

The CALIFORNIA LICENSED CONTRACTOR

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PRE-QUALIFICATION AS VIEWED BY BOARD

By ALLEN MILLER, Registrar of Contractors

Pursuant to the provisions of a recent opinion of the Attorney General that an examination of applicants for contractor's licenses is now mandatory, the State License Board has adopted a procedure that will meet the requirements of the Contractors' State License Law in its recently codified form.

As has previously been reported, the State License Board has been studying this problem for two years or more, and the current opinion of the Attorney General to the effect that an examination must be given comes at a time when the Board's ideas were already well crystalized and speedy action has been possible.

In order to explain the rules of the Board in as exact a manner as possible, the following revised rules are quoted showing the exact procedure that will be followed. This quotation is from a resolution the Board adopted at its last regular meeting. In its preamble it recognized that the Board has the power to adopt rules and regulations for the pre-qualification of applicants; that the scope of the examination will cover general knowledge of building, safety, health and lien laws of the State and of the administrative principles of the contracting business.

The new rules adopted read as follows:

Rule 37, Section III.

"All applicants must qualify by a written examination designed to test their general knowledge of the building, safety, health and lien laws of the State and of the rudi-



ALLEN MILLER
Registrar of Contractors

To the Construction Industry:

The Contractors' State License Board enjoys the privilege of introducing herewith to the Construction Industry, Mr. Allen Miller, recently appointed Registrar of Contractors and Executive Officer of the Board.

Mr. Miller has already served in his capacity as Registrar for nearly four months, although this is the first opportunity of the Board to officially present him to our licentiates in general. His activity in discharging his duties during that period is already well known to many in the Industry, and his record of energetic enforcement of the Contractors' License Law is a better recommendation than any which could be given.

We the Board recommend Mr. Miller to you and bespeak for him your wholehearted cooperation. Your new Registrar's honesty, energy, sound thinking, background and training entitle him to your support.

ROY M. BUTCHER, *Chairman.*

mentary administrative principles of the contracting business; provided, however, that this examination may not be required of an applicant or of a responsible managing officer of an applicant, who is at the time of application the holder of an unexpired individual license, or who is the responsible member or officer of a licensed copartnership or corporation; provided, further, that an additional examination shall not be required of a person who has, within a period of two years after September 15, 1939, been qualified by examination;"

Rule 38, Section III.

"When an applicant has filed an application form filled out and approved as to form by the Registrar or his duly authorized agent, there shall then be delivered to said applicant a sheet of examination questions which the applicant or examinee must then and at the place where his application is approved, fill out and answer. The applicant shall have twenty minutes in which to answer said questions and at the end of said allotted time shall submit said examination paper to the deputy, inspector or other employee of the Board authorized by the Registrar to supervise said examination, who, in turn, shall immediately grade said papers and orally advise the examinee of the grade achieved by said examinee, and whether he passed or failed to pass the examination. The examinee shall receive no assistance either written or oral in answering said questions or marking said questionnaire,

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FACTS AND FIGURES

Glen V. Slater, Assistant Registrar

Since the passing and adoption of the Contractors' License Law by the Legislature in 1929, the number of licensed contractors, consisting of individuals, copartners, corporations and joint-venturers, has varied greatly.

Registration at the close of the last fiscal year, June 30, 1930, was 36,682, a net increase of 3478 licenses, or 10.5% over the previous fiscal year. During the 1933-30 fiscal year, 8202 new or original licenses were issued, an increase of 1517 new licenses, or 18.5% over the previous year. The percentage of renewals of previous year's licenses increased to 88.1%, which naturally means a mortality rate of 11.9%, or 4363 contractors who failed for various reasons to renew their licenses.

At the end of the first fiscal year, June 30, 1930, there were 27,657 licensed contractors. Since that date to August 1, 1930, 58,903 new licenses were issued. (Many were due to personnel changes, of course.) But, what is of greater importance, during the same period of time 53,021 licenses expired.

The following table shows the data on registration for the past ten years:

Fiscal Year Ending	New Licenses	Percentage of Total	Renewed Licenses	Percentage of Total
6-30-30	27,657			
6-30-31	9,571	34.63	18,062	65.37
6-30-32	6,323	25.26	18,722	74.74
6-30-33	4,489	20.03	17,915	79.97
6-30-34	4,486	20.00	17,932	80.00
6-30-35	4,292	19.86	18,407	80.14
6-30-36	5,823	22.21	20,408	77.79
6-30-37	6,824	23.37	22,562	76.63
6-30-38	7,685	23.14	25,519	76.86
6-30-39	8,202	23.35	28,480	77.65
7-31-39	1,138	3.40	32,319	96.60

Fiscal Year Ending	Total Registration	Percentage of Renewals of Previous Year	Unrenewed Licenses of Previous Year	Percentage of Unrenewed Licenses of Previous Year
6-30-30	27,657			
6-30-31	27,633	65.30	9,595	34.70
6-30-32	25,050	67.75	8,911	32.25
6-30-33	22,404	71.52	7,135	25.48
6-30-34	22,418	80.04	4,472	19.96
6-30-35	22,699	82.11	4,011	17.89
6-30-36	26,236	90.23	2,211	9.77
6-30-37	29,446	86.00	3,672	14.00
6-30-38	33,204	86.37	3,927	13.13
6-30-39	36,682	86.77	4,724	14.23
7-31-39	33,457	83.10	4,363	11.90

The law says that the Registrar may classify contractors in a manner consistent with established usage. In accordance therewith, the Registrar classified, for statistical purposes only, the contractors licensed for the fiscal year ending June 30, 1930, as follows:

(A) General engineering contractors	1,482
(B) General building contractors	12,740
(C) Specialty contractors	21,501
(D) Speculative building contractors	736
(E) Unclassified, special or miscellaneous	223

Total as of June 30, 1930..... 36,682

The specialty or subcontracting group (C) was further broken down into sixty classifications. The five leading subcontracting classifications numerically are:

C-33 Painting and decorating	5,635
C-36 Plumbing	2,790
C-10 Electrical	2,106
C-35 Plastering	1,732
C-8 Cement and concrete	1,159

During the fiscal year from July 1, 1933, to June 30, 1930, 244 contractors were declared guilty of one or more counts under Section 9 of the Contractors' Law, and as a result, 35 contractors had their licenses revoked and 209 had their licenses suspended.

The following is a summary of the various subdivisions of Section 9 of the Contractors' State License Law which are grounds for revocation or suspension of licenses:

(1) Abandonment of contract; (2) Diversion of funds; (3) Departure from plans and specifications; (4) Violation of building, safety, labor or compensation insurance laws of the State; (5) Failure to keep books and record; (6) Misrepresentation of material fact; (7) Failure to complete project for price contracted; (8) Aiding or abetting an unlicensed person to evade the Act; (9) Failure to comply with provisions of Act; (10) Doing of a wilful, fraudulent or injurious act; (11) Acting as contractor in name other than the one contained in license issued; (12) Entering into contract with unlicensed contractor; (13) Failure without legal excuse to complete a job with reasonable diligence; (14) Wilful failure to pay material and labor bills when due.

The following is a table in order of importance showing what violations under Section 9, designated by subdivision number, are the most prevalent grounds of suspension or revocation:

Sub-section	Suspensions	Revocations	Totals	Percentage
2	77	14	91	13.71%
10	69	16	85	12.80%
14	71	9	80	12.05%
7	60	10	70	10.54%
4	57	6	63	9.49%
1	44	9	53	7.98%
3	40	8	48	7.23%
9	43	4	47	7.08%
5	36	4	40	6.02%
13	29	3	32	4.82%
11	17	6	23	3.46%
6	12	4	16	2.41%
8	14	0	14	2.11%
12	1	1	2	.30%
	570	94	664	100.00%

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and shall certify to that fact under oath at the proper place upon said examination paper."

Rule 39, Section III.

"By adding a new rule to be designated as Rule 39 of Section III, to read as follows: 'An applicant who has failed to attain a passing grade upon a written examination may apply for and be reexamined as many times as he may choose, provided, however, that at least one full day must elapse between the time an applicant has taken and failed one examination and the time he requests and takes another examination; and provided, further, that each application for reexamination made within six months after the applicant has received notice of his failure to pass a previous examination must be accompanied by an additional application fee of \$10 and a statement showing the approximate date of his last request for an examination or reexamination.'"

Rule 40, Section III.

"If a request for reexamination is made within six months from date of notification of failure to pass a previous examination, the Registrar may in his discretion, waive the requirement that a new application form be filed; if longer than six months, a new application form must be filed;"

Rule 41, Section III.

"All examination papers filed by an applicant shall be the property of and retained by the Registrar, but the same may be examined by the applicant in the office of the Registrar during regular office hours;"

The procedure above outlined is acknowledged to be a step in the direction desired generally by the industry. That it will not fully meet the desires of many of the contractors of the State is also recognized. It should be borne in mind that there has been a difference of opinion within the construction industry itself as to whether or not any examination of any sort should be held. The Board believes, however, that the new program will serve as a trial and from the results accomplished the program will be rejudged and any adjustments or revisions deemed necessary in the future will be ordered.

Most important of all the things to be kept in mind in studying this program is the fact that the present examination must be applicable to the business of every contractor applicant be he a bridge builder or a roofer. An examination that might be entirely fair for an engineering contractor would be manifestly unfair for a weathertstripping subcontractor. If examinations based upon the peculiarity of each of the large divisions of the contracting industry are to be held, it is first necessary that procedure be instituted whereby licensees are required to limit their activities to the particular group in which they become qualified.

Reclassification of existing business would be necessary as well as provisions for those operating in more than one group. No action along

this line has yet been taken, but it is realized by the Board and myself that the development of classification is probably necessary before any further program is developed. A committee of Board members has been appointed by Chairman Roy M. Butcher to study the classification problem and to report its findings and recommendations at the next general meeting of the Board, which will be held some time in the month of October.

The practical effect of the examination now ordered will be carefully studied and considered in the light of the situation that would have to be met if the Board should later order classification, with examinations separately provided for each classification.

The Industry is requested to cooperate in the launching of this important program. I personally solicit reports of instances indicating that our procedure is unfair or accomplishing ends other than those expected.

WRITTEN CONTRACTS

The failure of contractors to reduce their verbal contracts to writing is the cause of many of the difficulties between contractors and owners, and/or contractors and subcontractors. In a recent questionnaire submitted to our Inspectors, in which they were requested to give the most common cause of a contractor getting into difficulties, every one of them without exception listed as the first cause the failure to reduce their agreements for extras to writing. The practice of using verbal contracts or poorly drawn written contracts sooner or later invariably results in trouble and complications which are costly to all concerned. If the other party is not willing to put his name on a written contract, assuming it is properly drawn, probably there is something the matter with either the individual or the deal. Have your contracts properly drawn and signed to protect yourself.

CONTRACTORS' LAW IS AMENDED

The term "builder" is declared to be synonymous with "contractor" in amendments to the Contractors' License Law passed by recent Legislature and effective September 19, 1939.

The exemption of owners who are building upon or improving their own property for their own use and occupancy remains in the law, however, and therefore the change only applies to the so-called speculative builder whose operations must be legalized by possession of a State Contractor's License.

While the Attorney General has on several occasions in the past ruled that the Contractors' Act extended jurisdiction over the builder for speculative purposes, there has been some doubt in the minds of a few prosecuting attorneys on this particular point, and therefore the Act was amended to specifically bring them under the jurisdiction of the Registrar.

The California Licensed Contractor

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FACTS AND FIGURES

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Topping the list of troubles, subsection 2, pertaining to diversion of funds and property, is the most prevalent. In close order thereafter we find subsection 10 (doing of a wilful, fraudulent and injurious act); subsection 14, (wilful failure to pay material and labor bills when due); subsection 7 (failure to complete project for price contracted); subsection 4 (violation of building, safety, labor or compensation insurance laws of the State); and subsection 1 (abandonment of contract).

CONTRACTORS AND PEST CONTROL OPERATORS AFFECTED BY LEGISLATION

Amendments to the Contractors' Act which became effective September 19, make it no longer necessary for a pest control operator to be licensed as contractor, providing his operations do not include structural work. If structural work is done, he still is classed as a contractor without regard to any pest control license he may hold.

On the other hand, any contractor or other person for that matter, who is engaged in the business of eradicating or controlling structural pests and growths must be licensed by the Pest Control Board without regard to any other license he may hold.

Furthermore the Structural Pest Control Act provides anyone who offers to do pest control work or who holds himself forth as being skilled in such work for the purpose of certifying to absence of infestation even though he may have done no actual work comes within jurisdiction of the Pest Control Board, and lacking a license may be proceeded against criminally.

A minimum fine of \$300 is provided for violations of the Workmen's Compensation Insurance Act under certain conditions, by recent amendments to the compensation laws. Therefore, contractors employing men without compensation insurance should consider both the possibility of suspension or revocation of their State licenses as well as the increased criminal penalties for employing men without insurance. Employers are also required to post a notice setting forth the name and address of their compensation insurance carrier at their office or place of business.