adversely related, including a crime that involves “stolen property, embezzlement, grand theft, larceny, burglary, monetary transactions in property derived from a specified unlawful activity (also known as money laundering), or crimes related to obtaining money, labor, or property under false or fraudulent pretenses.”

Addition of New Subsection (d):

- Add a new subsection to identify a specific type of crime that shall be included as one that is directly and adversely related, including a crime that involves “an attempt or conspiracy to commit such crimes listed in subsections (a), (b), or (c).”

Addition of New Subsection (e):

- Add a reference that specifies the meaning of “personal identifying information” in the regulation, to include a reference to Section 530.55 of the Penal Code for the definition of “personal identifying information.”

Addition of New Note Portion:

- Add new references as the Authority citation for Business and Professions Code sections 480 and 7008 relating to grounds for denial of a license and authorization to adopt rules and regulations in accordance with the Administrative Procedure Act, respectively.
- Add new references as the Reference citation for Sections 7.5, 480, 7069, 7073, 7090, and 7124 of the Business and Professions Code and Section 530.55 of the Penal Code relating to the definition of conviction, grounds for denial of a license, fingerprints of applicants, rehabilitation and reapplication, suspension and revocation of a license, what constitutes a conviction, and definition of personal identifying information, respectively.

Amend Section 869. – Criteria for Rehabilitation.

The existing language of 16 CCR section 869 sets forth the criteria under which an applicant or licensee is considered to be rehabilitated.

This proposal would adopt the regulation, as described below.

Amendments Throughout the Section:

- Change “registrar” to “Registrar” to be consistent with terminology used in other regulations in this package.
- Add “registration” and “registrant” where “license” and “licensee” are referenced to reflect the fact that CSLB regulates both contractor licenses and home improvement salesperson registrations.
- Add descriptive titles over multiple subsections within the regulation to help identify the different categories of criteria and different circumstances under which rehabilitation must be evaluated.

Amendments to Subsection (a):

- Change “code” to “Code” in reference to the Business and Professions Code.
- Add “on the ground that the individual was convicted of a crime” to focus subsection (a) specifically on situations where the applicant, licensee, or registrant was convicted of a crime.
- Add authority for the Registrar (who, in addition to the Board, may make these determinations under the Contractors State License Law) to consider the rehabilitation criteria for the purposes of denial, suspension, or revocation of a license or registration.
- Add language pursuant to Business and Professions Code section 482(b)(1) that the Board or Registrar shall consider “whether the applicant, licensee, or registrant made a showing of rehabilitation” if the individual “completed the criminal sentence at issue without a violation of parole or probation.”
- Add five specific criteria that the Board or Registrar will consider in making the determination that an individual has made a showing of rehabilitation when considering denial or discipline based on a criminal conviction, as follows:
 1. The nature and gravity of the crime(s);
 2. The length(s) of the applicable parole or probation period(s);
 3. The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified;
 4. The terms or conditions of parole or probation, and the extent to which they bear on the applicant’s rehabilitation; and

5. The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

Addition of New Subsection (b):

- Add new subsection (b) as an introductory paragraph to new criteria under which the Board or Registrar will evaluate an individual's rehabilitation when the applicant did not make a showing of rehabilitation for a crime under subsection (a) or when subsection (a) is inapplicable.
- Add new subsection (b)(1) as the specific introduction of the criteria that an applicant, licensee, or registrant has made a showing of rehabilitation and is presently eligible or fit for a license or registration if they are rehabilitated under the three (3) criteria that follow.
- Add new subsection (b)(1)(A) to establish rehabilitation criteria for individuals who may be considered for denial of a license or registration based on a substantially-related felony conviction (excluding serious felonies, registerable sex offenses, and felony financial crimes) within seven (7) years before submission of an application, stating that such applicants may be considered rehabilitated if five (5) years have passed from release from incarceration or completion of probation, without the occurrence of additional substantially-related grounds for denial (i.e., criminal activity, professional misconduct, acts, or omissions). This timeline would not apply to any crimes listed in proposed subsection (b)(1)(B).
- Add new subsection (b)(1)(B) to establish rehabilitation criteria for individuals who may be considered for denial of a license or registration based on convictions for a substantially-related serious felony, felony requiring sex offender registration under Penal Code section 290(d)(2) or (d)(3), or a felony financial crime as defined in Section 868.1, stating that such applicants may be considered rehabilitated if seven (7) years have passed from release from incarceration or completion of probation, without the occurrence of additional substantially-related grounds for denial.
- Renumber existing subsection (a)(1)(A) to (b)(1)(C) and amend the language to focus the subsection on the establishment of rehabilitation criteria for individuals for whom the Board or Registrar may be considering suspension or revocation (discipline) of the license or registration based on a substantially-related felony conviction, stating that such licensees or registrants may be considered rehabilitated if seven (7) years have passed from release from incarceration or completion of probation, without the occurrence of additional substantially-related grounds for discipline.
- Renumber existing subsection (a)(1)(B) to (b)(1)(D) and amend the language to focus the subsection on the establishment of rehabilitation criteria for individuals for whom the Board or Registrar may be considering denial, suspension, or revocation of the license or registration based on a substantially-related misdemeanor conviction, stating that such applicants, licensees, or registrants may be considered rehabilitated if three (3) years have passed from release from

incarceration or completion of probation, without the occurrence of additional substantially-related grounds for denial or discipline.

- Renumber existing subsection (a)(1)(C) to (b)(1)(E) and amend the language to focus the subsection on the establishment of rehabilitation criteria for individuals for whom the Board or Registrar is considering denial, suspension, or revocation of the license or registration based on substantially-related professional misconduct, acts, or omissions, stating that such applicants, licensees, or registrants may be considered rehabilitated if three (3) years have passed from the time of the commission of the professional misconduct, act, or omission, without the occurrence of additional substantially-related grounds for denial or discipline.
- Update reference in existing subsection (a)(2) (proposed to be newly-renumbered subsection (b)(2)) by changing (a)(1) to (b)(1) because that subsection is renumbered.
- Amend subsections (b)(2)(A) through (C), (E), (F), and (H) with the addition of “professional misconduct” and “or omission(s)” because, in addition to the existing conviction of a crime or an act, the rehabilitation criteria also applies to individuals who have occurrences of professional misconduct and omissions.
- Update language in existing subsection (G), striking “expungement proceedings” to more accurately reflect the actions that a court might take to dismiss, set aside, or seal records in proceedings under Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code. In addition, add language to accurately represent the outcomes of the identified Penal Code sections and add references to two additional Penal Code sections pursuant to subsections (a)(2) and (c) of Business and Professions Code section 480.
- Amend subsection (H) with the addition of “or diversion” to existing text that refers to “a drug and/or alcohol aversion program” when the offense involved drug and/or alcohol use.
- Renumber existing subsection (b) to (c) relating to factors used when considering a petition for reinstatement and amend the language to include an additional reference to the newly-created subsection (b) where existing language refers only to subsection (a).

Amendments to Note Portion:

- Add new references to the Reference citation for indicated Business and Professions Code sections, as follows: 7.5 for the “conviction” definition, 141 regarding disciplinary action of a licensee based on the substantially-related acts that lead to disciplinary action by another agency or jurisdiction of a license based on acts, 481 relating to the substantial relationship criteria, 488 regarding hearing requests, 493 regarding the evidentiary effect of a record of conviction, and 7090 relating to investigations and disciplinary action, as well as Penal Code sections 1203.4, 1203.4a, 1203.41, 1203.42, and 1203.425 relating to convictions that have been withdrawn, set aside, or dismissed.

Repeal Section 869.5. – Inquiry into Criminal Convictions.

The existing language of 16 CCR section 869.5 sets parameters under which the Board may conduct an inquiry into criminal convictions.

This proposal would repeal the regulation, as described below.

Repeal Entire Regulation:

- Repeal this regulation in its entirety, including the title and the Note at the end of the section, to recognize the amendments to Business and Professions Code section 493(a) and the addition of new prohibitions against mandating collection of this information from applicants in Business and Professions Code section 480(f)(2), effective July 1, 2020.

Amend Section 869.9. – Criteria to Aid in Determining Earliest Date a Denied Applicant May Reapply for Licensure.

The existing language of 16 CCR section 869.9 sets forth the criteria to establish the earliest date on which a denied applicant may reapply for a license.

This proposal would amend the regulation, as described below:

Amendments Throughout the Section:

- Change “registrar” to “Registrar” to be consistent with terminology used in other regulations in this package.
- Add “registration” and “registrant” where “license” and “licensee” are referenced to reflect the fact that CSLB issues both contractor licenses and home improvement salesperson registrations.
- Add “professional misconduct” and “or omission(s)” because, in addition to the existing language regarding conviction of a crime or an act, the reapplication date criteria also applies to individuals who have occurrences of professional misconduct and omissions, which are grounds for denial under Business and Professions Code sections 480 and 7090.
- Relocate “substantially-related” and add “that also could be grounds for denial” under existing and newly-renumbered subsections (a)(1), (a)(3), and (a)(4) and new subsection (a)(2) to clarify that any additional occurrence listed be substantially related and also could be grounds for denial, as well as add “that were grounds for denial” under newly-renumbered subsections (a)(8) through (11) to clarify that the rehabilitation evidence described relates to grounds for the denial that were part of the previous action against the applicant.

Amendments to Subsection (a):

- Change “subdivision” to “subsection” in reference to a subsection of Business and Professions Code section 480 and make other grammatical “clean-up” or other nonsubstantive changes to the regulation.
- Add “of denial” to clarify the type of notice under Business and Professions Code section 485(b) that is being referenced.
- Add “listed in Section 869(b)(1)(B)” under subsection (a)(1) to identify the felony convictions to which the seven-year criteria in this subsection apply, specifically serious felonies, crimes that require registration as a sex offender per Penal Code section 290(d)(2) and (d)(3), and felony financial crimes that are directly and adversely related to the fiduciary qualifications, functions, or duties of a licensee or registrant.
- Add new subsection (a)(2) to address the reapplication date for applicants who have been convicted of a felony that is not covered under subsection (a)(1), above, mirroring the criteria in subsection (a)(1) except that the reapplication date for subsection (a)(2) is set at five (5) years.
- Renumber existing subsection (a)(2) to (a)(3) relating to misdemeanor convictions; amend the language to add references to “registrant,” “professional misconduct,” and “omission(s);” and relocate “substantially-related,” as discussed above under the “Amendments Throughout the Section” portion.
- Renumber existing subsection (a)(3) to (a)(4) relating to professional misconduct; relocate “acts;” and amend the language to add “registrant,” “professional misconduct,” and “omission(s),” as discussed above under the “Amendments Throughout the Section” portion.
- Renumber existing subsection (a)(4) to (a)(5) relating to the nature and severity of the crime and amend the language to add “professional misconduct” and “omission(s),” as discussed above under the “Amendments Throughout the Section” portion.
- Renumber existing subsection (a)(5) to (a)(6) relating to subsequently-committed crime(s) or act(s) and amend the language to add “professional misconduct” and “omission(s),” as discussed above under the “Amendments Throughout the Section” portion.
- Renumber existing subsection (a)(6) to (a)(7) relating to the time that has elapsed since commission of the crime(s) or act(s) and amend the language to add “professional misconduct” and “or omission(s),” as discussed above under the “Amendments Throughout the Section” portion.
- Renumber existing subsection (a)(7) to (a)(8) relating to an applicant’s compliance with terms of parole or probation, amend the language to delete “or licensee” because this section only applies to applicants, and add language to clarify that the subsection applies to parole or probation terms that were imposed “in connection with the crime(s), professional misconduct, act(s), or omission(s) that were the grounds for denial.”

- Renumber existing subsection (a)(8) to (a)(9) relating to applicant’s consistent work history after the crime(s), professional misconduct, act(s), or omission(s) that were the grounds for denial. This proposal would amend the regulation to change “time of commission” of the offense to “date of commission” and add language to clarify that the subsection applies to “crime(s), professional misconduct, act(s), or omission(s) that were the grounds for denial.”
- Renumber existing subsection (a)(9) to (a)(10) relating to documents or testimony about the applicant (character references). This proposal would amend the regulation to change “time of commission” of the offense to “date of commission,” add “professional misconduct,” and add language to clarify that the subsection applies to “crime(s), professional misconduct, act(s), or omission(s) that were the grounds for denial.”
- Repeal existing subsection (a)(10) based on provisions of Business and Professions Code section 480(c), as amended on July 1, 2020, under AB 2138, which removes the Board’s ability to deny a license that involves a conviction that was expunged pursuant to Penal Code section 1203.4.
- Amend subsection (a)(11) relating to other relevant evidence by deleting “or licensee” because this section only applies to applicants. This proposal would also add language to clarify that the subsection applies to “crime(s), professional misconduct, act(s), or omission(s) that were the grounds for denial” and amend the language to add “professional misconduct” and “or omission(s),” as discussed above under the “Amendments Throughout the Section” portion. To more accurately describe the types of rehabilitation programs that applicants may use to make a showing of rehabilitation, CSLB proposes to add the words “or diversion” before the word “program.”

Amendments to Subsection (b):

- Amend subsection (b) by revising the language to add “or registration,” as discussed above under the “Amendments Throughout the Section” portion.

Amendment to Note Portion:

- Add a new reference to the Reference citation for Business and Professions Code section 485 relating to procedures upon denial of a license, including the notice to the applicant.

C. Policy Statement Overview/Anticipated Benefits of Proposal

CSLB has determined that this regulatory proposal will have the following benefits on the health and welfare of California residents, consumers, and contractor licensees:

The proposed amendments would place applicants, licensees, and registrants on notice that the Board is statutorily authorized to deny, suspend, or revoke a license or registration based on a criminal conviction, professional misconduct, acts, or omissions that are substantially related to the qualifications, functions, or duties of a licensee or registrant. The proposal would also make relevant parties (e.g., the Deputy Attorneys

General, Administrative Law Judges, respondents, and respondents' counsels) aware that when considering denial or discipline, the Board uses the listed criteria to determine whether a crime, professional misconduct, act, or omission is substantially related to the qualifications, functions, or duties of a contractor or home improvement salesperson and determine whether a felony financial crime is directly and adversely related to the fiduciary qualifications, functions, or duties of a contractor or home improvement salesperson.

AB 2138 was enacted to reduce licensing and employment barriers for people who are rehabilitated. These proposed amendments would further that goal by adopting criteria that would emphasize an applicant's, licensee's, or registrant's rehabilitative efforts and what will be needed to make a showing of rehabilitation. This may lead to fewer denials and an increase in the number of licensed contractors and registered home improvement salespersons in the marketplace, thereby allowing California consumers access to more licensed and registered construction professionals.

In addition, these changes will benefit the welfare of California residents who hire contractors by helping ensure that individuals who are licensed as contractors or registered as home improvement salespersons have undergone a criminal background review based on established criteria.

Regulatory action is needed because, without this regulatory language, there could be confusion about the criteria CSLB uses for determining whether: (1) a crime, act, or professional misconduct is substantially related to the license or registration at issue; (2) a felony financial crime is considered directly or adversely related to the contracting or home improvement salesperson profession; (3) the applicant or licensee has made a showing of rehabilitation; or (4) what factors the Registrar considers when setting the earliest reapplication date for a denied applicant.

D. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, CSLB has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

E. Fiscal Impact on Public Agencies

The proposed regulatory action will result in costs or savings to any state agency, costs or savings to any local agency or school district that is required to be reimbursed under Part 7 of Division 4 (commencing with Section 17500 of the Government Code), other nondiscretionary costs or savings on local agencies, or costs or savings in federal funding to the state. The specific fiscal impacts of the regulatory proposal are described below:

- Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies:

CSLB estimates that the cost of implementing AB 2138, the legislation upon which this regulatory proposal is based, will include the following anticipated workload and staffing costs in the forthcoming budget years (BY):

- Total Costs in BY 2020-21 is: **\$548,000**
- Total Costs in BY 2021-22 and ongoing is: **\$457,000**

CSLB anticipates that there may be some additional costs resulting from the amendment and adoption of the sections identified in this regulatory proposal. By further defining the substantial relationship and rehabilitation criteria for criminal convictions, CSLB staff may see an increased workload to research convictions and to substantiate that rehabilitation has been achieved. However, the budget year costs, identified above, would result primarily from the implementation of the law itself, regardless of whether regulations are adopted. As a result, these proposed regulations are not anticipated to have a significant fiscal impact on CSLB.

- Nondiscretionary Costs/Savings to Local Agencies: None
- Cost or Savings in Federal Funding to the State: None

F. Local Mandate

The proposed regulatory action does not impose a mandate on local agencies or school districts.

- Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

G. Business Impact

CSLB has made an initial determination that the proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts:

The Board has more than 349,000 contractor licenses (active, inactive, and expired but renewable) and approximately 31,000 home improvement salesperson registrations (active and expired but renewable), as of April 2, 2019. In the most recent five-year period, CSLB fingerprinted approximately 147,454 individuals. Of those, approximately 20% (30,007) had at least one conviction of some kind. Of those, only 262 individuals were denied a license or registration – that is less than one-fifth of one percent (0.0018 or 0.18%) of all of the applicants who fingerprinted for CSLB during that time period and less than one percent (0.0087 or 0.87%) of applicants with a criminal conviction of some kind during that time period. If there was an economic impact of the denial of those applications that was measurable, it would be negligible given the small number of individuals impacted compared to the whole.

Since the Board has denied significantly less than one percent of all applicants and since these changes to the law will result in ostensibly even less denials than before, this proposal will not have a significant, statewide adverse economic impact. AB 2138 was enacted to reduce licensing and employment barriers for people who have been convicted of a crime, or due to acts underlying the conviction, who have a certificate of rehabilitation, were granted clemency, made a showing of rehabilitation, or whose conviction was dismissed or expunged.

These amendments will further assist in that effort through adoption of standards designed to implement new substantial relationship criteria, adversely and directly related criteria, rehabilitation criteria, and reapplication date criteria. In addition, one of the author's stated purposes of AB 2138 was to reverse any "chilling" effect on applicants who may never apply due to apprehension about their criminal background. As a result, it is anticipated that there may be fewer denials or disciplinary actions based upon criminal convictions and possibly even an increase in the number of acceptable applications and, therefore, no significant, statewide adverse economic impacts.

H. Cost Impact on Affected Private Persons or Businesses

The Board estimates that there will be no significant increased costs for businesses or individuals to comply with the proposed regulations because there would be fewer restrictions for individuals with criminal convictions to obtain licensure.

This proposal implements AB 2138, which is legislation designed to reduce licensing and employment barriers for people who have been convicted of a crime who have obtained a certificate of rehabilitation, were granted clemency, made a showing of rehabilitation, or whose conviction was dismissed or expunged. This proposal will amend regulations to add new substantial relationship criteria, adversely and directly related criteria, rehabilitation criteria, and reapplication date criteria that emphasize an applicant's, licensee's, or registrant's rehabilitative efforts, which may result in having fewer license or registration denials or disciplinary actions based on substantially-related crimes, professional misconduct, acts, or omissions. It may also increase the number of applications by reversing a potential "chilling" effect on an unknown number of applicants. Historically, similar regulations adopted by the Board have resulted in significantly less than one percent (1%) of all applicants being denied a license or registration. Even assuming that the number of denials or discipline will decrease as a result of these amendments, the Board believes that this data demonstrates that these amendments will not be significant enough to create or eliminate a significant number of contracting businesses or businesses that hire home improvement salespersons.

CSLB estimates approximately 19 additional applicants will be granted licensure per year as a result of the proposed regulations and will be required to pay the \$200 initial license fee and the ongoing biennial renewal fee of \$450 for an active license.

I. Housing Costs

The proposed regulatory action will not have an effect on housing costs, except a possible decrease in the cost of housing caused by the existence of more licensed contractors and home improvement salespersons in the construction industry that would potentially lower the cost of these services.

J. Effect on Small Business

CSLB has determined that the proposed regulatory action may affect small businesses. Approximately 67% of all contractors currently licensed by CSLB are sole ownerships (nearly 234,000 out of more than 349,000 licenses), some of whom may be impacted by the proposed regulatory changes that would allow an influx of new professionals into the building trades.

CSLB has determined that this regulatory proposal may result in the creation of new jobs within the state of California because it implements AB 2138, which is legislation designed to reduce licensing and employment barriers for people who have been convicted of a crime who have obtained a certificate of rehabilitation, were granted clemency, made a showing of rehabilitation, or whose conviction was dismissed or expunged. This proposal will amend regulations to add new substantial relationship criteria, adversely and directly related criteria, rehabilitation criteria, and reapplication date criteria that emphasize an applicant's, licensee's, or registrant's rehabilitative efforts, which may result in having fewer license or registration denials or disciplinary actions based on substantially-related crimes, professional misconduct, acts, or omissions. It may also increase the number of applications by reversing a potential chilling effect on an unknown number of applicants. However, the Board does not have data to project the number of jobs that may be created as a result of these efforts, some of which may be in small businesses.

In addition, the proposed regulations may have an impact on businesses within California, specifically licensed contractors and registered home improvement salespersons, to the extent that more individual applicants may be able to be licensed or registered under the proposal. The proposal may create new businesses within the State of California, but the number would be insignificant because the proposal is not of sufficient magnitude and does not affect a large enough population to create a significant number of businesses. Historically, similar regulations adopted by the Board resulted in significantly less than one percent of all applicants being denied a license or registration. Even assuming that the number of denials or discipline would decrease as a result of these amendments, the Board believes that this data demonstrates that these amendments would not be significant enough to create or eliminate a significant number of contracting businesses or businesses that hire home improvement salespersons.

CSLB estimates approximately 19 additional applicants will be granted licensure per year as a result of the proposed regulations and will be required to pay the \$200 initial license fee and the ongoing biennial renewal fee of \$450 for an active license.

K. Results of the Economic Impact Assessment/Analysis

Creation of Jobs/Businesses

CSLB has determined that this regulatory proposal may result in the creation of new jobs within the state of California because it implements AB 2138, which is legislation designed to reduce licensing and employment barriers for people who have been convicted of a crime who have obtained a certificate of rehabilitation, were granted clemency, made a showing of rehabilitation, or whose conviction was dismissed or expunged. This proposal will amend regulations to add new substantial relationship criteria, adversely and directly related criteria, rehabilitation criteria, and reapplication date criteria that emphasize an applicant's, licensee's, or registrant's rehabilitative efforts, which may result in having fewer license or registration denials or disciplinary actions based on substantially-related crimes, professional misconduct, acts, or omissions. It may also increase the number of applications by reversing a potential chilling effect on an unknown number of applicants. However, the Board does not have data to project the number of jobs that may be created as a result of these efforts.

In addition, the proposed regulations may have an impact on businesses within California, specifically licensed contractors and registered home improvement salespersons, to the extent that more individual applicants may be able to be licensed or registered under the proposal. The proposal may create new businesses within the State of California, but the number would be insignificant because the proposal is not of sufficient magnitude and does not affect a large enough population to create a significant number of businesses. Historically, similar regulations adopted by the Board have resulted in significantly less than one percent of all applicants being denied a license or registration. Even assuming that the number of denials or discipline will decrease as a result of these amendments, the Board believes that this data demonstrates that these amendments will not be significant enough to create or eliminate a significant number of contracting businesses or businesses that hire home improvement salespersons.

CSLB estimates approximately 19 additional applicants will be granted licensure per year as a result of the proposed regulations and will be required to pay the \$200 initial license fee and the ongoing biennial renewal fee of \$450 for an active license.

Elimination of Jobs or Businesses and Affect on the Expansion of Businesses

This proposal will not have a significant impact on the elimination of jobs or existing businesses or the expansion of businesses in the State of California because the proposal is not of sufficient magnitude and does not affect a large enough population to eliminate jobs or eliminate or expand businesses. Historically, similar regulations adopted by the Board have resulted in significantly less than one percent of all applicants being denied a license or registration. Even assuming that the number of denials or discipline will decrease as a result of these amendments, the Board believes that this data demonstrates that it will not be significant enough to expand or eliminate contracting businesses or businesses that hire home improvement salespersons.

CSLB estimates approximately 19 additional applicants will be granted licensure per year as a result of the proposed regulations and will be required to pay the \$200 initial license fee and the ongoing biennial renewal fee of \$450 for an active license.

Benefits of Regulation

CSLB has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and the state's environment:

- It will benefit the health and welfare of California residents because, by implementing criteria that emphasize rehabilitative efforts, it will create an opportunity for employment for people who have been convicted of a crime and are able to make a showing of rehabilitation. This may lead to an increase in licensed contractors and registered home improvement salespersons in the marketplace, thereby allowing California consumers access to more licensed and registered construction professionals.
- It will not affect worker safety because the proposal does not relate to worker safety.
- It will not affect the State's environment because the proposal does not relate to environmental issues.

L. Reference to Text and Initial Statement of Reasons

CSLB has prepared an Initial Statement of Reasons for the proposed action and has all of the information upon which the proposal is based available upon request.

Copies of the exact language of the proposed regulations and any document incorporated by reference therein, the Initial Statement of Reasons, and the information upon which the proposal is based may be obtained at the hearing or prior to the hearing, upon request, from CSLB at 9821 Business Park Drive, Sacramento, CA 95827.

M. Federal Mandate

The proposed regulatory action is not mandated by federal law and is not identical to any previously adopted or amended federal regulation. The licensing and regulation of contractors is conducted at the state level, not federal.

N. Consideration of Alternatives

CSLB must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be either more effective in carrying out the purpose for which the action is proposed, would be as effective as and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments, orally or in writing, relevant to the above determinations at the above-mentioned hearing.

O. Availability of Final Statement of Reasons and Rulemaking File

This Notice, the proposed text of the regulations, the Initial Statement of Reasons, and all the information upon which the proposed regulatory action is based is contained in the rulemaking file, which is available for public inspection by contacting the person named below. Interested parties may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the contact person named below.

P. Website Access

Materials regarding the proposed regulatory action can be found at www.cslb.ca.gov.

Q. Contact Person

Inquiries or comments concerning the proposed administrative action may be addressed to:

Contractors State License Board
9821 Business Park Drive
Sacramento, CA 95827
Attn: Betsy Figueira
(916) 255-3369
(916) 364-0130 (FAX)
Betsy.Figueira@cslb.ca.gov

The backup contact person is:

Michael Jamnetski
(916) 255-2798
(916) 364-0130 (FAX)
Michael.Jamnetski@cslb.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Betsy Figueira at (916) 255-3369.