

OCTOBER 28, 2016  
SACRAMENTO, CALIFORNIA







# CONTRACTORS STATE LICENSE BOARD

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**CSLB Licensing and Enforcement Committee Meetings  
Friday, October 28, 2016  
10:30 a.m.  
CSLB HQ, John C. Hall Hearing Room  
9821 Business Park Drive, Sacramento, CA 95827**

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H. Adjournment

OCTOBER 28, 2016  
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## AGENDA ITEM A

# Call to Order, Roll Call, Establishment of Quorum and Chair's Introduction

LICENSING COMMITTEE MEMBERS:

SUSAN GRANZELLA, CHAIR

LINDA CLIFFORD

DAVID DE LA TORRE

ED LANG

MICHAEL A. LAYTON

FRANK SCHETTER

JOHNNY SIMPSON

Committee Chair Susan Granzella will review the scheduled Committee actions and make appropriate announcements.







## AGENDA ITEM B

# Public Comment Session for Items not on the Agenda and Future Agenda Item Requests

(Note: Individuals may appear before the Committee to discuss items not on the agenda; however, the CSLB's Committee can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).





## AGENDA ITEM C

# Review and Discussion Regarding Improvements to Licensing and Testing Program Board Meeting Materials





# CONTRACTORS STATE LICENSE BOARD

## REVIEW AND DISCUSSION REGARDING PROGRAM UPDATES

### **Review and Discussion of Licensing and Testing Reporting Documentation**

Historically, the Licensing division has utilized various charts to illustrate for the Board activities related to the processing of licensing transactions and productivity. The Licensing and Testing division portions of the Board Meeting package have now been simplified, reducing the number of graphic charts to a consistent table format. The Board saw this new format in the September 2016 Board meeting packet, and it is also contained in this Committee packet

The Licensing Committee Chair requests that the Committee review and discuss this new program update format to examine the changes and to identify any suggestions and/or ideas for future reporting.

## LICENSING PROGRAM UPDATE

### LICENSE DIVISION WORKLOAD

In fiscal year 2015-16, the Licensing Division received a combined total of 39,972 applications. During that time, 19,551 applications were processed and licenses issued, 8,470 applications were processed and voided, and 11,951 applications remain pending.

The charts below provide the total number of incoming applications received by the Application Units each month, quarter and fiscal year. This information is obtained from CSLB's internal Teale database.

<b>Total Number of Applications Received Per Month</b>													
	Jul 2015	Aug	Sep	Oct	Nov	Dec	Jan 2016	Feb	Mar	Apr	May	Jun	Jul 2016
Original Exam	923	1,037	884	1,014	953	873	936	1,220	1,299	1,272	1,225	1,079	1,077
Original Waiver	670	651	574	620	613	618	678	871	826	752	809	688	541
Add Class	326	367	310	344	265	295	282	368	370	431	361	349	290
Qualifier Replacer	181	173	207	209	195	214	157	238	223	230	208	163	173
Home Improvement	1,151	1,180	996	1,204	1,120	1,104	924	1,142	958	1,047	802	793	818
Received Per Month	3,251	3,408	2,971	3,391	3,146	3,104	2,977	3,839	3,676	3,732	3,405	3,072	2,899
Received Quarterly	1 <sup>st</sup>		9,630	2 <sup>nd</sup>		9,641	3 <sup>rd</sup>		10,492	4 <sup>th</sup>		10,209	

<b>Total Applications Received – Prior Fiscal Years</b>					
	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16
Original Exam	10,542	10,005	10,185	11,098	12,715
Original Waiver	7,124	6,791	7,719	7,858	8,370
Add Class	4,609	4,158	3,854	3,880	4,068
Qualifier Replacer	2,191	2,295	2,259	2,279	2,398
Home Improvement	6,279	7,525	9,522	12,557	12,421
Total Received	<b>30,745</b>	<b>30,774</b>	<b>33,539</b>	<b>29,814</b>	<b>39,972</b>

## LICENSING PROGRAM UPDATE

The charts below provide the total number of applications processed by the Application Units each month and fiscal year. This information is obtained from CSLB's internal Teale database.

<b>Total Number of Applications Processed Per Month</b>													
	Jul 2015	Aug	Sep	Oct	Nov	Dec	Jan 2016	Feb	Mar	Apr	May	Jun	Jul 2016
Original Exam	841	1,212	635	1,146	664	858	474	1,122	1,078	954	1,593	2,045	1,627
Original Waiver	762	814	758	750	404	529	806	659	649	671	778	956	806
Add Class	366	450	443	343	260	244	325	335	411	320	323	329	308
Qualifier Replacer	242	235	159	211	210	239	224	212	272	229	223	276	239
Home Improvement	894	658	624	533	580	596	499	614	587	733	564	555	350
<b>Total Per Month</b>	<b>3,105</b>	<b>3,369</b>	<b>2,619</b>	<b>2,983</b>	<b>2,118</b>	<b>2,466</b>	<b>2,328</b>	<b>2,942</b>	<b>2,997</b>	<b>2,907</b>	<b>3,481</b>	<b>4,161</b>	<b>3,330</b>

<b>Total Applications Processed – Prior Fiscal Years</b>					
	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16
Original Exam	9,883	8,304	12,563	16,571	12,622
Original Waiver	6,603	7,714	8,487	9,595	8,536
Add Class	4,620	4,227	4,378	4,134	4,149
Qualifier Replacer	2,168	2,216	2,334	2,544	2,732
Home Improvement	3,725	4,018	3,990	6,880	7,437
<b>Total Processed</b>	<b>26,999</b>	<b>26,479</b>	<b>31,752</b>	<b>39,724</b>	<b>35,476</b>

Applications are “processed” whenever any of the following actions occur:

- Application review is completed; application is accepted or “posted” and examination(s) are scheduled.
- Application review is completed; Bond and Fee Notification Letter requesting issuance requirement(s) sent.
- Application review is completed; all issuance requirements met and license issued.
- Member of the application personnel is flagged by the Enforcement division; application is referred to Case Management.
- Application is referred to Judgment Unit; application personnel are matched with an outstanding liability, judgment, or payment of claim on an existing license.
- Application is referred to Family Support Unit; member of application personnel is out of compliance with child or family support judgment or order.

## LICENSING PROGRAM UPDATE

<b>Disposition of Applications by Fiscal Year</b>				
<b>Fiscal Year</b>	<b>Number of Apps Received</b>	<b>Processed &amp; Issued</b>	<b>Void</b>	<b>Pending</b>
2015-16	39,972	19,551	8,470	11,951*

The Application Disposition chart shown above illustrates the number of applications received in the last fiscal year and the final disposition of these applications, regardless of the year they were processed. This is the combined total for all exam, waiver, add class, qualifier replacer, and home improvement salesperson applications. This report allows staff to monitor the disposition of applications and to identify any applications that require special attention. This information is obtained from CSLB's internal Teale database.

\*Among the reasons an application may be classified as pending includes:

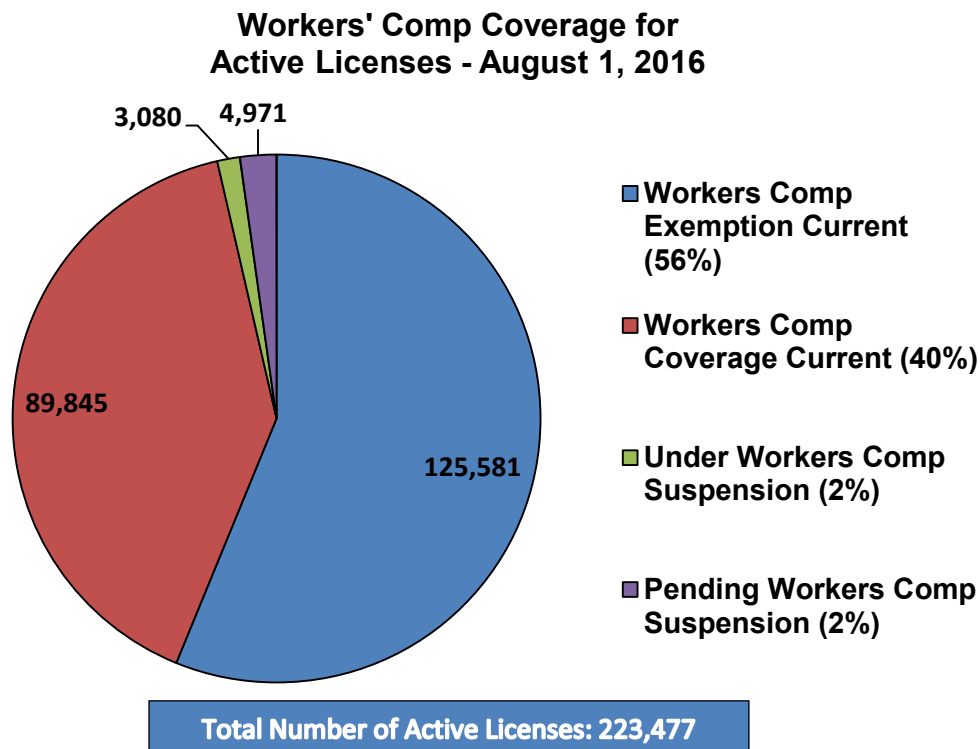
- The applicant does not pass the exam, but is still within the 18-month window during which he or she must pass the examination.
- The application is in the experience verification process.
- The application is not yet cleared by CSLB's Criminal Background Unit.
- The applicants has not submitted final issuance requirements (proof of bond, workers' compensation insurance, asbestos open book examination results or fees).

## LICENSING PROGRAM UPDATE

### WORKERS' COMPENSATION RECERTIFICATION

Business and Professions Code §7125.5 (Assembly Bill 397) took effect on January 1, 2012. Licensing implemented the requirements of the new law in January 2013, effective for licenses expiring March 31, 2013. This law requires that, at the time of renewal, an active contractor with an exemption for workers' compensation insurance on file with CSLB either recertify that exemption or provide a current and valid Certificate of Workers' Compensation Insurance or Certificate of Self-Insurance. If, at the time of renewal, the licensee fails to recertify his or her exempt status or to provide a workers' compensation policy, the law allows for the retroactive renewal of the license if the licensee submits the required documentation within 30 days after notification by CSLB of the renewal rejection.

This chart provides a snapshot of workers' compensation coverage for active licenses. This information is obtained from CSLB's internal Teale database.



The chart shown on the following page provides the current workers' compensation coverage (policies and exemptions) on file for active licenses by classification and the percentage of exemptions per classification. This information is obtained from CSLB's internal Teale database.



## LICENSING PROGRAM UPDATE

<b>Active License Classifications Workers' Comp Status – Eff. 8-1-2016</b>					
	Classification	Exemptions on File	WC Policies on File	Total Policies & Exemptions	% of Total with Exemptions
A	General Engineering	5,671	8,460	14,131	40%
B	General Building	63,392	35,620	99,012	64%
C-2	Insulation and Acoustical	301	829	1,130	27%
C-4	Boiler Hot Water	218	586	804	27%
C-5	Framing / Rough Carp	490	266	756	65%
C-6	Cabinet-Millwork	2,820	1,727	4,547	62%
C-7	Low Voltage Systems	2,132	2,551	4,683	46%
C-8	Concrete	2,533	3,215	5,748	44%
C-9	Drywall	1,284	1,648	2,932	44%
C10	Electrical	13,850	10,143	23,993	58%
C11	Elevator	44	154	198	22%
C12	Earthwork & Paving	1,016	1,240	2,256	45%
C13	Fencing	657	784	1,441	46%
C15	Flooring	3,808	3,051	6,859	56%
C16	Fire Protection	744	1,309	2,053	36%
C17	Glazing	1,091	1,579	2,670	41%
C20	HVAC	6,222	4,898	11,120	56%
C21	Building Moving Demo	486	998	1,484	33%
C22	Asbestos Abatement	0	224	224	0%
C23	Ornamental Metal	440	536	976	45%
C27	Landscaping	4,797	5,998	10,795	44%
C28	Lock & Security Equipment	166	178	344	48%
C29	Masonry	1,1214	1,346	2,460	45%
C31	Construction Zone	40	193	233	17%
C32	Parking Highway	199	285	484	41%
C33	Painting	8,852	6,195	15,047	59%
C34	Pipeline	163	315	478	34%
C35	Lath & Plaster	667	1,062	1,729	39%
C36	Plumbing	8,729	5,965	14,694	59%
C38	Refrigeration	977	849	2,803	35%
C39	Roofing	0	4,026	4,026	0%
C42	Sanitation	393	555	948	41%
C43	Sheet Metal	462	987	1,449	32%
C45	Signs	397	424	821	48%
C46	Solar	447	631	1,078	41%
C47	Gen Manufactured House	234	181	415	56%
C50	Reinforcing Steel	64	165	229	28%
C51	Structural Steel	423	939	1,362	31%
C53	Swimming Pool	1,067	1,201	2,268	47%
C54	Tile	3,563	2,489	6,052	59%
C55	Water Conditioning	131	163	294	45%
C57	Well Drilling	359	498	857	42%
C60	Welding	569	395	964	59%
C61	Limited Specialty	7,500	8,666	16,166	46%
ASB	Asbestos Cert	339	733	1,072	32%
HAZ	Hazardous Cert	589	1,246	1,835	32%

## LICENSING PROGRAM UPDATE

### FINGERPRINTING/CRIMINAL BACKGROUND UNIT

As mandated in January 2005, CSLB continues to fingerprint all applicants for licensure. The California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) conduct criminal background checks and provide Criminal Offender Record Information (CORI) to CSLB for in-state convictions and for out-of-state and federal convictions, respectively.

From fiscal year 2005-06 through fiscal year 2010-11, CSLB received 240,907 transmittals from DOJ that included clear records and conviction information. During that time, the Criminal Background Unit (CBU) staff received CORI files for 40,608 applicants, an indication that DOJ and/or the FBI had a criminal conviction(s) on record for that individual. As a result, CBU denied 1,015 applications and issued 668 probationary licenses; 497 applicants appealed their denials.

DOJ and FBI typically provide responses to CSLB within a day or two of an applicant being fingerprinted, but occasionally the results are delayed. This does not necessarily indicate a conviction, as sometimes the results reveal a clear record. Most delays are resolved within 30 days; however, some continue for 60 or 90 days or more. Since DOJ and FBI are independent agencies, CSLB has no control over these delays and must wait for the fingerprint results before issuing a license.

Below is a breakdown of CBU statistics for the past five fiscal years as well as the current fiscal year. This information is obtained from CSLB's internal Teale database.

<b>Criminal Background Unit Statistics</b>							
	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17*	TOTALS
DOJ Records Received	18,805	18,270	20,395	28,434	32,323	3,432	366,966
CORI RAPP Received	3,997	3,663	3,768	4,686	6,268	624	64,307
Denials	70	67	37	40	52	6	1,287
Appeals	39	36	23	21	27	1	644
Probationary Licenses Issued	146	71	76	97	72	9	1,539

\*As of August 1, 2016

## LICENSING PROGRAM UPDATE

### EXPERIENCE VERIFICATION UNIT

Business and Professions Code section 7068(g) and California Code of Regulations 824 requires CSLB to investigate a minimum of 3 percent of applications received to review applicants' claimed work experience.

Since implementation in September 2014, the Experience Verification Unit staff has been assigned and completed a total of 2,782 applications for experience verification.

The following chart provides a monthly breakdown of actions taken for applications referred to the Experience Verification Unit for fiscal year 2015-16.

<b>Experience Verification Unit Statistics FY 2015-16</b>													
	Jul 2015	Aug	Sep	Oct	Nov	Dec	Jan 2016	Feb	Mar	Apr	May	Jun	FY Total
Withdrawn	12	10	12	13	11	20	16	3	8	6	2	5	118
Verified	40	26	28	21	18	25	34	24	28	26	33	34	337
Denied	24	15	18	14	10	18	13	14	15	22	26	20	209
Appealed	10	9	3	6	3	2	5	1	1	1	1	3	45

The chart on the next page provides the breakdown for appeals, denials, withdrawals, and experience verifications by classification from September 1, 2014 through July 31, 2016.

## LICENSING PROGRAM UPDATE

### Experience Verification By Classification

Classification	Total by Class	Appealed	Withdrawn	Verified	Denied
A General Engineering	104	15	27	29	33
B General Building	780	56	174	263	287
C-2 Insulation/Acoustic	1			1	
C-4 Boiler Hot Water	2			2	
C-5 Framing/Rough Carp	5			3	2
C-6 Cabinet-Millwork	6			6	
C-7 Low Voltage	14		2	9	2
C-8 Concrete	19		3	9	7
C-9 Drywall	13	2		2	9
C-10 Electrical	93	1	10	62	20
C-12 Earthwork/Paving	10		2	4	4
C-13 Fencing	5			2	3
C-15 Flooring	17	1	1	10	5
C-16 Fire Protection	4		1	3	
C-17 Glazing	5		1	2	2
C-20 HVAC	56	5	6	26	19
C-21 Bldg.Moving/Demo	6		1	2	3
C-22 Asbestos	5		2	2	1
C-23 Ornamental Metal	2		1	1	
C-27 Landscaping	51	3	6	24	18
C-28 Lock/Security Equip	1			1	
C-29 Masonry	4		1	2	1
C-31 Construction Zone	1				1
C-32 Parking Highway	3		1	2	
C-33 Painting	35		2	26	7
C-34 Pipeline	2	1			1
C-35 Lath-Plaster	5	1		1	3
C-36 Plumbing	68	3	6	46	13
C-39 Roofing	11	1	2	4	4
C-42 Sanitation	3		2		1
C-43 Sheet Metal	1		1		
C-45 Sign	1			1	
C-46 Solar	8	1		4	3
C-47 Manufact. Housing	1			1	
C-51 Structural Steel	1			1	
C-53 Swimming Pool	10	1	2	2	5
C-54 Tile	24		6	13	5
C-57 Well Drilling	11		2	5	4
C-60 Welding	5		1	3	1
C-61 Limited Specialty	44	1	4	28	10
<b>Total</b>	<b>1,437</b>	<b>92</b>	<b>267</b>	<b>603</b>	<b>475</b>

## LICENSING PROGRAM UPDATE

### LICENSING INFORMATION CENTER (LIC)

#### LIC Support Services

CSLB's Licensing Information Center is the first point of contact for applicants, consumers, licensees, and governmental agencies needing information relative to licensing laws, hiring a contractor, licensing application information, and the status of an application. The LIC receives, on average, 13,000 calls monthly. Staff that respond to calls must have knowledge of all licensing transaction processes in order to assist callers with correct and complete information.

#### Licensing Information Center Call Data by Month

Inbound Activity	Jul-15	Aug	Sep	Oct	Nov	Dec	Jan-16	Feb	Mar	Apr*	May	Jun	July
Calls Received	14,060	12,899	12,392	12,889	10,871	11,021	13,500	13,988	13,864	13,496	12,997	13,797	13,504
Calls Answered	13,810	12,709	12,114	12,527	10,646	10,820	13,291	13,710	13,600	12,659	12,571	13,395	13,172
Caller Abandoned	250	189	278	357	223	200	205	273	260	770	409	401	331
Longest Wait Time	04:01	03:55	05:40	04:37	05:14	07:47	03:51	04:34	04:50	11:41	07:22	02:58	04:15
Shortest Wait Time	00:07	00:12	00:15	00:21	00:07	00:06	00:12	00:15	00:16	00:41	00:44	00:12	00:24
Avg. Wait Time	04:13	04:08	04:00	04:02	04:04	04:20	04:08	04:04	04:08	04:10	04:10	04:02	03:33

#### Licensing Information Center Call Data - Prior Fiscal Years

Inbound Activity	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16
Calls Received	155,956	148,650	148,639	158,096	160,996	155,774
Calls Answered	135,932	122,507	137,027	153,417	153,316	151,852
Caller Abandoned	19,924	26,114	11,581	4,300	7,558	3,815
Longest Wait Time	16:10	22:04	15:06	04:33	09:54	05:33
Shortest Wait Time	01:23	03:32	01:15	00:19	00:31	00:17
Average Wait Time	06:00	09:49	04:49	01:48	04:35	04:07

\*The longer wait times in April 2016 resulted from five staff vacancies.

## LICENSING PROGRAM UPDATE

### JUDGMENT UNIT

Judgment Unit staff process all outstanding liabilities, judgments, and payment of claims reported to CSLB by licensees, consumers, attorneys, credit recovery firms, bonding companies, CSLB's Enforcement division, and other governmental agencies. In addition, the Judgment Unit processes all documentation and correspondence related to resolving issues such as satisfactions, payment plans, bankruptcies, accords, motions to vacate, etc.

Outstanding liabilities are reported to CSLB by:

- Employment Development Department
- Department of Industrial Relations
  - Division of Occupational Safety and Health
  - Division of Labor Standards Enforcement
- Franchise Tax Board
- State Board of Equalization
- CSLB Cashiering Unit

Unsatisfied judgments are reported to CSLB by:

- Contractors
- Consumers
- Attorneys

Payments of claims are reported to CSLB by bonding (surety) companies.

The chart on the following page provides the number of notifications mailed to licensees relating to outstanding liabilities, judgments and payment of claims affecting their license status, including the savings to the public as a result of compliance.

JUDGMENT UNIT - SAVINGS TO PUBLIC FY 2015-2016

	Jul-15	Aug	Sep	Oct	Nov	Dec	Jan-16	Feb	Mar	Apr	May	Jun	FY Total
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Outstanding Liabilities (From California State Agencies)

Initial	78	78	51	56	40	91	58	51	71	63	81	63	781
Suspend	80	91	64	38	45	48	33	84	46	44	60	55	688
Reinstate	41	52	42	44	31	33	39	52	49	42	40	39	504
Monetary Savings to Public	1,702,287	1,846,004	1,382,649	2,929,522	634,828	785,016	1,400,705	1,830,785	2,811,436	1,764,268	1,257,418	1,195,547	19,531,162

Final Judgments (From Court Actions)

Initial	171	144	155	116	27	69	59	55	50	74	65	68	1053
Suspend	81	67	54	73	61	77	46	3	19	12	12	16	518
Reinstate	111	102	111	111	84	83	77	72	73	88	69	64	1045
Monetary Savings to Public	1,595,725	2,135,434	2,135,965	2,445,515	1,915,926	1,473,019	361,510	1,898,807	1,298,985	1,637,140	894,366	2,862,405	20,654,797

Payment of Claims (From Bonding [Surety] Companies)

Initial	166	154	182	167	129	143	130	167	137	140	129	151	1795
Suspend	127	71	109	72	65	100	57	59	53	34	82	62	891
Reinstate	152	147	130	155	107	146	124	137	139	134	113	117	1601
Monetary Savings to Public	868,592	814,152	756,931	914,731	634,366	847,617	819,989	863,309	840,258	796,034	764,460	710,483	9,630,922
Combined Monetary Savings	4,166,070	4,795,133	4,275,070	6,289,352	9,184,921	9,105,354	2,581,966	4,581,805	4,950,487	4,197,194	2,915,852	4,768,062	49,811,266

## LICENSING PROGRAM UPDATE

CSLB management closely monitors processing times for the various licensing units on a weekly and monthly basis.

The chart below provides the “weeks to process” for applications, license transaction, and public information unit documents received each month. “Weeks to process” refers to the average number of weeks before an application or document is initially pulled for processing by a technician after it arrives at CSLB.

The time-to-process for applications and renewals includes an approximate two-day backlog that accounts for the required cashing and image-scanning tasks that must be completed before an application or document can be processed.

### Average Weeks to Initial Processing By Month

	Jul 2015	Aug	Sep	Oct	Nov	Dec	Jan 2016	Feb	Mar	Apr	May	Jun	Jul 2016
Original Exam	3.5	4.1	4.5	5.5	6.5	9.0	9.0	9.0	7.1	9.0	7.3	3.5	2.5
Original Waiver	3.0	1.6	1.9	0.7	0.7	1.0	1.2	1.6	0.7	2.0	3.5	1.5	4.5
Add Class	5.2	6.1	4.5	5.0	6.5	7.5	7.0	4.0	3.1	3.0	3.1	4.0	3.0
Qualifier Replacer	5.0	4.2	4.2	4.0	5.5	3.5	3.0	3.0	3.5	3.5	5.0	5.5	1.0
Home Improvement	1.2	2.0	2.3	3.5	4.5	2.0	2.0	4.0	2.5	3.0	2.0	1.5	1.5
Renewal	0.6	2.0	1.5	2.0	3.0	1.0	2.3	1.3	0.1	2.6	2.1	2.5	2.0
Add New Officer	0.5	2.0	1.5	1.5	3.0	3.5	2.9	1.7	0.1	2.0	1.6	4.0	2.5
Address/ Name Change	0.2	1.0	1.5	2.0	3.0	2.5	1.7	1.9	0.5	2.3	2.1	4.0	2.5
Bond / Bond Exemption	0.1	0.1	0.1	0.5	0.1	0.1	0.1	0.6	0.5	0.2	0.1	0.2	0.1
Workers Comp / Exempt	1.0	1.0	1.0	1.0	1.0	1.0	1.0	0.7	1.0	0.6	1.0	0.6	1.0
Certified License History	1.1	1.8	1.5	1.4	1.5	2.5	3.5	4.5	4.7	2.0	0.7	1.2	1.2
Copies of Documents	0.0	0.0	0.8	1.5	1.9	1.7	2.0	1.8	1.9	1.1	0.9	0.6	0.5
CORI Review*	4.5	4.0	4.0	4.5	5.0	6.5	2.5	3.0	2.0	2.5	2.5	3.5	4.0

\*Outside CSLB Control-DOJ/FBI timeframe





# CONTRACTORS STATE LICENSE BOARD

## TESTING PROGRAM UPDATE

### EXAMINATION ADMINISTRATION UNIT (EAU)

The Testing division's EAU administers CSLB's 46 examinations at eight computer-based test centers. Most test centers are allocated two full-time test monitor positions, with part-time proctors filling in as needed. Test monitors also respond to all interactive voice response (IVR) messages received by CSLB that are related to testing.

Number of Examinations Scheduled Per Month - August 2015 – July 2016												
Aug	Sep	Oct	Nov	Dec	Jan 2016	Feb	Mar	Apr	May	Jun	Jul	Total
2559	2598	2423	2381	2345	2104	2808	3566	3448	3464	3659	3804	<b>35,159</b>

### Test Center Status

CSLB maintains test centers in the following locations:

- Sacramento
- Berkeley
- San Jose
- Fresno
- Oxnard
- Norwalk
- San Bernardino
- San Diego

STARS (SCORE Translator and Recording Suite) has been fully deployed at all eight test centers. It replaces the translator examination system previously in use at six of CSLB's test centers so that now the Berkeley and Fresno Test Centers can also offer translator examinations.

The Norwalk Test Center remodel was completed in August 2016.

### Examination Administration Unit Staffing

EAU is fully staffed.

Number of Examinations Scheduled by Test Center August 2015 – July 2016	
Test Center	Number of Examinations Scheduled
Berkeley	4150
Fresno	2030
Norwalk	8078
Oxnard	4330
Sacramento	4754
San Bernardino	5117
San Diego	3633
San Jose	3067



**EXAMINATION DEVELOPMENT UNIT (EDU)**

The Testing division’s EDU ensures that CSLB’s 46 examinations are written, maintained, and updated in accordance with testing standards, guidelines, and CSLB regulations.

**Occupational Analysis and Examination Development Workload**

Licensure examinations involve two ongoing phases: occupational analysis and examination development. This cycle must be completed every five to seven years for each of CSLB’s examinations.

The occupational analysis phase determines what information is relevant to each contractor classification, and in what proportion it should be tested. The cycle starts with interviews of a sample of active California licensees statewide. EDU staff then conducts two workshops with these subject matter experts, along with online surveys about job tasks and relevant knowledge. The result is a validation report that includes an examination outline, which serves as a blueprint for constructing examination versions/forms.

The examination development phase involves numerous workshops to review and revise existing test questions, write and review new test questions, and determine the passing score for examinations from that point forward.

EDU released one new examination in July 2016: C-39 Roofing.

<b>Occupational Analyses in Progress</b>	<b>New Examinations in Progress</b>
C-2 Insulation and Acoustical	C-7 Low Voltage Systems
C-4 Boiler, Hot Water Heating, and Steam Fitting	C-16 Fire Protection
C-12 Earthwork and Paving	C-17 Glazing
HAZ Hazardous Substance Removal	C-27 Landscaping
	C-32 Parking and Highway Improvement
	C-33 Painting and Decorating
	C-53 Swimming Pool
	C-54 Ceramic and Mosaic Tile
	ASB Asbestos Certification
	Law and Business

**Examination Development Unit Staffing**

EDU has two vacancies: one Personnel Selection Consultant II and one Graduate Student Assistant.



### **Ongoing Consumer Satisfaction Survey**

EDU conducts an ongoing survey of consumers whose complaint cases have been closed to assess overall satisfaction with the Enforcement division's handling of complaints related to eight customer service topics. The survey is emailed to all consumers with closed complaints who provide CSLB with their email address during the complaint process. Consumers receive the survey in the first or second month after their complaint is closed. To improve the survey's response rate, Testing incorporated a reminder email into the process so that non-responsive consumers now receive an email one month after the initial request is sent.

### **TESTING DIVISION**

#### **Civil Service Examinations**

In addition to licensure examinations, EDU develops, and EAU administers, examinations for civil service classifications used by CSLB. Three test centers administered the Consumer Services Representative examination in August 2016.



# AGENDA ITEM D

Adjournment





OCTOBER 28, 2016  
SACRAMENTO, CALIFORNIA







## AGENDA ITEM A

# Call to Order, Roll Call, Establishment of Quorum and Chair's Introduction

ENFORCEMENT COMMITTEE MEMBERS:

MARLO RICHARDSON, CHAIR

KEVIN J. ALBANESE

SUSAN GRANZELLA

JOAN HANCOCK

PASTOR HERRERA, JR.

ED LANG

FRANK SCHETTER

Committee Chair Marlo Richardson will review the scheduled Committee actions and make appropriate announcements.





## AGENDA ITEM B

# Public Comment Session for Items not on the Agenda and Future Agenda Item Requests

(Note: Individuals may appear before the Committee to discuss items not on the agenda; however, the CSLB's Committee can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).





## AGENDA ITEM C

# Enforcement Program Update

- a. Consumer Investigation Highlights
- b. 2016 Staff Training Update
- c. General Complaint-Handling Statistics





### CONSUMER INVESTIGATION HIGHLIGHTS

#### INTAKE MEDIATION CENTERS

##### **Full Refund for Elderly Homeowners**

An 87-year-old homeowner and her daughter entered into a \$7,100 contract to have their Newport Beach home painted. The homeowners requested a detailed breakdown of the contract charges, including materials. After the paint job was completed, they found several areas on the home with poor paint coverage and contacted the contractor to correct the work, but he never appeared. The consumers ultimately hired another contractor to make the corrections for \$3,400, and filed a complaint with CSLB. A Norwalk Consumer Services Representative (CSR) contacted the contractor and informed him that the homeowners had contacted the paint supplier and learned that the contractor had only purchased 16 gallons of paint instead of the 30 gallons called for in the contract. The contractor admitted to the paint shortage and agreed to compensate the consumers for the full cost of having their home repainted.

##### **Contractor Repairs 18-Year-Old Roofs**

In 1998, a Los Altos condominium association contracted for \$39,000 to have roofs replaced on multiple units for \$39,000. The contract included a 30-year warranty and after 18 years, the roofs were failing and needed extensive repairs, totaling \$24,000. The original roofer, who had since moved his roofing operation to the Washington and Oregon area, did not cooperate with the association. The association then contacted CSLB, and a Sacramento CSR assisted with obtaining a full settlement for the association to make the repairs.

#### INVESTIGATION CENTERS

##### **Contracting Duo Harms Two Elderly Victims**

In December 2012, an 84-year-old homeowner entered into a \$40,920 written contract with a licensed contractor to install a solar system, electric car charging station, and a new roof for her house in Petaluma. The contractor requested and received \$51,672 as a down payment prior to performing any work. Over a period of nearly three years, the homeowner entered into 11 subsequent written agreements with the contractor and his associate (another licensee) for additional work, raising the final contract amount to \$256,162. Throughout the project, the contractor worked out of class (C-36 Plumbing), used employees without workers' compensation insurance, and failed to pull a single permit. Nearly four years later, the homeowner's had paid the contractor \$328,364, including a \$46,000 "personal loan," for which the contractor has made no payments). The project remains incomplete. Further, the contractor and his associate have filed a \$26,500 mechanic's lien against the homeowners' property. A CSLB Industry Expert (IE) estimated the total value of work performed at approximately \$88,000, and the cost to complete the project at over \$12,000.



In the meantime, the two licensees upsold an 83-year old companion of the first victim \$235,826 worth of work that the homeowner never requested. This homeowner ultimately paid \$286,751 toward the contract, and this project also remains incomplete. In this case, a CSLB IE estimated the total value of work performed at \$41,344, and the cost to correct and complete it at \$32,496.

An Enforcement Representative (ER) from the South Sacramento Investigative Center (IC) investigated this complex case. In both cases, the licensees took advantage of the victim's age and sense of trust. An accusation has been filed against both licenses and CSLB has referred the complaints to the Sonoma County District Attorney's Office for possible felony charges.

### **Warrant Issued for Unlicensed Contractor who Defrauded Elderly Woman**

A North Sacramento Investigative Center ER investigated a complaint against unlicensed contractor Kevin Harrell, who a 78-year-old homeowner had contracted with for \$105,300 to build living quarters in the back of her son-in law's property. The contractor fraudulently used the legitimate license number of someone else and received \$78,777, but failed to complete the work. A CSLB Industry Expert determined that it will cost \$103,674 to have the work corrected and the project completed. CSLB forwarded the case to the Contra Costa District Attorney, which issued a \$250,000 arrest warrant for Harrell on October 3, 2016, for charges of grand theft, theft from an elder (with an enhancement for excessive loss over \$50,000), and fraudulent use of a contractor's license number. On October 11, 2016, Harrell turned himself in to the Contra Costa County authorities and now faces prosecution.

### **Unlicensed Contractor Convicted**

In January 2016, a CSLB ER from the Norwalk Investigative Center referred her investigation of unlicensed contractor Peter Kessal for criminal prosecution to the Orange County District Attorney (DA). The investigation involved a homeowner who had hired Kessal to complete some bathroom repairs based on an advertisement posted to the website Houzz.com. In online postings and in person, Kessal falsely represented himself as a licensed contractor. The ER's investigation determined that Kessal accepted \$8,000 in payment and then walked off the job. On July 21, 2016, Kessal was convicted of contracting without a license, and was sentenced to three years' probation, extensive fines, payment of restitution, and dozens of hours of community service. The Deputy DA for the case subsequently contacted the Norwalk IC and commended the ER's thorough and detailed investigation of the case.

### **Leaky Roof Leads to Big Settlement**

In September 2015, a southern California resident entered into a \$38,512 contract with a licensed general contractor to reinsulate the attic, replace HVAC ducts, and reroof the residence. The contractor was selected and the project financed through the Home Energy Renovation Opportunity (HERO) program, with payments made directly to the



contractor. Soon after work was completed in late 2015, fall rainstorms revealed defective workmanship, and water intrusion through the new roof caused significant interior damage. In early December 2015, the contractor attempted to resolve the issue by reroofing the residence, but this roof job failed as well. The contractor attempted to perform yet another repair, but the leaking and water damage continued. The aggrieved consumer filed a complaint with CSLB. The complainant's attorney advised the contractor that the homeowner would hire another licensee to perform all further roof repairs, and demanded reimbursement for all repairs related to the roof and interior damage. Facing potential action against the license and a costly civil action, the contractor agreed to settle with the consumer for \$75,000. The grateful consumer later sent the following email message to the investigator: "Thank you so much for your extraordinary assistance and support during this arduous process."

### **Unlicensed Contractor Guilty of Felony Burglary and Elder Abuse**

In January 2015, a 72-year-old widow living alone hired non-licensee Roy Kuykendall to install artificial turf at her San Diego home after a door-to-door sales call. The consumer wrote her first check to Kuykendall for \$4,500 in "materials," while he stood over her in the kitchen. Despite doing minimal work in the consumer's front yard, Kuykendall continually pressured her for more money, and over time she paid him a total of \$14,500. At least once, Kuykendall explained that he needed some of the money to care for his terminally ill wife. However, CSLB's investigation determined that Kuykendall had neither a contractor's license nor a terminally ill wife. CSLB became aware of Kuykendall through a tip from a local police department and invited Kuykendall to a SWIFT sting to confirm his identity. The suspect appeared and SWIFT issued Kuykendall a criminal notice to appear for contracting without a license.

While still on probation for that offense, Kuykendall entered into a similar contract with another homeowner, which violated the terms of his bail release. A CSLB SIU Peace Officer investigated the case and referred both complaints to the Elder Abuse Prosecutor of the San Diego County District Attorney's Office. On August 19, 2016 Kuykendall pled guilty to four felony counts, including burglary charges with elder abuse enhancements. He is currently serving a one-year jail term, after which he will serve five years of formal probation. Kuykendall will face seven years of imprisonment if he does not comply with the terms of his probation.



**STATEWIDE INVESTIGATIVE FRAUD TEAM (SWIFT)****Napa County Sting Results in 16 Legal Actions**

On August 30-31, 2016, the Statewide Investigative Fraud Team partnered with Napa County District Attorney's Office investigators to host an undercover sting operation, inviting bids for a variety of trades, including landscaping, painting, concrete, and general handyman work. Over the two days, 13 criminal Notices to Appear for contracting without a license were issued to suspected unlicensed contractors who appeared at the sting. Two unlicensed persons received administrative citations, and one licensee received an administrative citation for suspected aiding and abetting an unlicensed contractor. In addition, one suspect was arrested and booked into jail for obstruction of justice after being uncooperative with CSLB and local law enforcement at the scene.

**Alameda County Strike Force Takes Multiple Actions**

On September 14-15, 2016, Northern SWIFT hosted a Joint Enforcement Strike Force (JESF) operation with the Alameda County District Attorney's Office, Insurance Fraud Division, and the Employment Development Department (EDD). The compliance sweep in Alameda targeted insurance fraud, and violations of contracting and employment law, including cash pay, premium theft, underreporting wages, and unregistered employees. The operation resulted in nine pending legal actions, including three referrals to the district attorney for workers' compensation insurance violations. SWIFT also issued three citations to licensees and three Stop Orders for projects where employers had failed to obtain workers' compensation policies for their employees. EDD is also referring seven employers to audit investigations. A real-time review of EDD records at the jobsites revealed that many employees have not been reported on employer payrolls for years, if ever.

**SWIFT Conducts Fall "Blitz" in Five Counties**

On September 20-22, 2016, the CSLB Northern, Central, and Southern SWIFT teams executed two-day operations in the counties of Fresno, Tulare, Alameda, San Diego, and San Bernardino. As a result of this statewide "Fall Blitz," 93 legal actions were written. This included 73 Notices to Appear issued on-site for contracting and/or advertising without a license (a misdemeanor). An additional twenty administrative and criminal actions are pending subject to further investigation. Partnering agencies included local law enforcement, local district attorney investigators, and the California Highway Patrol.

The San Diego team issued 20 legal actions over the two days at its sting property undercover residence in San Diego County – a 100 percent success rate against those that appeared. The high bid received during the San Diego operation was \$28,800 to landscape the home. CHP detained two suspects for arriving with drug paraphernalia



on their persons, one of whom had his license revoked in 1996. The revokee was also wanted by Ventura County on an open \$5,000 drug-related arrest warrant. In Alameda, a father and son received NTAs in separate appointments; in Fresno, one of the NTA suspects was on parole for burglary; and also in Fresno, a suspect arrived at the sting after having passed his CSLB license exam earlier that day.

**Task Force Sweep Operation Results in 44 Legal Actions**

On August 24-25, 2016, a Northern SWIFT Enforcement Representative joined representatives from EDD, Division of Labor Standards and Enforcement (DLSE), and Division of Occupational Safety and Health (DOSH) for a Labor Enforcement Task Force operation in Contra Costa County. All agencies had success at the compliance sweep. The SWIFT ER issued citations for workers' compensation insurance violations to both a licensee and a revokee who had multiple employees on a project. The SWIFT ER also issued two Stop Orders and two citations for failure to have workers' compensation insurance for employees, which led to the opening of two investigations. DOSH found 25 violations, and EDD will conduct five employer audits. DLSE issued three citations, three Stop Orders, and three Notices to Appear, amounting to \$26,100 in fines to employers for labor violations, and an additional \$9,000 in Stop Order fines.



## **2016 TRAINING UPDATE**

In response to identified needs and staff requests, the Enforcement division continues to expand the offerings in its highly successful training program. The Enforcement division's training coordinator has partnered with subject matter experts from within and outside CSLB to offer courses that have received uniformly positive reviews from attending staff.

### SWIFT Training

Sting training (Southern SWIFT, January 11, 12, 2016)

- Miranda
- Presentation by Orange County DA
- Rights to Privacy
- Mock sting/unit critique

Vehicle Surveillance (Northern SWIFT, October 10, 2016)

- ER responsibilities
- Objectives
- Techniques

### IC Training

Advanced Course II: Case organization, authenticating documents, financial injury, abandonment, and contract violations.

- San Diego (March 3, 2016)
- Norwalk (March 4, 2016)
- San Bernardino (March 4, 2016)
- San Francisco (April 21, 2016)
- Sacramento (April 21, 2016)
- Fresno (April 21, 2016)

### CSLB Enforcement Academy

CSLB's 5<sup>th</sup> Academy held in Norwalk (April 25-29, 2016)

### Safety and Security Training

- Sacramento (February 1, 2, 2016)
- Norwalk (February 4, 5, 2016)



Sting Training (Northern SWIFT, November 16, 17, 2016)

- Miranda
- Presentation by Yolo County DA
- Rights to Privacy
- Mock sting/unit critique

Career Advancement Class (December 2016)

- How to prepare for an interview
- How to maximize opportunities for advancement
- The Enforcement division is presently creating a new career development training class to encourage the upward mobility and professional growth of staff members. The class will be designed to motivate staff to expand their knowledge of the different units and disciplines at CSLB, and to pursue opportunities to broaden their job skills and experience. Additionally, the class will provide staff with proven methods to prepare for the promotional and interview processes. This class will be offered in the last quarter of 2016, with another session tentatively scheduled for the first quarter of 2017.



**GENERAL COMPLAINT-HANDLING STATISTICS**

It has been determined that a manageable level of pending complaints for all current CSLB Enforcement staff is 3,290. As of October 2016, the pending caseload was 3,216.

To ensure timely mediation and screening of complaints, the optimal case load for Consumer Services Representatives (CSRs) is 1,260. As of October 2016, 1,221 complaints were assigned to CSRs.

To ensure timely handling of complaints that warrant formal investigation, the optimal working caseload for Enforcement Representatives (ERs) assigned to the Board’s eight Investigation Centers (ICs) is 35 cases per ER. CSLB has 58 IC ERs; therefore, the eight ICs have an optimal capacity for 2,030 open complaints. As of October 2016, 1,995 cases were assigned to ERs. The following chart outlines how CSLB determines manageable caseloads:

<b>Job Classification</b>	<b>Current Number of Staff</b>	<b>Closure Goal per Month</b>	<b>Preferred Cycle Time (months)</b>	<b>Maximum Case load per ER/CSR</b>	<b>Maximum Number of Cases per Classification</b>
<b>ERs</b>	58	10	4	<b>35</b>	2,030
<b>CSRs</b>	21	20	2	<b>60</b>	1,260
<b>TOTAL</b>					<b>3,290</b>

Recognizing that a licensed contractor may have made a mistake or that a good faith dispute exists regarding the contracting activity, the Board provides training to CSRs and ERs to assist them in resolving construction-related disputes. To date, for CY 2016 Enforcement staff’s settlement efforts have resulted in over \$13 million in restitution to financially-injured parties as depicted in the following chart:

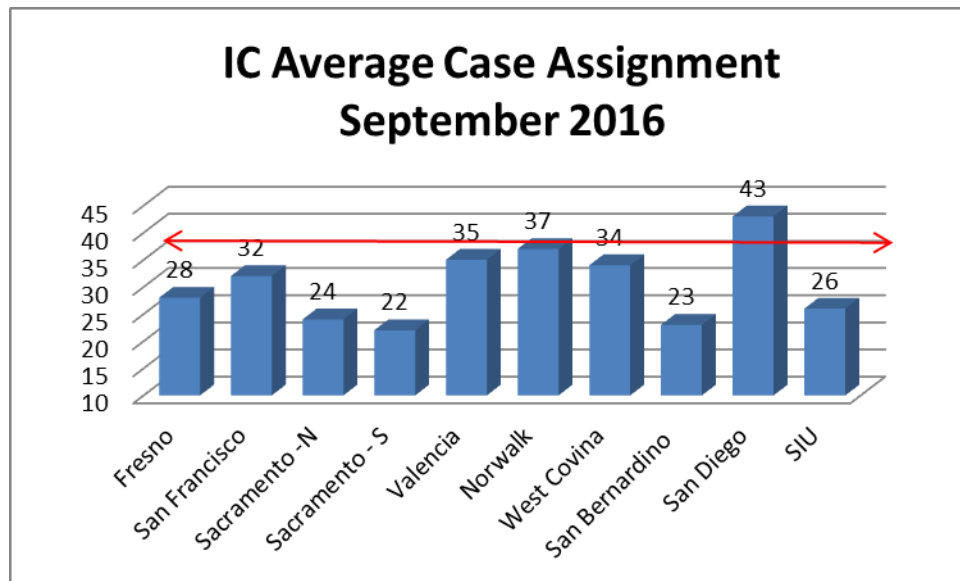


IC Financial Settlement Amount (CY 2016)	\$ 4,267,400.03
IMC Financial Settlement Amount (CY 2016)	\$ 9,156,979.57

**Investigation of Consumer Complaints**

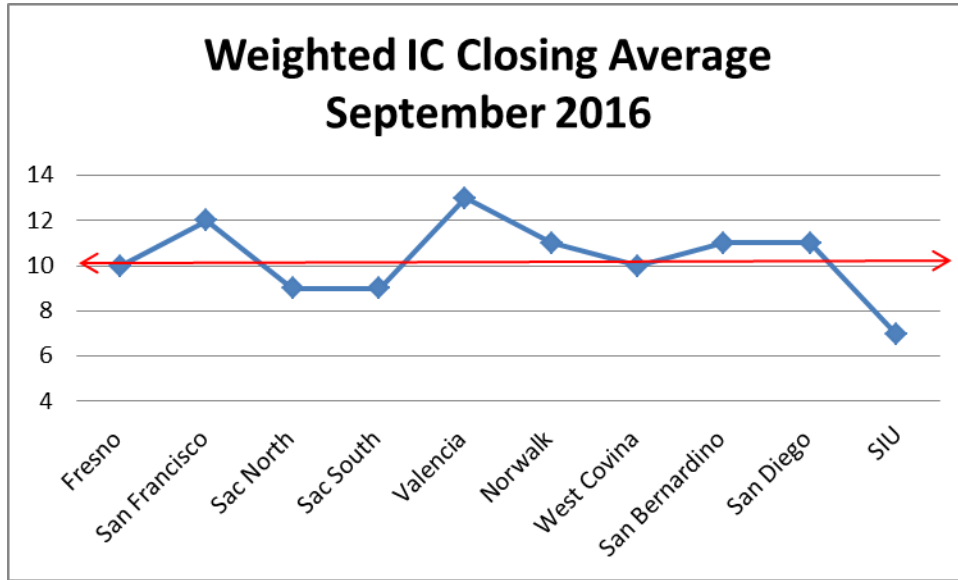
To ensure effective investigation of consumer complaints, the Enforcement division monitors Enforcement Representative (ER) production, pending caseloads, and investigation-closing disposition. To date, for CY 2016, Investigation Center (IC) ERs have consistently achieved the Board’s goal of 10 complaint closures per month, and effective case distribution among the eight ICs has resulted in a manageable, ongoing case load of approximately 35 cases per ER. Of the 1,583 legal actions during this time, 29 percent were referred to local prosecutors.

The following chart tracks open IC investigations. The goal is for each ER in the ICs to carry between 30 and 40 pending cases. At the beginning of October 2016, the statewide average was 30 cases.

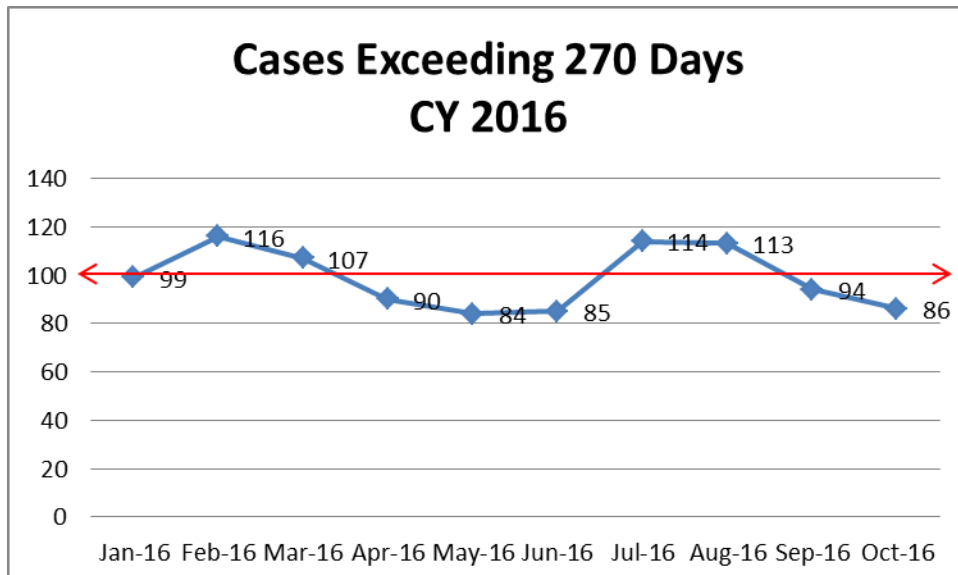




The following chart tracks the Board’s target of each IC ER maintaining a weighted monthly closing average of 10 cases.

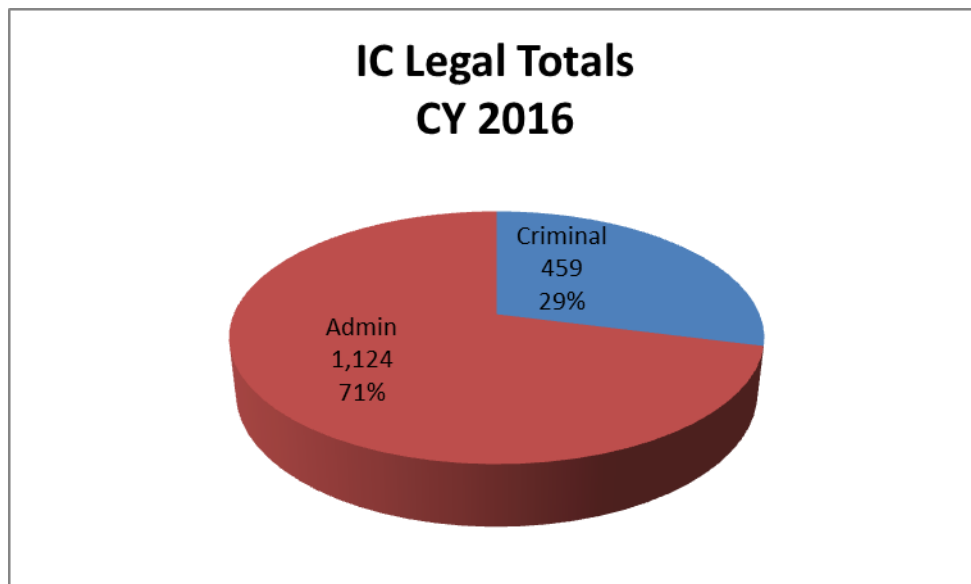


Historically, the Enforcement division has more than 3,000 consumer complaints under investigation at any given time. The Board’s goal is to appropriately disposition all but 100 within 270 days of receipt. The effective management of pending complaints by division staff has resulted in consistently meeting this goal.





To date, for CY 2016, the Enforcement division has referred 29 percent, or 459 legal action investigations, to district attorneys for criminal prosecution. The following chart depicts the number of completed investigations that resulted in an administrative or criminal legal action.



**Statewide Investigative Fraud Team Statistics**

CSLB’s Statewide Investigative Fraud Team (SWIFT) is comprised of Enforcement Representatives (ERs) who enforce license and workers’ compensation insurance requirements at active jobsites and perform undercover sting operations targeting unlicensed persons. From January 1, 2016–September 30, 2016, SWIFT conducted 68 sting operations in partnership with law enforcement, district attorney’s, building department and code enforcement officials, and other state agencies. In addition to stings, SWIFT also partners with other state and local agencies in “sweep” operations to verify license, tax, insurance, and safety practices at active jobsites. SWIFT conducted 172 sweep days in various counties across California in calendar year 2016.

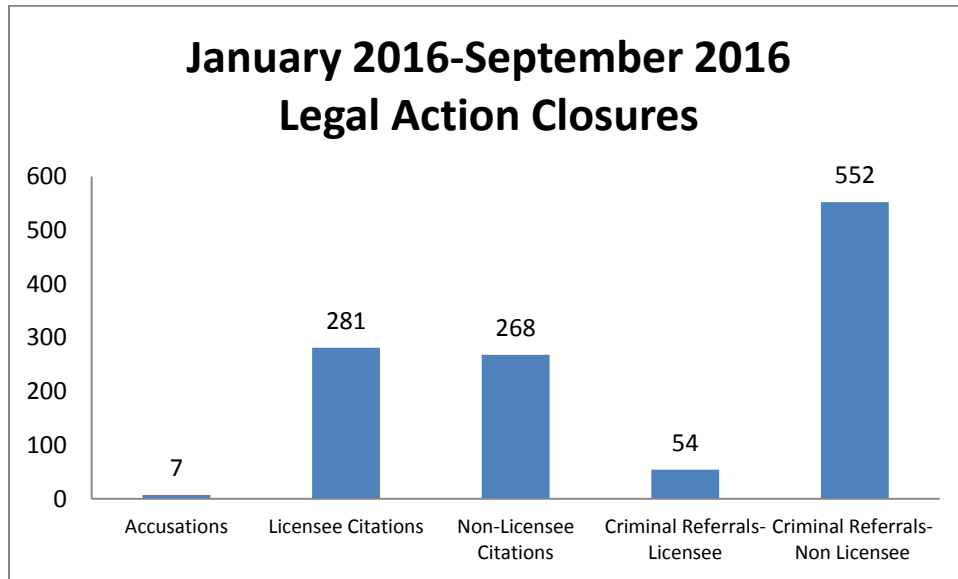
**Legal Action Closures**

From January 1, 2016–September 30, 2016, SWUFT closed 2,488 cases as a result of stings, sweeps, and leads, of which 1,162 resulted in an administrative or criminal legal action.





Below is a breakdown of legal action closures. To date, in CY 2016, SWIFT has referred 606 cases (criminal referrals—licensee and non-licensee) to local district attorney offices for criminal prosecution.



**Citations**

From January 1, 2016 to September 30, 2016, SWIFT investigators issued 549 licensee and non-licensee citations, and assessed \$493,430 in civil penalties.

**Stop Orders**

A stop order is a legal demand to cease all employee labor at a jobsite due to workers' compensation insurance violations until an appropriate policy is received. Failure of a contractor to comply with a Stop Order is a misdemeanor criminal offence, punishable by up to 60 days county jail or by a fine of up to \$10,000, or both. Between January 1, 2016 and September 30, 2016, SWIFT issued 344 Stop Orders to licensed and unlicensed individuals for using employee labor without having a valid workers compensation policy.



**Labor Enforcement Strike Force (LETF)**

Established in January 2012, the Labor Enforcement Task Force (LETF) combats the underground economy in California to create an environment where legitimate businesses can thrive. The Contractor State License Board’s joint efforts with the Department of Industrial Relations Division of Labor Standards and Division of Occupational Health and Safety, and the Employment Development Department aim to:

- Ensure that workers receive proper payment of wages and are provided a safe work environment;
- Ensure California receives all employment taxes, fees, and penalties due from employer;
- Eliminate unfair business competition by leveling the playing field; and
- Make efficient use of the state and federal resources in carrying out the mission of LETF.

Below are the FY 2015-2016 LETF statistics:

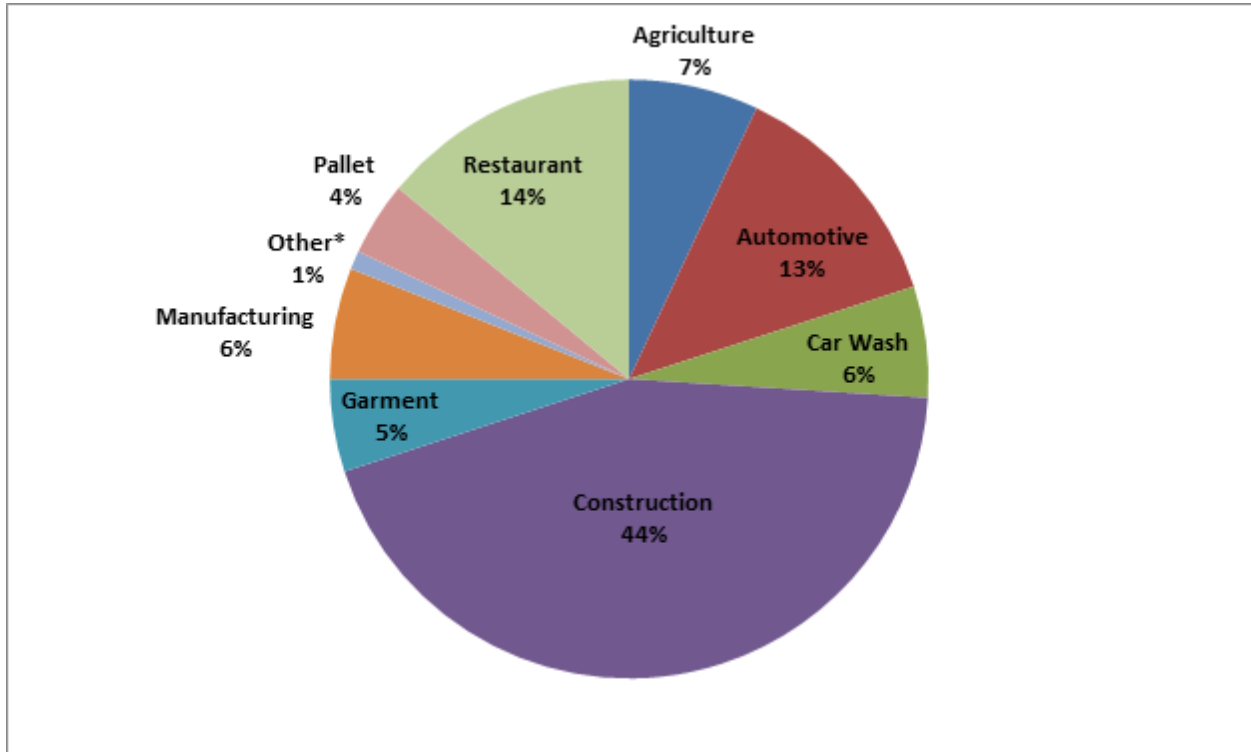
<b>LETF Overall Inspection Results, Fiscal Year 2015-16</b>	
<b>Total Number of Businesses Inspected</b> <i>(Includes all industries, not just Construction)</i>	<b>1,083</b>
<b>Percentage of Businesses Out of Compliance</b>	<b>83%</b>
<b>Total Amount of Initial Assessments*</b>	<b>\$8,594,871</b>

*\*The total amount assessed by Cal/OSHA, DLSE & CSLB at the time of the initial inspection, the amount is subject to change.*



**Composition of Businesses Inspected by LETF Fiscal Year 2015-16**

*(44% of all LETF inspections were in Construction)*



**CASE MANAGEMENT CY 2016 (January-September)**

<b>CITATIONS ISSUED</b>		
	<b>Licensee</b>	<b>Non-Licensee</b>
<b>Citations Issued</b>	1,032	632
<b>Citations Appealed</b>	400	268
<b>Citation Compliance</b>	892	387
<b>MANDATORY SETTLEMENT CONFERENCES</b>		
<b>Scheduled</b>	268	
<b>Settled</b>	160	
<b>Civil Penalties Collected</b>	\$1,264,928	
<b>Legal Fee Savings</b>	\$2,144,187	
<b>ARBITRATION</b>		
<b>Arbitration Cases Initiated</b>	553	
<b>Arbitration Decisions Received</b>	384	
<b>Licenses Revoked for Non-Compliance</b>	26	
<b>Arbitration Savings to the Public – Restitution</b>	\$1,766,380	
<b>ACCUSATIONS/STATEMENT OF ISSUES</b>		
<b>Revocations by Accusation</b>	267	
<b>Accusation Restitution Paid to Injured Persons</b>	\$149,931	
<b>Statement of Issues (Applicants Denied)</b>	62	
<b>Cost Recovery Received</b>	\$234,867	
<b>Number of Cases Opened</b>	294	
<b>Number of Accusations/Statement of Issues Filed</b>	232	
<b>Number of Proposed Decisions Received</b>	72	
<b>Number of Stipulations Received</b>	62	
<b>Number of Defaults Received</b>	84	
<b>Number of Decisions Mailed</b>	257	

## AGENDA ITEM D

Presentation by the California Air Resources Board (CARB) Regarding Partnership Opportunities Utilizing the CARB Off-Road Mobile Sources Emission Reduction Program





### **Contractor Compliance with Off-Road Vehicle Emission Laws**

In 2007, the California Air Resources Board (CARB) adopted a comprehensive regulation to reduce harmful exhaust emissions from off-road heavy-duty diesel vehicles in the state, which applies to vehicles such as bulldozers, graders, and front-end loaders that are widely used at heavy construction sites. The regulation is being phased in over a 20-year period, with escalating requirements for reporting, vehicle labelling, fleet expansion and replacement, and emission compliance. The regulation will ultimately affect all contractors who use off-road heavy construction equipment in their operations, including many class “A” public works and C-12 Earthwork/Paving contractors.

On September 12, 2016, CSLB Enforcement division staff met with representatives of CARB, the Employment Development Department, and the Department of Industrial Relations to discuss partnering opportunities to enforce the requirements for emission compliance, as well as contractors’ licensing, and tax and workers’ compensation insurance at large-scale construction projects. Meeting participants discussed outreach opportunities, inter-agency memorandums of understanding, and various enforcement strategies.

On October 28, 2016, representatives from the California Air Resources Board will address the Enforcement Committee to discuss in greater detail the application of CARB’s In-Use Off-Road Diesel Vehicle Regulation and possible opportunities for inter-agency collaboration towards its enforcement.

# AGENDA ITEM E

## Workers' Compensation Enforcement Plan Update





### **Workers' Compensation Insurance Plan Update**

At its December 2015 meeting, the Board unanimously approved five strategies intended to address the high number of exemptions from workers' compensation (WC) insurance requirements on file for licenses issued by the Contractors State License Board (CSLB). Fifty-four percent of all active licensees have an exemption from workers' compensation insurance on file, including 53 percent of licensees in the six classifications most likely to require employees: "A" (General Engineering), C-8 (Concrete), C-10 (Electrical), C-20 (Warm-Air Heating, Ventilation and Air-Conditioning), C-36 (Plumbing), and C-46 (Solar).

The Board approved the following five strategies in December 2015:

- Prioritize consumer complaints involving workers' compensation insurance compliance;
- Verify workers' compensation insurance for those licensed in the specific classifications most likely to need such insurance;
- Perform an analysis and conduct outreach regarding public works contractors registered with the Department of Industrial Relations;
- Research the Construction Monitor Database for permit activities on large projects; and
- Pursue state agency partnerships regarding workers' compensation insurance compliance.

On September 12, 2016, CSLB hosted a meeting of Joint Enforcement Strike Force (JESF) partners to discuss strategies for improving compliance with workers' compensation insurance requirements. The following JESF partners attended the meeting: California Department of Insurance (CDI), Department of Industrial Relations (DIR), Employment Development Department (EDD), and Franchise Tax Board (FTB).

The status of the Board-approved strategies for the remainder of the 2016-17 fiscal year follows:

1. In April 2016, CSLB sent 143 letters to licensees suspected of employing workers' while having an exemption from workers' compensation (WC) insurance on file. Ten percent of those who received a letter subsequently submitted a workers' compensation policy to CSLB.





2. For fiscal year 2015-16, CSLB's Intake and Mediation Centers cancelled 354 WC exemptions, triggering the issuance of a 30-day license suspension notification letter. After receiving the suspension letter, 133 licensees obtaining a new WC policy. To enhance the effectiveness of the WC license suspension process, the Enforcement division has scheduled training at the Board's eight Investigative Centers to improve internal documentation and increase license suspension for contractors who receive a consumer complaint and have a false WC exemption on file.
3. The Franchise Tax Board will assist with an analysis of the six classifications CSLB has identified as most likely to require employee labor ("A," C-8, C-10, C-20, C-36, and C-46) to determine if workers are typically required, and identify any specific workers' compensation insurance compliance concerns. This analysis will include public works contractors.
4. CSLB will explore the possibility of requiring those contractors who receive notice of a false WC insurance exemption and then file a new exemption (rather than obtaining a WC policy) to complete an educational webinar regarding the hazards and potential consequences of violating workers' compensation insurance requirements.
5. The Labor Enforcement Task Force (LETF) will prioritize jobsite inspections for those contractors identified in the Construction Monitor Database as performing work valued at more than \$20,000 with an exemption from workers' compensation on file.
6. Joint Enforcement Strike Force partners CDI, DIR, EDD, and FTB will develop materials that provide clear information on WC laws, which all partners will distribute to the public, consumers, contractors, and industry.
7. CSLB staff will attend monthly Workers' Compensation Insurance Task Force meetings sponsored by the Department of Insurance.
8. CSLB will perform outreach at day labor centers to provide information on license and workers' compensation insurance requirements.
9. Confidentiality agreements will be executed among Cal/OSHA, Department of Insurance, and Division of Labor Standards Enforcement (DLSE) to provide for sharing of information to identify uninsured employers.
10. Steps will be taken to facilitate the transfer to CSLB's Public Works Unit of DLSE wage claims (filed by uninsured workers) and Uninsured Employers Benefit Trust



**CSLB**

## WORKERS' COMPENSATION UPDATE

Fund claims (workers injured while working for uninsured employers), as well as serious injury findings from DIR's Division of Occupational Health.

## AGENDA ITEM F

# Review, Discussion, and Possible Action Regarding Strategies to Reduce Solar Energy Contractor Fraud

1. Enforcement of Consumer Protection Laws
2. Review of Solar Energy Storage System CSLB Classifications





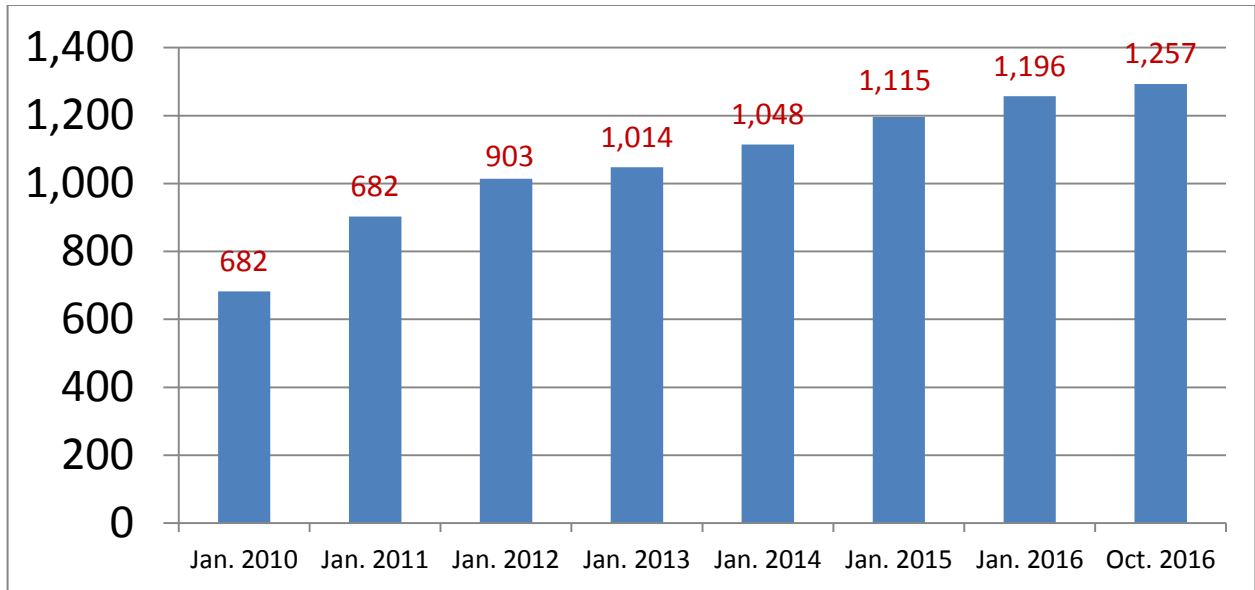
**Enforcement of Consumer Protection Laws**

The Enforcement division’s 2016-2018 Strategic Plan includes developing strategies to reduce solar industry fraud through (a) Outreach, (b) Education, and (c) Enforcement Strategies. The following describes the Enforcement division’s progress toward the reduction of solar industry fraud in each of these three areas. Also, in response to a September 2016 request from the Board, an update on emerging solar technologies and solar complaint trends is included.

The first of the following charts shows the number of solar complaints received by the Enforcement division. The complaints are tracked by project type (solar) not license type. The second chart shows the number of C-46 licenses issued since 2010.

<b>Complaints Received by Year</b>	<b>Licensee</b>	<b>Non-Licensee</b>	<b>TOTAL</b>	<b>PERCENT INCREASE</b>
2010	59	5	<b>64</b>	
2011	74	6	<b>80</b>	<b>25 %</b>
2012	88	9	<b>97</b>	<b>21 %</b>
2013	138	6	<b>144</b>	<b>48 %</b>
2014	193	29	<b>222</b>	<b>54 %</b>
2015	256	23	<b>279</b>	<b>26 %</b>
2016 (as of July)	177	11	<b>188</b>	
<b>TOTAL</b>			<b>1,074</b>	<b>336 % *</b>

\*Increase in total complaints received between 2010 and 2015



**Reduction of Solar Industry Fraud**

**(A) Outreach**

• **California Energy Commission**

The Enforcement division first detailed plans for meetings with the California Energy Commission (CEC) in September 2015. Efforts with CEC continue to focus on the need for solar contracts to specify the exact model and manufacturer of the solar panels to be installed and to explicitly address permit requirements.

• **Public Utilities Commission**

The Enforcement division is working closely with the Public Utilities Commission (PUC) to identify educational and enforcement opportunities. The PUC continues to refer to CSLB complaints related to fraudulent or faulty solar projects, and has expressed interest in partnering with the Board on consumer education. On October 20, 2016, CSLB will present to the PUC information regarding solar industry concerns.

• **Solar Energy Industries Association (SEIA)**

CSLB has partnered with SEIA since February 2016, and SEIA has agreed to work with the Board to address fraudulent and predatory solar contracting activity.

• **Multi-State Partnering**

CSLB and other states continue to share information. In one instance, through contacts with Nevada and Arizona, CSLB alerted the Arizona Registrar of Contractors about the illegal activities of Dion Perdikoyiannis, which then revoked his license to operate in that state. In April 2016, using its statute of reciprocity, CSLB used that disciplinary action information from Arizona to file an accusation to revoke Perdikoyiannis' California



license as well. Further investigation led to a pending action against a second license just as Perdikoyiannis was revamping his California business under the name “Greenify.”

Also, in September 2016, Enforcement Chief David Fogt and Public Affairs Chief Rick Lopes made a presentation at the annual meeting of the National Association of State Contractors Licensing Agencies (NASCLA) on issues facing the solar industry.

## **(B) Education**

Enforcement division staff continues to work with SEIA to provide information to consumers and, with the CEC, to educate contractors. These efforts include regular distribution to consumers of an SEIA publication guiding homeowners in the selection of solar and power options for their homes. Staff also directs consumers to the CEC “Go Solar California” website, which features calculators to assist consumers in determining the value of proposed solar systems. Additionally, CSLB publishes and distributes solar fact sheets at its frequent Senior Scam Stopper outreach events. The consumer educational efforts are intended to assist homeowners in understanding how solar power works and how to purchase it wisely. Efforts directed toward contractors focus on educating them about the details of home improvement contract requirements, particularly as they relate to disclosing solar financing details.

## **(C) Enforcement Strategies**

### **• Trends in Solar Consumer Complaints**

The Enforcement division first reported in September 2015 that CSLB had witnessed a 227 percent increase in the number of solar-related complaints received between 2010 and 2014. Updated statistics show that CSLB has now received a total of 1,074 solar-related complaints since 2010, a 335 percent increase in the number of annual solar complaints received.

Three significant patterns emerge from among these complaints.

A majority of the complaints – 53 percent – are contractor or “business” related; i.e., the consumer complains about the unlicensed status of the contractor, contract terms, or misrepresentation. Approximately 27 percent of the complaints are “workmanship” based; i.e., the consumer complains that the solar installation was incomplete or not up to trade standards. The remaining 20 percent of complaints constitute a various violations of contractors’ state license law or the California Penal Code, and represent violations not necessarily unique to solar construction.

Many of the solar industry complaints received by CSLB involve the type of contract and financing arrangement sold to the consumer, such as a power purchase agreement (the kilowatt hour charged often exceeds that charged by the public utility); a lease (many leasing companies are unlicensed, and the monthly payment often exceeds that



charged by the public utility); or long-term financing (financing may include high interest rates and a tax lien on the property).

## **Review of Solar Energy Storage System CSLB Classifications**

CSLB strives to stay current with new technologies and ensure that license classifications both meet the needs of the industry and provide effective consumer protection. Two new solar technologies include microgrids and solar energy storage systems.

### **Microgrids**

A microgrid is any small-scale localized station with its own power resources, generation and loads, and definable boundaries. According to the Department of Energy, “a microgrid is a group of interconnected loads and distributed energy resources (DERs) within clearly defined electrical boundaries that acts as a single controllable entity with respect to the grid.”

### **Electrical Energy Storage Systems**

Electrical Energy Storage (EES) systems store electricity obtained when power is not being used, which usually occurs during off-peak times. The stored electricity is used to maintain a constant voltage, and also can be utilized during a power outage.

These stations consist of foundations and transformers set on concrete pads, and battery containers set on helical piers (usually galvanized steel piers driven into the ground to a predetermined depth with a piece of machinery). The systems typically include 40 MWh or 80 MWh of battery energy storage, which captures clipped photovoltaic solar generation during off-peak times. The capacity or size of such systems can range from a small 5KW residential system to a 80(+) MW commercial, industrial, or utility installation.

- **Classification Discussion**

Seven license classifications are appropriate for the installation of solar energy systems; however, only two of these classifications can install microgrids or EES systems as part of a solar energy system:

The C-46 Solar classification cannot install microgrids or Electrical Energy Systems, as this work is not within the scope of the classification since it is a storage system and does not produce electricity. A C-46 Solar contractor may only perform electrical work that will *energize* the solar system being installed. Microgrids and EES systems are not intended to energize a solar energy system; they are designed specifically to capture the electricity generated by the solar energy system.



The C-10 Electrical classification is most appropriate to install EES and microgrid systems in existing structures because they are electrical energy storage systems. The C-10 classification covers placing, installing, erecting, or connecting any electrical wires, fixtures, appliances, or photovoltaic cells.

The “A” General Engineering classification would be appropriate if the work also includes a plant or facility to house the ESS or microgrid system.

The “B” General Building classification would not be appropriate because the installation does not involve two or more unrelated trades in connection with a structure.

The C-4 Boiler, Hot-Water Heating and Steam Fitting classification, the C-36 Plumbing classification, and the C-53 Swimming Pool classification are not appropriate, as the work does not fall within the scope allowed within these classifications.



## AGENDA ITEM G

Review, Discussion, and Possible Action  
Regarding Enforcement Strategies and  
Possible Legislation to Reduce Service and  
Repair Contractor Deceptive Tactics





### **The Service and Repair Industry**

The service and repair industry is unique among businesses licensed by the Contractors State License Board (CSLB). This is in part due to the urgency to perform repair work and the ability of a service and repair contractor to “upsell” unnecessary or overpriced construction that exceeds the service and repair \$750 limit and that requires a home improvement contract, salesperson registration, and a three-day right to cancel.

A consumer with a need for a service and repair contractor is more likely than someone seeking other construction services to use the Internet or classified directory to call for service, which results in a greater likelihood of consumer contact with unregistered salespersons, unneeded services, and high-pressure sales tactics.

### **The Service and Repair Taskforce**

To address these concerns, the CSLB Enforcement division established the Service and Repair Taskforce in 2015. Taskforce activities to inform, educate, and enforce existing laws have achieved a 19 percent complaint reduction, i.e. complaints received relating to C-20 (Heating Ventilation and Air Conditioning) and C-36 (Plumbing) contractors have decreased monthly on average from 118 in 2015 to 95 in 2016. However, the following trends within the service and repair industry remain a concern:

- Contractors operating under multiple name styles
- False advertising
- High-pressure sales tactics
- Home improvement contract violations
- Failure to comply with the three-day right to cancel requirements for service and repair contracts that exceed \$750
- Issues with electronic signatures on contracts

A description of service and repair practices that may cause consumer harm and related contractor’s license law statutes follow.



## **Service and Repair Licensee "Franchising"**

The Task Force has identified multiple service and repair businesses structured to allow them to operate under multiple names or licenses, despite being formed or financed by the same individual(s) or entity. When consumers obtain multiple bids, they may be unaware that different companies may be owned by the same persons and operating from the same call center. This limits a consumer's ability to make an informed choice when selecting a contractor.

## **False Advertising**

Many service and repair advertisements include false statements, such as claims that the advertised business has the lowest price, that it is Professionally "accredited," or that it has been in business for many years.

### *BPC §7161(a) – False, misleading, or deceptive advertising*

"It is a misdemeanor for any person to use false, misleading, or deceptive advertising as an inducement to enter into any contract for a work of improvement, including but not limited to, any home improvement contract, whereby any member of the public may be misled or injured."

## **High-Pressure Sales Tactics**

CSLB does not require home improvement salesperson registration for service and repair calls that do not exceed \$750. However, registration is required if the repair work exceeds \$750. Often an unregistered service and repair technician will use hard-sell or misleading statements to persuade a consumer to enter into a home improvement contract exceeding \$750, even if the additional work is not necessary.

### *BPC §7153 – Selling without registration*

"It is a misdemeanor for any person to engage in the occupation of salesperson for one or more home improvement contractors within this state without having, at the time of the sales transaction, a current and valid home improvement salesperson registration issued by the registrar."

### *BPC §7154 – Discipline for employment of unregistered salespersons*

"A home improvement contractor who employs a person to sell home improvement contracts while such person is not registered by the registrar as a home improvement salesperson is subject to disciplinary action."

***BPC §7161(b) – Misrepresentation for procurement of a home improvement contract***

“It is a misdemeanor to make a substantial misrepresentation in the procurement of a contract for a home improvement or other work of improvement or making any false promise of a character likely to influence, persuade, or induce any person to enter into the contract.”

**Three-Day Right to Rescind Contract Misused**

Many consumers enter into a contract and waive the three-day right to cancel under pressure from events that necessitate immediate work by service and repair contractors (e.g., an HVAC system fails in extreme weather, a water or sewer pipe breaks, an electrical problem causes a loss of power). As a result of the emergency, unplanned nature of the work, the following problems can occur:

- Consumers do not receive the “Three-Day Right to Cancel” notice, or they are provided a notice that does not comply with the required font size and language explaining how to cancel the contract;
- Contractors misrepresent the urgency of the needed work and/or use hard-sell tactics to convince consumers to waive their right to the three-day “cooling off” period;
- The criteria for waiving the three-day right to cancel are not met; and
- Emergency repair or service requirements are not met.

***Civil Code §1689.5, §1689.6, §1689.7 – Notice of Right to Cancel***

- Provides for cancellation by consumer, without any penalty or obligation, within three business days from the date of transaction.
- Requires the contractor return to the consumer within 10 days of contract cancellation any payments made under the contract.

***Civil Code §1689.13 – Cancellation Notice Applicability to Emergency Repairs or Services***

This section provides that the three-day right to cancel period is not required if *all* of the following conditions are met:

- The contract is initiated by the buyer or his or her agent or insurance representative;



- The contract is executed in connection with making emergency or immediately necessary repairs that are necessary for the immediate protection of persons or real or personal property; and
- The buyer signs a statement that describes the specific nature of the emergency repairs and waives his or her right to cancel the transaction.

### **Electronic Signatures on Contracts**

Many service and repair contractors use software to allow for electronic signatures on contracts using handheld devices. Unfortunately, consumers are not always provided an opportunity to closely review the contract before signing. Additionally, the contract may not include a detailed description of the work to be performed, and the consumer may not receive a copy of the contract until work is completed.

An electronic signature is lawful; however, BPC §7159 - *Home improvement contracts*, states that before any work begins, the contractor shall give the buyer a copy of the contract, signed and dated by both the contractor and the buyer. Additionally, BPC §7159 requires that the contract include the following elements:

- A complete description of the work to be performed
- A description of the materials and equipment to be used (including descriptions of raw materials, quantities, and equipment or appliances)
- The contract price, including a detailed breakdown of all costs and compensation
- The approximate start and completion dates

### **Committee Consideration**

Staff developed the following proposed future action/assignment matrix for the Committee's consideration. Upon approval, staff would then research the future action(s) and return the analysis at the next Committee meeting.



	CSLB Staff Redirection	Government Partnering	Legislation	Staff Training	Stakeholder Meeting
Multiple Name Styles			X		
Unlawful Advertising	X			X	X
High-Pressure Sales		X		X	X
Contract Requirements (Electronic Signatures)			X	X	X
Three-Day Right to Cancel			X	X	X

# AGENDA ITEM H

Adjournment

