

FEBRUARY 16, 2023  
SACRAMENTO, CALIFORNIA

CONTRACTORS STATE LICENSE BOARD

Licensing and  
Legislative Teleconference  
Committee Meetings







## **NOTICE OF LICENSING AND LEGISLATIVE TELECONFERENCE COMMITTEE MEETINGS**

**February 16, 2023, 9 a.m.– 11:00 a.m. (or until the conclusion of business)**

Teleconference Information to Register/Join Meeting for Members of the Public via WebEx:

**WebEx link:**

<https://cslb.webex.com/cslb/j.php?MTID=mc8c1fd36a71cf774b00aa741449dfa17>

**Event password:** 6JFpQybxN54 (65377929 from phones)

**Join by phone**

1-844-621-3956 United States Toll Free

+1-415-655-0001 US Toll

**Access code:** 255 903 96701

This meeting will also be live webcast (with an approximate 30 second delay). Links are available at the end of this agenda.

Meetings are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. All times when stated are approximate and subject to change without prior notice at the discretion of the Board unless listed as “time certain.” Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. **Action may be taken on any item listed on this agenda, including information-only items.** The meeting may be canceled without notice.

Members of the public can address the board during the public comment session. Public comments will also be taken on agenda items at the time the item is heard and prior to the board taking any action on said items. Total time allocated for public comment may be limited at the discretion of the board chair.

### **LICENSING COMMITTEE MEETING AGENDA (9:00 a.m. – 10:00 a.m.)**

Licensing Committee Members: James Ruane, Chair / David De La Torre / Miguel Galarza / Diana Love / Steven Panelli / Johnny Simpson

- A. Call to Order, Roll Call, Establishment of Quorum, and Chair’s Introduction
- B. Public Comment Session for Items Not on the Agenda and Future Agenda Item Requests *(Note: Individuals may appear before the board to discuss items not on the agenda; however, CSLB’s board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).*
- C. Review, Discussion and Possible Action on Legislative Proposal Regarding Information a Qualifying Individual Must Provide Under Business and Professions Code Section 7068.1

- D. Review and Discussion of Licensing Division Classification Determination Process
- E. Adjournment

**LEGISLATIVE COMMITTEE MEETING AGENDA (10:00 a.m. – 11:00 a.m. or until the close of business)**

Legislative Committee Members: Miguel Galarza, Chair / David De La Torre / Diana Love / Steven Panelli  
James Ruane / Johnny Simpson

- A. Call to Order, Roll Call, Establishment of Quorum, and Chair's Introduction
- B. Public Comment Session for Items Not on the Agenda and Future Agenda Item Requests *(Note: Individuals may appear before the board to discuss items not on the agenda; however, CSLB's board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).*
- C. Review, Discussion and Possible Action on Legislative Proposal Regarding Information a Qualifying Individual Must Provide Under Business and Professions Code Section 7068.1
- D. Review, Discussion and Possible Action on Disaster Response Partnership with the Office of Senator McGuire
  - 1. Disaster Modernization Plan
  - 2. Legislative Proposal to Increase Consumer Protections in Disaster Zones Relating to Contract Bonds and Statute of Limitations for Unlawful Use of Contractors License
- E. Review, Discussion and Possible Action Regarding Restitution Funds at the Contractors State License Board
  - 1. Solar Energy System Restitution Program Continued Funding
  - 2. PACE Restitution Proposal as Presented by National Housing Law Project
- F. Adjournment

**Note:** In addition to teleconference, the board intends to provide a live webcast of the teleconference meeting. The webcast can be found at [www.cslb.ca.gov](http://www.cslb.ca.gov) or on the board's YouTube Channel: <https://www.youtube.com/user/ContractorsBoard/>. Webcast availability cannot, however, be guaranteed due to limitations on resources or technical difficulties. The meetings will continue even if the webcast is unavailable.

Note that viewers of the webcast can only view the meeting, not participate. If you wish to participate, you must join the teleconference itself via the WebEx link above. If participating via teleconference, on day of meeting please register/join WebEx at least 15-30 minutes early to ensure that you have adequate time to install any required plugins or apps.

The meetings are accessible to those needing special accommodation. A person who needs a disability-related accommodation or modification in order to participate in the meetings may make a request by calling (916) 255-4000 or emailing [Mariah.Rovera@cslb.ca.gov](mailto:Mariah.Rovera@cslb.ca.gov), or 9821 Business Park Drive, Sacramento, CA, 95827. Providing your request at least five business days prior to the meetings will help ensure availability of the requested accommodation.

## **Instructions for Public Participation in CSLB Teleconference Meeting**

The instructions below are for members of the public who want to participate in CSLB's upcoming teleconference meeting, being held via Cisco WebEx. The registration link is on the meeting agenda. There are two ways for you to participate:

1. With Computer, Tablet, or Smart Phone with WebEx
2. With Telephone, not over WebEx

Instructions for each are outlined below.

Please note: In order to participate with a computer, tablet, or smart phone you may need to install a software program. If registering before the meeting, please load this on your computer, tablet, or smart phone at that time. If not, please join at least 15-30 minutes before the meeting starts to give you time to do this.

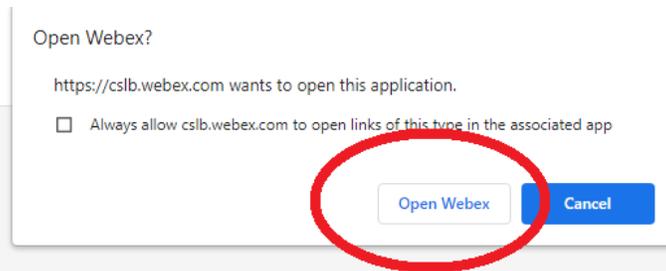
You also will find specifics on how to offer public comment below.

### **To Watch Meeting & Participate with Computer, Tablet, or Smart Phone with WebEx**

This option will provide you live "real time" audio and video of the meeting.

***You can join within 30 minutes of the meeting's start time or while the meeting is in progress:***

1. Click on the link provided on the meeting agenda. You will be prompted to either use the WebEx application, or you can choose to join the meeting in your web browser.



Click **Open Webex** on the prompt.

If the prompt doesn't appear, click **Launch Webinar** instead.

Launch Webinar

Don't have Webex? [Download it now.](#)

Having trouble with the app? [Join from your browser.](#)

2. Once you've made your selection, enter a name and email address in the appropriate fields.

Please note that the name and email address **do not** have to be your real identity. But, the meeting host will use the name you enter to let you know when it is your turn to speak during the meeting. So, if you use a different name to identify yourself, be sure to remember that name when you are called upon to speak.

3. When joining the meeting, you will choose how you want to get audio. Your choices are: Through your computer; have WebEx call your phone; or you call WebEx. The phone numbers and meeting access code are provided on the meeting agenda.

## To Join with Telephone (Not over WebEx)

Call one of the two phone numbers provided on the meeting agenda. Enter the meeting access code when prompted.

## To Offer Public Comment During the Meeting

There will be a public comment section during the meeting. The public also will have the opportunity to offer comment during each agenda item.

## For those listening to phone and not on WebEx

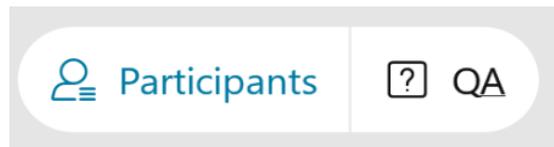
If you want to offer public comment, press \*3 on your phone to raise your hand. You'll hear the prompt, "You have raised your hand to ask a question. Please wait to speak until the meeting host calls on you." If you no longer want to comment, or after the host calls upon you, press \*3 again to lower your hand. You will hear a message, "You have lowered your hand."

When the host calls on you to offer your comment, your line will be unmuted, and you will be able comment. At the end of your comment, or when your allotted time ends, the line will again be muted. During the meeting, the chair will announce the time to be allotted for each public comment.

## For those on WebEx with Computer, Tablet, or Smart Phone

Throughout the meeting, any members of the public may indicate they would like to offer comment on a specific agenda item.

Be sure to activate your Q&A feature at the bottom right of your screen.



If you would like to offer public comment on a specific agenda item, send the host a message at any time during that item stating:

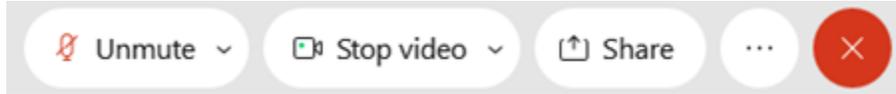
**“I would like to make a comment on this item.”**

The host will call on the public in the order requests are received. When it is your turn, the host will announce your name, or the name you indicated when you registered, and will unmute your line, allowing you to make your public comment.

At the end of your comment, or when your allotted time ends, the line will again be muted. During the meeting, the chair will announce the time allotted for each public comment. The host will note this in the chat as well.

## Leaving the Meeting

At either the conclusion of the meeting, or anytime you wish to leave, you can do so by clicking on the red circle with X in it at the bottom of your screen. After confirming, you will be disconnected from the meeting.



For those calling in on telephone without WebEx, simply hang up.

### ADDITIONAL ASSISTANCE

- **WebEx Troubleshooting Info**  
<https://help.webex.com/en-us/WBX9000018881/Troubleshooting-Meetings>
- **WebEx Guide for Setting Up Your Audio**  
<https://help.webex.com/en-us/nt2ig0y/Choose-Your-Audio-and-Video-Settings-Before-You-Join-a-Webex-Meeting-or-Event-Slow-Channel>

Thank you for your interest in participating in a CSLB teleconference meeting.



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FEBRUARY 16, 2023  
SACRAMENTO, CALIFORNIA

CONTRACTORS STATE LICENSE BOARD

Licensing  
Committee Meeting





## AGENDA ITEM A

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

### LICENSING COMMITTEE MEMBERS

JAMES RUANE, CHAIR

DAVID DE LA TORRE

MIGUEL GALARZA

DIANA LOVE

STEVEN PANELLI

JOHNNY SIMPSON

Committee Chair James Ruane will review the scheduled Committee actions and make appropriate announcements.





## AGENDA ITEM B

# Public Comment Session - Items Not on the Agenda

(Note: Individuals may appear before the CSLB to discuss items not on the agenda; however, the CSLB can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)). Public comments will be taken on agenda items at the time the item is heard and prior to the CSLB taking any action on said items. Total time allocated for public comment may be limited at the discretion of the Board Chair.

### BOARD AND COMMITTEE MEETING PROCEDURES

To maintain fairness and neutrality when performing its adjudicative function, the Board should not receive any substantive information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending administrative or criminal action.

- (1) If, during a Board or Committee meeting, a person attempts to provide the Board with substantive information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person shall be requested to refrain from making such comments.
- (2) If, during a Board or Committee meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action:
  - (a) The Board or Committee may designate either its Registrar or a board employee to review whether the proper procedure or protocol was followed and to report back to the Board once the matter is no longer pending; or,
  - (b) If the matter involves complaints against the Registrar, once the matter is final or no longer pending, the Board or Committee may proceed to hear the complaint in accordance with the process and procedures set forth in Government Code section 11126(a).
- (3) If a person becomes disruptive at the Board or Committee meeting, the Chair will request that the person leave the meeting or be removed if the person refuses to cease the disruptive behavior.





## AGENDA ITEM C

Review, Discussion and Possible Action  
on Legislative Proposal Regarding  
Information a Qualifying Individual  
Must Provide Under Business and  
Professions Code Section 7068.1





### **Review, Discussion and Possible Action on Legislative Proposal Regarding Information a Qualifying Individual Must Provide Under Business and Professions Code 7068.1**

There are two proposed amendments to one section of the Contractors State License Law – Business and Professions Code (BPC) section 7068.1.

The first proposed amendment relates to CSLB staff's recommendation that an unnecessary requirement recently added by the legislature be removed from the law. It requires applicants for licensure provide CSLB an employment duty statement during the license application process. CSLB staff recommends the Licensing Committee support the removal of the duty statement requirement because it is unnecessary to the existing requirement that a qualifier confirm minimum qualifying experience and confirm their responsibility as a qualifier in the application.

The second proposed amendment is a request by industry stakeholder Contractors Licensing Center. It relates to the existing requirement that an applicant seeking to qualify for more than one license affirm on the application they have 20 percent equity in each license qualified. Staff does not have an effective process to verify the validity of this claim. The amendment would replace that provision with a requirement that a qualifier on more than one license must obtain a bond for each license qualified unless the licenses qualified have a majority of same personnel or the licenses are listed as subsidiaries on Secretary of State records.

The two proposed amendments are described separately, as follows.



**First Proposed Amendment to BPC section 7068.1: Remove the qualifier “employment duty statement” requirement.**

**BACKGROUND:** Assembly Bill (AB) 830 (Flora, Chapter 376, Statutes of 2021) went into effect January 1, 2022. The bill authorizes CSLB to require an applicant for a contractor’s license to provide the qualifier’s current employment duty statement describing their responsibilities under the license and allows CSLB to take disciplinary action for failing to do so. The bill was amended with the duty statement requirement late in the legislative session. The Board did not take a position on the bill.

The duty statement requirement was added as a consumer protection measure. This is because the bill changed the requirement that a qualifier must always have direct supervision and control by providing different ways a qualifier can be involved without necessarily being directly involved. Sometimes individuals qualify licenses with no intent to be involved in the construction operation, which is a consumer protection concern. When the word “direct” was removed, there was a concern that qualifiers would be less involved in construction activities. The duty statement requirement makes the qualifier provide a job description to prove the qualifier will be involved as required by law.

**IDENTIFICATION OF PROBLEM:** In implementation of the bill, staff have identified the following:

- The requirement is redundant. The license application already requires the qualifying applicant to affirm under penalty of perjury they will exercise supervision and control over construction operations.
- It appears such a document does not exist for many employers onboarding a license qualifier. Employers provide job descriptions but do not apparently execute a duty statement describing the employee’s role in a way that complies with the statute. As such, staff reports CSLB is contacted by employers for help drafting a duty statement, which defeats the purpose of the statute.
- The time required to collect and review the duty statements will result in delayed processing times.
- The Enforcement Division is well equipped and experienced with investigating cases alleging lack of qualifier involvement and the Licensing Division staff is adept at referring applications of concern to Enforcement. The duty statement provision does not affect CSLB’s longstanding record of referring a licensed qualifier to legal action for failure to adequately exercise supervision and control over construction operations.

Removing the duty statement requirement will leave intact the original wording of the section that allows CSLB to require detailed information on the qualifier’s duties and



responsibilities, which is sufficient to address concerns about qualifier involvement.

**STAFF RECOMMENDATION:** That the Licensing Committee approve the Licensing Division staff recommendation that the duty statement requirement be removed from the law. Upon approval, that the Licensing Committee refer this recommendation to the Legislative Committee for the development of a legislative proposal to make this change to remove the duty statement requirement from BPC section 7068.1 (d).



**Second Proposed Amendment to BPC section 7068.1: Require an additional contractor license bond of \$25,000 any time an individual wants to qualify an additional entity and the majority of personnel are not the same or the businesses are not subsidiaries of each other.**

**BACKGROUND:** The requirement that the license qualifier exercise supervision and control over construction operations is a consumer protection measure to ensure that the individual with the construction knowledge and experience is regularly involved in the business. This is particularly important when an individual is qualifying more than one license who are not subsidiaries or consist of same personnel.

The law allows individuals to qualify more than one entity; however, every time an individual qualifies an additional entity, it increases the risk the individual is not sufficiently involved in the business(es) to maintain supervision and control.

Unfortunately, when CSLB investigates a complaint against a licensed contractor, it is not uncommon to discover the individuals running the business have minimal to no interaction with the license qualifier identified in CSLB records. Often times the qualifier accepts money simply to be on the license. This not only harms consumer protection; it is a violation of the law.

For these reasons, the statute places restrictions on the qualifying of additional entities and requires the individual to prove their relationship with all the entities. The belief is if the additional qualifying entities are sufficiently related to each other, the qualifier's involvement is the same each time a business expands to an additional entity or business type. To show how the businesses are related, Section 7068.1 requires the applicant show that any of the following three facts are true: (1) there is 20% equity among all the businesses; (2) each additional business is a subsidiary of the previous; (3) most of the individuals on the license record for the business(es) is the same.

**IDENTIFICATION OF PROBLEM:** With regard to the 20% equity requirement, this is only verified by a check mark on the application. No further review is done. This is because there are too many ways businesses establish ownership and the meaning of "equity" is not defined. Further, CSLB staff do not have the expertise to analyze corporate structures. As a result, it is possible any number of individuals qualifying multiple entities cannot support they have the 20% ownership stated on the application. This increases the risk applicants with no intent to be involved in construction operations simply "check the box" to secure the additional license. It is a violation of Section 7068.1 for a qualifier to fail to exercise direction and control over a license. For calendar year 2022, CSLB has taken 76 legal actions that include a 7068.1 violation, failure for qualifier to be present at job site. Fifty-nine of these actions are against entities with a qualifier that qualifies more than one license.



**POSSIBLE SOLUTION:** The Contractors Licensing Center proposes to remove the language requiring 20% ownership of each firm and replace it with a surety bond requirement. The Contractors Licensing Center will explain the proposal at the Committee Meeting.

**STAFF RECOMMENDATION:** That the Licensing Committee refer review of this issue to the Legislative Committee for possible consideration of a legislative proposal.

## AGENDA ITEM D

# Review and Discussion of Licensing Division Classification Determination Process





### Review and Discussion of Licensing Division Classification Determination Process

**SUMMARY:** The Contractors State License Board (CSLB) employs a classification deputy to respond to classification inquiries from the public and identify new issues relating to emerging technologies in CSLB licensing classifications.

What follows is a discussion regarding public inquiries and copy of a July 2022 letter staff to an industry stakeholder outlining CSLB's approach to these issues.

Staff are affirming for the Licensing Committee the plan for these issues moving forward. This is a staff update; no action is required.

**BACKGROUND:** The CSLB classification deputy regularly receives approximately 60 inquiries per week from license applicants, consumers, awarding agencies, and licensees regarding the appropriate classification to perform construction work. The classification deputy routinely issues "classification determinations" in response to inquiries about which of the CSLB's 45 license classifications are appropriate to perform specific projects. This is done without Board involvement and is provided as a courtesy to the public. Determinations are made based on existing classification statutes and regulations. Determinations are generally accompanied by an announcement that they are not declaratory statements under the Administrative Procedure Act (APA); they are informal information based on statutory and regulatory language that is cited in the decision.

When a determination request is received, staff analyzes and reviews documentation, including plans, specifications, and contracts and uses this to determine the proper classification for pending public and private projects. Staff prepares written responses to those inquiries.

Other resources are also available to assist in making determinations. The CSLB intranet includes classification determinations in all license classifications from roughly the past 20 years. Older written determinations stored in CSLB records go back more than 60 years. The Chief of Licensing, Chief Deputy Registrar, Registrar, and other CSLB staff also assist when needed or requested.

With respect to requests about public works projects, the Contractors State License Law provides guidance. Pursuant to Business and Professions Code (BPC) sections 7032 and 7059, cities and counties have the jurisdiction to choose the classification. As a result, CSLB may receive inquiries where a local official has selected a license classification for a project that does not comply with CSLB's statute or regulation for the scope of work to be performed. In such cases, CSLB is not precluded from taking an enforcement action against a contractor for contracting out of class under BPC section



7117.6. Staff is respectful of the classification decision made by the awarding agency when determining what educational or disciplinary action to take against the licensee.

### **Plan for Addressing Emerging Technologies Not Identified Within Licensing Classifications**

As described in the following July 2022 letter to an industry stakeholder, CSLB has implemented a plan for addressing license classification inquiries that do not have a clear answer in CSLB law or regulations. When such an issue arises during license examination development or in a classification determination, staff will refer the matter to the Executive Office. With concurrence of the Board Chair and legal counsel, the matter will then be included for public discussion at a future Licensing Committee or Board Meeting to determine if regulatory rulemaking is necessary. Regulatory rulemaking currently underway to clarify the appropriate classification to install battery energy storage systems is an example of this process.

Additional emerging technologies that are either not clearly defined in regulation or over which there is a dispute among classifications as to the appropriate specialty class to install:

- Digital sign installation (C-45)
- Electric vehicle charging stations (C-10)
- Heat pump water heaters (C-20 and C-36)



**CONTRACTORS STATE LICENSE BOARD**

9821 Business Park Drive, Sacramento, CA 95827  
Mailing Address: P.O. Box 26000, Sacramento, CA 95826  
800.321.CSLB (2752) | [www.cslb.ca.gov](http://www.cslb.ca.gov) | [CheckTheLicenseFirst.com](http://CheckTheLicenseFirst.com)

STATE OF CALIFORNIA  
Governor Gavin Newsom

July 8, 2022

Eddie Bernacchi, President  
Politico Group  
*Via email to [bernacchi@politicogroup.com](mailto:bernacchi@politicogroup.com)*

Re: Classification Scope Questions Arising During CSLB License Examination Development

Dear Mr. Bernacchi:

Thank you for attending the Contractors State License Board (CSLB) industry stakeholder meeting on July 6, 2022. One of the meeting agenda items was CSLB strategic plan objective 1.4, that reads as follows:

*Assess and report on how to incorporate new and emerging technologies into the licensure process to ensure licensees continue to represent reliability in contracting excellence.*

During the meeting, licensing test development manager Carol Gagnon explained that CSLB examination development performs a classification occupational analysis and examination validation study (pursuant to Business and Professions Code § 139) every five to seven years. To facilitate this process, licensed contractors with extensive experience in the relevant trade are hired as subject matter experts (SMEs). Please encourage your members to consider assisting with exam development as SMEs.

Examination development involves CSLB staff interviewing SMEs about all aspects of the trade, including contracting, job planning, installing, repairs, safety factors, as well what's new in the trade. Staff then identify categories of "tasks and knowledge" relevant to the trade and submit this for SME review. A survey of the trade is developed and reviewed by the CSLB classification deputy and Department of Consumer Affairs legal counsel before it goes out as a survey to the general population of contractors in that classification. The survey allows CSLB to determine how many contractors are doing that work before it is included or excluded on an examination question.

As new and emerging technologies arise in the trades, questions may arise if certain work should be included in the examination for a particular classification. Manager Carol Gagnon has met with her staff and reminded them that if the occupational analysis identifies new work being performed that is not clearly authorized in the classification, they will bring this to the attention of the classification deputy and CSLB Executive Office. With concurrence of the Board Chair and legal counsel, the matter will then be included for public discussion at a Licensing Committee and/or Board meeting.

I hope this description of the CSLB license examination development process addresses your inquiries. Please do not hesitate to contact me if I can provide further information.

Sincerely,

David Fogt  
Registrar

# AGENDA ITEM E

Adjournment





FEBRUARY 16, 2022  
SACRAMENTO, CALIFORNIA

CONTRACTORS STATE LICENSE BOARD

Legislative  
Committee Meeting





## AGENDA ITEM A

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

LEGISLATIVE COMMITTEE MEMBERS:

MIGUEL GALARZA, CHAIR

DAVID DE LA TORRE

DIANA LOVE

STEVEN PANELLI

JAMES RUANE

JOHNNY SIMPSON

Committee Chair Miguel Galarza will review the scheduled Committee actions and make appropriate announcements.





## AGENDA ITEM B

# Public Comment Session - Items Not on the Agenda

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## AGENDA ITEM C

Review, Discussion and Possible Action  
on Legislative Proposal Regarding  
Information a Qualifying Individual  
Must Provide Under Business and  
Professions Code Section 7068.1





# CONTRACTORS STATE LICENSE BOARD

PROPOSAL REGARDING WHAT A QUALIFYING INDIVIDUAL  
MUST PROVIDE UNDER BPC 7068.1

## **Introduction to Proposal Regarding What a Qualifying Individual Must Provide Under Business and Professions Code Section 7068.1**

This agenda item relates to a single legislative proposal to amend a single section of the Contractors State License Law, Business and Professions Code (BPC) section 7068.1.

However, two changes are being proposed to the section that do not directly relate to each other and are being proposed by different sources.

- The first change (involving the qualifier duty statement and clarifying the definition of “firm”) is being proposed by CSLB staff.
- The second change (involving the qualifier bond) is being proposed by an industry stakeholder, Contractors Licensing Center.

Because of this, and for clarity and ease of understanding, they are being presented in two separate documents in this portion of the packet. If both ideas are accepted, they will ultimately go into a single legislative proposal to amend this single section of law.



### **Proposal Regarding What a Qualifying Individual Must Provide Under Business and Professions Code Section 7068.1**

**SUMMARY:** Board staff propose technical amendments to amend Business and Professions Code (BPC) section 7068.1. These amendments would remove an unnecessary requirement a qualifying person must meet to serve as a qualifier for a contractor's license. Additionally, the proposed amendments would clarify the definition of "firm" for use in determining which entity types for which a person may serve as qualifier.

**RELEVANT PROVISION:** Business and Professions Code (BPC) section 7068.1 (c) and (d)

**BACKGROUND:** Any person who "qualifies" a license on behalf of a firm, defined as an individual, general partnership, corporation, or LLC construction business.

Existing law, Section 7068.1, requires any individual who seeks to qualify for a contractor's license on behalf of another individual or entity to exercise supervision and control over construction operations. This is a consumer protection measure to ensure that even though there may be a number of people associated with a license, the individual who qualified the license with their construction knowledge and experience is the one responsible for the work the entity is licensed by CSLB to perform.

Existing law additionally authorizes CSLB to collect any information it deems appropriate to ensure the qualifier of a license is exercising said supervision and control.

Assembly Bill (AB) 830 (Flora, Chapter 376, Statutes of 2021) amended BPC section 7068.1 to grant the Board authority to require a duty statement of the qualifier's employment for the construction operation, as an additional way to demonstrate the qualifier will be exercising supervision and control.

**IDENTIFICATION OF PROBLEM:** AB 830's requirement is duplicative of CSLB's existing authority in subdivision (d) of Section 7068.1 to require applicants and licensee demonstrate information about their business to ensure effective supervision and control. The duty statement language added by AB 830 is unclear whether the intent is to mandate the Board to require a duty statement or whether a duty statement was intended to be an example of how to meet the experience requirement. The Board has received correspondence from stakeholders who are uncertain how to comply with the duty statement requirement. It appears many employers do not have a pre-existing document that clearly complies with the statute and would have to create one simply to satisfy the requirement. CSLB already requires qualifiers to affirm under penalty of perjury they will exercise supervision and control over construction operations and licensing staff believe the additional duty statement requirement is unnecessary.



**PROPOSED SOLUTION:** Board staff recommend clarifying the intent of the experience requirement by either removing the duty statement requirement (language presented below) or clarifying that the duty statement is only an example of documentation that the Board is authorized to request. This proposal also recommends additional clarifying change that would align the definition of “firm” with other sections of the Contractors State License Law to reflect the entities for which a qualifier must meet license requirements.

**STAFF ANALYSIS:** Confusion over licensing requirements may lead to compliance issues, potential non-absorbable workload for the Board’s Licensing Division, and create unnecessary barriers to entry. Small businesses may not have specialized duty statements for each position in the organization, which would be problematic if the amendment was intended to require all applicants to submit duty statements. This requirement may pose significant implementation challenges that were not considered when this language was presented. Because AB 830 was an omnibus bill (which contain only technical, clarifying, non-substantive amendments), Board staff are confident the author did not intend to create the workload or burden to industry by requiring a duty statement from all qualifiers.

**FISCAL IMPACT:** These clarifying changes to existing law do not impose an operational or staffing cost to the Board.

**STAFF RECOMMENDATION:** The Legislative Committee to recommend to the full Board that they pursue a legislative proposal to modify the law to remove the duty statement requirement and clarify the definition of firm in Section 7068.1.

**PROPOSED LANGUAGE: (Combined with other proposed amendments to BPC section 7068.1 described more fully in the next item)**

**7068.1.** (a) The person qualifying on behalf of an individual or firm under paragraph (1), (2), (3), or (4) of subdivision (b) of Section 7068 shall be responsible for exercising supervision and control of their employer’s or principal’s construction operations to secure compliance with this chapter and the rules and regulations of the board. This person shall not act in the capacity of the qualifying person for an additional individual or firm unless one of the following conditions exists:

~~(1) There is a common ownership of at least 20 percent of the equity of each individual or firm for which the person acts in a qualifying capacity.~~

~~(2)~~ (1) The additional firm is a subsidiary of or a joint venture with the first. “Subsidiary,” as used in this subdivision, means any firm ~~at least 20 percent of the equity of which~~ *that can demonstrate it* is owned by the other firm.

~~(3)~~ (2) With respect to a firm under paragraph (2), (3), or (4) of subdivision (b) of Section 7068, the majority of the partners, officers, or managers are the same.



- (b) Notwithstanding paragraphs (1) to (3), inclusive, of subdivision (a), a qualifying individual may act as the qualifier for no more than three firms in any one-year period.
- (c) The following definitions shall apply for purposes of this section:
- (1) “Firm” means a *general* partnership, a limited partnership, a corporation, *or* a limited liability company, ~~or any other combination or organization~~ described in Section 7068, *an individual owner qualified by the personal appearance of a responsible managing employee as described in subparagraph (1) of subdivision (b) of Section 7068, or a joint venture as described in Section 7029.*
  - (2) “Person” is limited to natural persons, notwithstanding the definition of “person” in Section 7025.
  - (3) “Supervision or control” means direct supervision or control or monitoring and being available to assist others to whom direct supervision and control has been delegated.
  - (4) “Direct supervision or control” means any of the following:
    - (A) Supervising construction *operations*.
    - (B) Managing construction activities by making technical and administrative decisions.
    - (C) Checking jobs for proper workmanship.
    - (D) Supervision on construction sites.
- (d) The board shall require every applicant or licensee qualifying by the appearance of a qualifying individual to submit detailed information on the qualifying individual’s duties and responsibilities for supervision and control of the applicant’s construction operations, ~~including, but not limited to, an employment duty statement prepared by the qualifier’s employer or principal. Failure of an applicant or licensee to provide information required by this subdivision constitutes a violation of this section.~~
- (e) Violation of this section shall constitute a cause for disciplinary action and shall be punishable as a misdemeanor by imprisonment in a county jail not to exceed six months, by a fine of not less than three thousand dollars (\$3,000), but not to exceed five thousand dollars (\$5,000), or by both the fine and imprisonment.



## Proposal Regarding What a Qualifying Individual Must Provide Under Business and Professions Code Section 7068.1

**SUBJECT:** Update the requirements for a bond of qualifying individual.

**SUMMARY:** To provide additional protection for consumers, this proposal would require a bond of qualifying individual for each of the multiple licenses qualified by the same person, excluding a sole proprietorship. This proposal would also remove the “percentage of ownership” provision as it relates to obtaining multiple licenses and securing a bond of qualifying individual. This change would affect approximately 10,000 currently active licensees.

**IDENTIFICATION OF PROBLEM:** Business and Professions Code (BPC) sections 7071.9 and 7071.10 require a qualifying individual on a contractor license to file a \$25,000 “bond of qualifying individual” with the Contractors State License Board (CSLB) unless that individual owns 10 percent or more of the entity for which he or she acts as the qualifier.

Additionally, BPC section 7068.1 provides that an individual may qualify a second or third license if he or she can demonstrate a 20 percent common ownership of all the entities for which he or she acts as the qualifier. In such cases, no bond of qualifying individual is required.

Combined, the percentage ownership exceptions allow an individual to qualify multiple firms by simply claiming the requisite ownership percentage on the application. This creates a two-fold problem:

- 1) Staff is unable to verify percentage ownership claims on the application, especially for privately held companies with no publicly verifiable assets. Staff lack the resources, information, and technical skills to analyze complex and often multi-state business structures in which contractors purport to have a stake or ownership. This can result in individuals qualifying for multiple firms based on unsubstantiated claims.
- 2) Qualifiers who serve on multiple licenses present an increased consumer protection risk because of the greater likelihood that the qualifier is not fully involved with construction operations, as required by law. Because the multiple-license qualifier is exempt from having a bond of qualifying individual, the only recourse for consumers who suffer a financial injury is to file a claim against the \$25,000 contractor bond that all licensees must have on file.



**PROPOSED CHANGE:** Remove subsection (1) of subdivision (a) of BPC section 7068.1, which allows a person to qualify an additional firm based on a statement of 20 percent ownership, and replace that provision with a bonding requirement. Please note: the proposed language incorporates amendments from this proposal, as well as the previous proposal to remove the duty statement requirement and clarify what entities are comprised within the definition of “firm” for the purposes of qualifying bonds.

**IMPACT ON OTHER CSLB DIVISIONS:** The Licensing Division believes removing the ownership percentage provisions will significantly improve processing times for original, replacement, and additional classification license applications by eliminating the need for technicians to research complex business relationships among various entities. This proposal will require technical changes to existing computer systems.

**FISCAL IMPACT:** Pending

**STAFF RECOMMENDATION:** Direct staff to perform additional research to determine consumer protection value a bond would provide.

**PROPOSED LANGUAGE: Amend Section 7068.1 as follows:**

**7068.1.** (a) The person qualifying on behalf of an individual or firm under paragraph (1), (2), (3), or (4) of subdivision (b) of Section 7068 shall be responsible for exercising that direct supervision and control of his or her employer’s or principal’s construction operations to secure compliance with this chapter and the rules and regulations of the board. This person shall not act in the capacity of the qualifying person for an additional individual or firm unless one of the following conditions exists:

~~(1) There is a common ownership of at least 20 percent of the equity of each individual or firm for which the person acts in a qualifying capacity.~~

~~(2)~~ (1) The additional firm is a subsidiary of or a joint venture with the first. “Subsidiary,” as used in this subdivision, means any firm ~~at least 20 percent of the equity of which~~ *that can demonstrate it* is owned by the other firm.

~~(3)~~ (2) With respect to a firm under paragraph (2), (3), or (4) of subdivision (b) of Section 7068, the majority of the partners, officers, or managers are the same.

(b) Notwithstanding paragraphs (1) ~~to (3), inclusive, and (2)~~ of subdivision (a), a qualifying individual may act as the qualifier for no more than three firms in any one-year period.

(c) The following definitions shall apply for purposes of this section:

(1) “Firm” means a *general* partnership, a limited partnership, a corporation, *or* a limited liability company, ~~or any other combination or organization~~ described in Section 7068, *an individual owner qualified by the personal appearance of a responsible managing employee as described in subparagraph (1) of subdivision (b) of Section 7068, or a joint venture as described in Section 7029.*



- (2) "Person" is limited to natural persons, notwithstanding the definition of "person" in Section 7025.
- (3) "Supervision or control" means direct supervision or control or monitoring and being available to assist others to whom direct supervision and control has been delegated.
- (4) "Direct supervision or control" means any of the following:
  - (A) Supervising construction *operations*.
  - (B) Managing construction activities by making technical and administrative decisions.
  - (C) Checking jobs for proper workmanship.
  - (D) Supervision on construction sites.
- (d) The board shall require every applicant or licensee qualifying by the appearance of a qualifying individual to submit detailed information on the qualifying individual's duties and responsibilities for supervision and control of the applicant's construction operations, ~~including, but not limited to, an employment duty statement prepared by the qualifier's employer or principal. Failure of an applicant or licensee to provide information required by this subdivision constitutes a violation of this section.~~
- (e) Violation of this section shall constitute a cause for disciplinary action and shall be punishable as a misdemeanor by imprisonment in a county jail not to exceed six months, by a fine of not less than three thousand dollars (\$3,000), but not to exceed five thousand dollars (\$5,000), or by both the fine and imprisonment.

**Amend Section 7071.9 as follows:**

- 7071.9.** (a) If the qualifying individual, as referred to in Sections 7068 and 7068.1, is neither the proprietor, ~~a general partner~~, nor a joint licensee, the qualifying individual shall file or have on file a qualifying individual's bond as provided in Section 7071.10 in the sum of twenty-five thousand dollars (\$25,000) for each license for which the individual acts in the capacity of a qualifying person. This bond is in addition to, and shall not be combined with, any contractor's bond required by Sections 7071.5 to 7071.8, inclusive, and is required for the issuance, reinstatement, reactivation, or continued valid use of a license.
- (b) Excluding the claims brought by the beneficiaries specified in paragraph (1) of subdivision (a) of Section 7071.10, the aggregate liability of a surety on claims brought against the bond required by this section shall not exceed the sum of seven thousand five hundred dollars (\$7,500). The bond proceeds in excess of seven thousand five hundred dollars (\$7,500) shall be reserved exclusively for the claims of the beneficiaries specified in paragraph (1) of subdivision (a) of Section 7071.10. However, nothing in this section shall be construed to prevent any beneficiary specified in paragraph (1) of subdivision (a) of Section 7071.10 from claiming or recovering the full measure of the bond required by this section. This bond is in



addition to, and shall not be combined with, any contractor's bond required by Sections 7071.5 to 7071.8, inclusive, and is required for the issuance, reinstatement, reactivation, or continued valid use of a license.

~~(c) The responsible managing officer of a corporation shall not be required to file or have on file a qualifying individual's bond, if the responsible managing officer owns 10 percent or more of the voting stock of the corporation and certifies to that fact on a form prescribed by the registrar.~~

~~(d) The qualifying individual for a limited liability company shall not be required to file or have on file a qualifying individual's bond if the qualifying individual owns at least a 10 percent membership interest in the limited liability company and certifies to that fact on a form prescribed by the registrar.~~

~~(e) This section shall become operative on January 1, 2023.~~

**Amend Section 7071.10 as follows:**

**7071.10.** The qualifying individual's bond required by this article shall be executed by an admitted surety insurer in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the qualifying individual. The qualifying individual's bond shall not be required in addition to the contractor's bond when, as set forth under paragraph (1) of subdivision (b) of Section 7068, the individual proprietor has qualified for the license by his or her personal appearance, ~~or the qualifier is a general partner as set forth under paragraph (2) of subdivision (b) of Section 7068.~~ The qualifying individual's bond shall be for the benefit of the following persons:

- (a) A homeowner contracting for home improvement upon the homeowner's personal family residence damaged as a result of a violation of this chapter by the licensee.
- (b) A property owner contracting for the construction of a single-family dwelling who is damaged as a result of a violation of this chapter by the licensee. That property owner shall only recover under this subdivision if the single-family dwelling is not intended for sale or offered for sale at the time the damages were incurred.
- (c) A person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract.
- (d) An employee of the licensee damaged by the licensee's failure to pay wages.
- (e) A person or entity, including a laborer described in subdivision (b) of Section 8024 of the Civil Code, to which a portion of the compensation of an employee of a licensee is paid by agreement with that employee or the collective bargaining agent of that employee, that is damaged as the result of the licensee's failure to pay fringe benefits for its employees including, but not limited to, employer payments described in Section 1773.1 of the Labor Code and regulations adopted thereunder (without regard to whether the work was performed on a public or private work). Damage to a



**CSLB**

QUALIFIER BONDS PROPOSAL

person or entity under this subdivision is limited to employer payments required to be made on behalf of employees of the licensee, as part of the overall compensation of those employees, which the licensee fails to pay.

## AGENDA ITEM D

# Review, Discussion and Possible Action on Disaster Response Partnership with the Office of Senator McGuire

1. Disaster Modernization Plan
2. Legislative Proposal to Increase Consumer Protections in Disaster Zones Relating to Contract Bonds and Statute of Limitations for Unlawful Use of Contractors License





### **Disaster Response Modernization Plan**

At the December 8, 2022, Board meeting, Registrar Fogt discussed the Board's Disaster Response Modernization Plan and in particular, Senator McGuire's interest in CSLB's response to wildfire disasters in California. Senator McGuire and Registrar Fogt discussed ways CSLB could increase its effectiveness in working with prosecutors to address criminal activity by having a greater enforcement presence in disaster areas.

In response to Senator McGuire's interest, CSLB's Public Affairs Office collaborated with the Enforcement Division to revise the Disaster Response Plan. The Disaster Response Plan reflects CSLB's increased focus on enforcement in disaster areas. Revised plan highlights include identifying the role of each CSLB division in the coordinated disaster response, including the Enforcement Division staffing the Local Assistance Centers/Disaster Response Centers.

In addition, the Legislative Committee will be requested to consider legislative proposals to expand the statute of limitations to file criminal charges for false use of a license number and require additional bonding to perform work on declared disaster areas.



### Disaster Response Modernization Plan Purpose

This Disaster Response Modernization Plan serves as a CSLB staff guide for disaster preparedness, response, and post-disaster education for various stakeholders when a natural or human-caused disaster occurs.

### Post-Disaster Responsibilities

- **CHIEF DEPUTY REGISTRAR**  
The Chief Deputy Registrar oversees CSLB's disaster response and appoints a staff member to serve as a Disaster Response Coordinator.
- **DISASTER RESPONSE COORDINATOR**  
The Disaster Response Coordinator – an Enforcement supervisor – is responsible for assigning/coordinating staff. The Disaster Response Coordinator also works with CSLB division chiefs and budgets unit to coordinate all efforts and keep executive staff updated.
- **PUBLIC AFFAIRS CHIEF**  
The Public Affairs Chief oversees all CSLB outreach efforts and coordinates activities with the Disaster Response Coordinator. The Public Affairs Chief serves as chief spokesperson.
- **ENFORCEMENT DIVISION**  
The number of disaster-related complaints has increased substantially in recent years, so Enforcement staff at all levels are working to target the increase through their investigations, especially following disasters. The Board-approved Complaint Prioritization Guidelines (included in this item) are used to establish disaster-related investigations as a top priority, due to the significant public interest in disaster response and recovery.

### Year-Round Available Outreach Resources

The Public Affairs Office (PAO or Public Affairs) is responsible for updating the [Disaster Help Center](#) page on CSLB's website. All disaster-related video/audio projects are posted on CSLB's [YouTube](#) channel.

CSLB has a specifically designated Disaster Hotline (1-800-962-1125). Callers to the hotline bypass CSLB's automated phone system and automatically are transferred to staff in the Intake and Mediation Center. Lines are staffed Monday-Friday from 8:00 a.m. to 5:00 p.m.



## Disaster Stakeholders

- Consumers/Disaster Survivors
- Licensees
- Industry Stakeholders
- Partner Agencies (Local, State & Federal)
  - Governor's Office of Emergency Services (Cal OES)
  - Federal Emergency Management Agency (FEMA)
  - California Department of Insurance
  - California Department of Industrial Relations
  - State Compensation Insurance Fund
  - District Attorney Offices
- Local Government Agencies in disaster area(s)
  - City/Town Councils
  - Boards of Supervisors
  - Building Departments
- Legislative Members in disaster area(s)
  - District Office
  - State Capitol Office
- Other Partnering Groups
  - Chambers of Commerce
  - Cable Companies
  - Local Media Outlets

### I. Preparation Before a Disaster Occurs

A disaster (wildfire, flood, earthquake, gas explosion, etc.) can occur at any time in California. Therefore, preparation is crucial. This is especially true if multiple disasters occur simultaneously or if damage from disaster is especially widespread.

It is common for CSLB's response to an individual disaster to continue for months or years. This creates difficult staffing and resource challenges.

The following outlines areas where pre-disaster preparations are critical:

#### A. Public Affairs Office (PAO)

PAO is CSLB's clearinghouse for disaster information and outreach. Throughout the year, PAO is responsible for:

1. Making sure there is adequate inventory of educational materials available for distribution and ordering additional materials, as necessary.
2. Updating educational materials and creating new educational materials.
3. Making sure disaster-related materials on website are kept up to date.



4. Communicating and coordinating printing needs with Budget staff to ensure adequate funding.
5. Reminding field offices to request materials for Public Affairs to provide in white plastic “To Go” bins to be used for disaster outreach events. The material list for these tubs is available on CSLB’s [Intranet](#).
6. Ensuring with warehouse staff there are enough disaster-related materials. Some materials are kept in the warehouse while some are kept in PAO.
7. Making sure staff have the information to properly respond to calls to the disaster hotline.

### **B. Disaster Response Coordinator**

1. Responsible for making sure the office has adequate supplies for response to a disaster, including service at a state-coordinated Local Assistance Center (LAC) or federally coordinated Disaster Response Center (DRC).
2. The Disaster Response Coordinator identifies knowledgeable staff in all offices throughout the state who can respond to disaster-related outreach events at a moment’s notice.
3. Serves as CSLB spokesperson as needed.

## **II. Emergency Declarations**

A critical element of CSLB disaster response program is a disaster declaration. In the United States, declarations take a bottom-up approach. Cities will proclaim a disaster, followed by a county, then state, and then the federal government.

- **Local**

The duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions... which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat. (Govt. Code section 8558(c))

- **State**

Governor can declare a State of Emergency when it is determined that the local authority is inadequate to cope with the emergency. (Govt. Code section 8625)



With a state declaration, the Governor may direct all agencies of the state government to utilize and employ state personnel, equipment, and facilities for the performance of any and all activities designed to prevent or alleviate actual and threatened damage due to the emergency.

The state declaration directly affects CSLB's enforcement efforts, specifically with Business and Professions Code (BPC) section 7018.26. This code increases the potential charge for contracting without a license in a declared disaster area from a criminal misdemeanor to a criminal felony.

***BPC § 7028.16***

*A person who engages in the business or acts in the capacity of a contractor, without having a license therefor, in connection with the offer or performance of repairs to a residential or nonresidential structure for damage caused by a natural disaster for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States, shall be punished by a fine up to ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months, or for two or three years, or by both that fine and imprisonment, or by a fine up to one thousand dollars (\$1,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment. In addition, a person who utilized the services of the unlicensed contractor is a victim of crime regardless of whether that person had knowledge that the contractor was unlicensed.*

- **Federal**

Based on the Governor's request, the President may declare that a major disaster or emergency exists, thus activating an array of federal programs to assist in the response and recovery effort. Not all programs, however, are activated for every disaster.

California is in FEMA's Region 9, which also includes American Samoa, Arizona, Guam, Hawaii, Nevada, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, and the Republic of the Marshall Islands. FEMA's Region 9 office is located in Oakland:

1111 Broadway, Suite 1200  
Oakland, CA 94607-4052  
(510) 627-7100

[FEMA's Guide to the Disaster Declaration Process](#)



### III. First Response to a Disaster

A State of Emergency must first be declared by local governments with a request to the Governor for a state declaration. A Governor's State of Emergency declaration can include a request for federal assistance. Federal assistance is usually limited to the most serious disasters.

When the federal or state government declares an emergency in a disaster area, FEMA and Cal OES immediately notify governmental agencies that an LAC will be opening in the disaster area to assist victims. Notification usually comes to the Public Affairs Chief and Disaster Response Coordinator, who apprises executive management. The LAC opens within a day or two of notification, so staff need to be available any day of the week. After a few weeks, LACs routinely switch to Cal OES control and are called Disaster Recovery Centers (DRC). CSLB assigns staff to both LACs and DRCs.

#### A. Public Affairs Office

1. Communicates with FEMA/Cal OES regarding disaster-related news and notifies management and the Disaster Response Coordinator.  
**TIMELINE – upon Cal OES notification**
2. Sends letters and brochures to legislative offices in the affected area about contracting and post-disaster workshops for consumers and contractors.  
**TIMELINE – within one week after disaster is declared**
3. Provides LAC/DRC materials for staff responding.  
**TIMELINE – immediately and while the LAC/DRC is open**
4. Responds to media requests and interviews.  
**TIMELINE – as requests are received**
5. Issues press releases and holds press conferences with local district attorneys and other government agencies.  
**TIMELINE for press release – as soon as Department of Consumer Affairs and Cal OES approval are received**  
**TIMELINE for press conferences – as appropriate**
6. Attends/speaks at disaster-related outreach events when availability permits.  
**TIMELINE – as necessary**
7. Takes pictures/videos of disaster area, events, and press conferences.  
**TIMELINE – post-disaster**



## B. Disaster Response Coordinator

1. Schedules CSLB personnel to staff the LAC/DRC and communicates staffing with FEMA and OES. Reports LAC/DRC dates, staff assigned, and number of consumers helped to PAO's Outreach Coordinator or designated Enforcement staff member.  
**TIMELINE – immediate staffing – within 1-2 days of the disaster notification and until Cal OES deems not necessary**

## C. Enforcement Division

1. Statewide Investigative Fraud Team (SWIFT) posts warning signs in the disaster area (may partner with the Department of Insurance or the local district attorney's office).  
**TIMELINE – within 3-5 days of evacuation orders being lifted**
2. SWIFT conducts sweeps through the disaster area to ensure contractors are properly licensed.  
**TIMELINE – when rebuilding begins and on an ongoing basis**
3. Enforcement staff investigate complaints regarding unlicensed or unscrupulous activities in declared disaster areas.  
**TIMELINE – as Enforcement receives complaints**
4. An Enforcement point of contact is established to serve as a liaison for the filing and prioritization of disaster-related investigations.  
**TIMELINE – immediately following the disaster**

## D. Licensing Division

1. Waives replacement fees for wall certificate and/or plastic pocket licenses lost by licensees who are victims of the disaster. The Licensing Division also waives delinquent fees for failure to renew a license prior to expiration for disaster victims.
2. Expedites applications for public works projects in disaster areas and for contractors with contracts to rebuild in a disaster area.
3. Staffs LAC/DRC and attends/speaks at disaster-related outreach events.

## E. Administration Division

1. Assists PAO with emergency orders.
2. Staffs LAC/DRC and attends/speaks at disaster-related outreach events.



3. Ships materials as needed throughout the state.

#### IV. Post-Disaster Response

Post-disaster response often lasts for a few years following a disaster in the form of enforcement and outreach.

##### A. Public Affairs Office

1. Tracks all materials and staffing resources used in disaster areas for use in reporting to the Department of Consumer Affairs and the Legislature.  
**TIMELINE – monthly**
2. Conducts rebuilding workshops for disaster victims and contractors in cooperation with legislators, building departments, and various governmental agencies.  
**TIMELINE – 9-18 months after the disaster**
3. Responds to media requests and interviews.  
**TIMELINE – as requests are received**
4. Issues press releases as necessary and holds press conferences with local district attorneys and other governmental agencies.  
**TIMELINE for press release – as needed**  
**TIMELINE for press conferences – as appropriate**
5. Speaks at disaster-related outreach events held by local government, legislative offices, building departments, trade organizations, etc.  
**TIMELINE – when requests are received**
6. Reminds field offices to place the materials in the white plastic bins in an orderly fashion and to request more materials as needed. The material list can be found on the [intranet](#).  
**TIMELINE – during and/or after disaster response**

##### B. Disaster Response Coordinator

1. Provides the PAO Outreach Coordinator or designated Enforcement staff member with event dates, locations, names of staff attending, and number of consumers served.  
**TIMELINE – by the 5<sup>th</sup> day following the end of each month**

##### C. Enforcement Division

1. SWIFT conducts sweeps throughout the disaster areas to ensure contractors are properly licensed.  
**TIMELINE – when building begins and on an ongoing basis**



2. SWIFT conducts undercover sting operations to find unlicensed contractors who are taking advantage of disaster victims.

**TIMELINE – when building begins and on an ongoing basis**

3. Enforcement staff work to investigate complaints regarding unlicensed or unscrupulous activities in declared disaster areas.

**TIMELINE – as Enforcement receives complaints**

4. When requests are received by PAO, staff may be asked to attend/speak at disaster-related events.

**TIMELINE – when requests are received**

#### **D. Licensing Division**

1. Attend and speak at CSLB rebuilding workshops for contractors.

**TIMELINE – 9-18 months after the disaster**

#### **E. Board Members**

1. Assist with presentations, workshops, or other needs.

**TIMELINE – ongoing after the disaster, as available**



# CONTRACTORS STATE LICENSE BOARD

## COMPLAINT PRIORITIZATION GUIDELINES

### Contractors State License Board Complaint Prioritization Guidelines Contractors State License Board Complaint Prioritization Guidelines

<b>URGENT</b>	<ul style="list-style-type: none"><li>• Health &amp; Safety Code Violations</li><li>• Elder Abuse</li><li>• Predatory Criminal Acts</li><li>• Diversion of Funds</li><li>• Significant Public Interest</li></ul>
<b>HIGH</b>	<ul style="list-style-type: none"><li>• Aiding and Abetting/Misuse of a License</li><li>• Fraud/Misrepresentation</li><li>• Workers' Compensation Violations</li><li>• Subsequent Arrest</li><li>• Repeat Offender</li><li>• Absentee Qualifier</li></ul>
<b>ROUTINE</b>	<ul style="list-style-type: none"><li>• Workmanship</li><li>• Abandonment</li><li>• Working Out of Classification</li><li>• Building Permit Violations</li><li>• Public Contract Code Violations</li><li>• Labor Code Violations</li><li>• Unlicensed Activity</li></ul>
<b>LOW</b>	<ul style="list-style-type: none"><li>• Stand-Alone Contract Violations</li><li>• Advertising Violations</li><li>• Failing to Display License Number</li><li>• Bonds</li></ul>



### **Legislative Proposal to Require Performance and Payment Bonds to Perform Residential Construction Following a Declared State of Emergency**

**SUMMARY:** This proposal would require the prime contractor for any home improvement contract to rebuild after natural disaster to secure separate performance and payment bonds in the amount of half the contract price. This proposal would be limited to areas for which the Governor declares a state of emergency.

**RELEVANT PROVISION:** Create a new section, Business and Professions Code (BPC) section 7159.3

**BACKGROUND:** California continues to experience severe weather events that result in damage to residential property. Disaster response is a priority for the state and is becoming more important to consumer protection each year as disasters – which can take years to recover from – compound. The Governor recently closed 34 declared states of emergency that were issued between 2017 to 2022 in response to natural disasters. The closed declarations include 27 for fires impacting 25 counties, six for storms and earthquakes impacting 38 counties, and one for statewide fire weather.

Reconstruction, restoration, or rebuilding of a residential property that is damaged or destroyed by a natural disaster for which a state of emergency is proclaimed by the Governor is considered “home improvement,” under the Contractors State License Law (Law). (BPC section 7151 (a).) Consequently, this work is subject to home improvement contract requirements, including a description of all labor, services, and materials to be provided. Violations of those requirements in a disaster area is considered a misdemeanor for which a court can order a fine, jail time, and restitution to be paid to the victim.

**IDENTIFICATION OF PROBLEM:** The Board can take enforcement or disciplinary action against a licensee for abandoning construction projects, performing poor work, not paying subcontractors, and not meeting home improvement contract requirements, but this process can be lengthy and CSLB cannot always assure restitution for consumers. Often, a contractor’s license is revoked with a condition of paying restitution to a consumer as a condition of getting the license back which the contractor has no intention of doing. Disaster response must be quick to be effective in protecting the safety and welfare of victims and current law does not provide a mechanism to timely address consumer financial harm incurred by actions of an unscrupulous contractor following a disaster.

The Board may also refer investigations to local jurisdictions for criminal conviction. If criminal charges are filed for certain violations, the Law does not require the court to order a contractor to pay restitution. Conditions upon which restitution may be ordered are limited and whether charges are filed is determined by the local jurisdiction.



This proposal would provide an avenue to consumers for financial redress.

**PROPOSED SOLUTION:** Provide consumers with a means of timely financial recourse when contractors do not abide by contracts when performing recovery work in a disaster area by adding section 7159.3 to the Law. The new section would require performance and payment bonds alongside a contract for residential restoration and home rebuilding of properties damaged by a natural disaster and provide that the failure to do so is a cause for license discipline.

**STAFF ANALYSIS:** Complaints against contractors who take advantage of consumers anxious to return to their lives before a disaster are well documented as disaster-related complaints have increased over the past four years. From 2018-2022, the Board received an average of 180 disaster-related complaints each year. This is a marked increase from the previous four years when the Board received an average of 24 disaster-related complaints each year. In addition, the average value of financial losses incurred by consumers has increased over time. In 2019, the average contract price was around \$95,000, but in 2022, the average contract price was around \$170,000.

The rise in number and value of complaints demonstrates an increasing need to address financial damages caused by predatory contractors. This proposal would give consumers a guarantee against loss or damages when a contractor fails to comply with Contractors State License Law.

**STAFF RECOMMENDATION:** To recommend to the full Board to approve sharing this proposal to require a prime contractor to file performance and payment bonds to conduct residential reconstruction, restoration, or rebuilding after a natural disaster with the office of the honorable Senator McGuire. This proposal is recommended for referral in conjunction with a proposal to increase the statute of limitations to convict for misdemeanor violations of the Law during a declared state of emergency. This recommendation is made with the understanding that staff will further confer with the Chair of the Legislative Committee, as well as the Board Chair, to seek authorization to take a position on any subsequent bill and notify the Board of such action at the March quarterly meeting, pursuant to page 16 of the Board's Procedural Manual.

**PROPOSED LANGUAGE: Add Section 7159.3 to the Business and Professions Code as follows:**

*7159.3. (a) Any home improvement contract by a prime contractor for the reconstruction, restoration, or rebuilding of a residential property that is damaged or destroyed by a natural disaster for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States, shall provide for the filing of separate performance and payment bonds by the prime contractor.*



- (b) The performance and payment bonds prescribed by this subdivision shall meet the following criteria.*
- (1) The bonds shall be in a form executed by an admitted surety insurer and not deposits in lieu of bond.*
  - (2) Each bond shall be in a sum equal to at least one-half of the contract price.*
  - (3) The payment bond shall secure the payment of the claims of laborers, mechanics or materialmen employed on the work under the contract and shall contain all other provisions required by law.*
  - (4) The performance bond shall guarantee the faithful performance of the contract by the contractor.*
- (c) This section operates independently of any other bonding provisions in this Chapter.*
- (d) Failure of a prime contractor to comply with this section is a cause for disciplinary action.*



### **Legislative Proposal to Apply a Three-Year Statute of Limitations to Violations for Allowing Fraudulent Use of a Contractor License**

**SUMMARY:** This proposal would increase the statute of limitations for misdemeanor violations pertaining to unlawful use of a license. It is supported by consumer complaints received in designated disaster areas in which licensed contractors unlawfully allowed unlicensed contractors the use their license for disaster rebuilds.

**RELEVANT PROVISION:** Penal Code (PC) section 802

**BACKGROUND:** Specified violations of the Contractors State License Law are classified as misdemeanors. Among those violations are advertising to perform work regulated by the Board without a valid license (BPC section 7027.1) and engaging in the business, or capacity of, a contractor (BPC section 7028).

A licensee who aids and abets an unlicensed contractor or allows their valid license to be used by an unlicensed contractor is subject to disciplinary action under BPC section 7114, but it is not a misdemeanor. The Board has misdemeanor authority derived from BPC section 119 (which applies to the boards and bureaus within the Department of Consumer Affairs) to address fraudulent use of a license, including using a fictitious license, lending a license to another person, or allowing unlawful use of a license.

Separately, Penal Code section 802 provides statute of limitations to prosecute certain misdemeanor violations of the BPC ranging from one year of the commission of the offense to three years after discovery of the offense.

**IDENTIFICATION OF PROBLEM:** CSLB has received an average of 180 disaster-related complaints each year since 2018. This is an increase from the previous four years, which averaged 24 each year. Most of these complaints (an average 169 per year) are from consumers in declared disaster areas who were harmed by unscrupulous contractors.

Under current law, the statute of limitations for violations of BPC section 119 is one year from the date of violation. This limitation prevents CSLB from taking appropriate action against a licensee who allows fraudulent use of their license because disaster recovery often takes years. Consequently, CSLB may not receive a consumer complaint within the one-year statute of limitations.

**PROPOSED SOLUTION:** This proposal would add that BPC 119 to the list of misdemeanors that have a statute of limitations of three years after discovery of the commission of the offense. Setting a three-year statute of limitations would allow CSLB to investigate and pursue criminal offenses against contractors who permit their license to be used by an unlicensed contractor to take advantage of consumers.



**STAFF ANALYSIS:** Disaster response is a priority for the state. CSLB participates in Governor’s Office of Emergency Services (Cal OES) initiatives to protect consumers whose homes were damaged by disasters. A critical element of disaster response is to protect the safety and welfare of disaster victims by reducing the potential to become revictimized by predatory businesses.

CSLB attends Local Assistance Centers that Cal OES operates to educate homeowners about contractor licensing laws. However, a consumer cannot protect themselves by checking a license if the unlicensed contractor is unlawfully using the license of another contractor with the licensee’s permission. The fraudulent use of a valid license undermines safeguards provided by the licensing process where consumers are confident the contractor has been fingerprinted, is insured, and has the knowledge and skills necessary to operate as a contractor.

This proposal would provide CSLB the time needed to investigate and refer for prosecution misdemeanor violations of fraudulent license use. This will better protect consumers while they are in the process of rebuilding or repairing their homes after a disaster.

**FISCAL IMPACT:** This proposal would extend the statute of limitations for allowing fraudulent use of a license from one to three years in declared disaster areas to allow CSLB Enforcement staff the time to investigate and refer for prosecution. The work involved is the same amount currently needed to investigate a complaint and refer them to the prosecutor; the proposal just increases the statute of limitations to give additional time for staff to investigate the complaint. There is no additional workload by the Board’s Enforcement Division. Therefore, the fiscal Impact to CSLB is minor and absorbable with no impact to staff workload and no IT impact.

**STAFF RECOMMENDATION:** That the Legislative Committee authorize staff to share this proposal with the office of the honorable Senator McGuire to consider for inclusion in a legislative bill with the understanding that staff will further confer with the Chair of the Legislative Committee as well as the Board Chair to seek authorization to take a position on any subsequent bill and notify the Board of such action at the March quarterly meeting, pursuant to page 16 of the Board’s Procedural Manual. .

**PROPOSED LANGUAGE: Penal Code section 802**

- 802. (a) Except as provided in subdivision (b), (c), (d), or (e), prosecution for an offense not punishable by death or imprisonment in the state prison or pursuant to subdivision (h) of Section 1170 shall be commenced within one year after commission of the offense.
  
- (b) Prosecution for a misdemeanor violation of Section 647.6 or former Section 647a committed with or upon a minor under the age of 14 years shall be commenced within three years after commission of the offense.



- (c) Prosecution of a misdemeanor violation of Section 729 of the Business and Professions Code shall be commenced within two years after commission of the offense.
- (d) Prosecution of a misdemeanor violation of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code shall be commenced as follows:
  - (1) With respect to Sections 7028.17, 7068.5, and 7068.7 of the Business and Professions Code, within one year of the commission of the offense.
  - (2) With respect to Sections 7027.1, 7028.1, 7028.15, 7118.4, 7118.5, 7118.6, 7126, 7153, 7156, 7157, 7158, 7159.5 (licensee only), 7159.14 (licensee only), 7161, and 7189 of the Business and Professions Code, within two years of the commission of the offense.
  - (3) With respect to Sections 7027.3 and 7028.16 of the Business and Professions Code, within three years of the commission of the offense.
  - (4) With respect to Sections 7028, 7159.5 (nonlicensee only), and 7159.14 (nonlicensee only) of the Business and Professions Code, within four years of the commission of the offense.
- (e) Prosecution for a misdemeanor violation of ~~Section 6126~~, *Section 119, 6126*, 10085.6, 10139, or 10147.6 of the Business and Professions Code or Section 2944.6 or 2944.7 of the Civil Code shall be commenced within three years after discovery of the commission of the offense, or within three years after completion of the offense, whichever is later.



## AGENDA ITEM E

# Review, Discussion and Possible Action Regarding Restitution Funds at the Contractors State License Board

1. Solar Energy System Restitution Program  
Continued Funding
2. PACE Restitution Proposal as Presented by  
National Housing Law Project





# CONTRACTORS STATE LICENSE BOARD

## SOLAR ENERGY SYSTEM RESTITUTION PROGRAM CONTINUATION

### Solar Energy System Restitution Program Continuation

The Contractors State License Board (CSLB) has been successful in administering the Solar Energy System Restitution Program (SESRP). To date, CSLB has issued \$2.7 million in restitution to consumers who were financially harmed by solar contractors. While claims continue to be submitted, this one-time appropriation is projected to be expended by claims already received and yet to be processed.

Additionally, the Enforcement Division reports solar complaints are trending upwards with a 101% increase in photovoltaic solar energy system complaints received when comparing 2018 to 2022.

### Solar Complaints Received

Year	2018	2019	2020	2021	2022
Complaints Received	892	857	1,170	1,225	1,811
Average per Month	74	71	98	102	151

To address the most common solar violations, CSLB is taking a stronger enforcement policy when violations are found. Based on the increasing volume of consumer complaints, restitution claims, and the value of consumer protection provided by the program, CSLB staff have concluded SESRP needs continued funding. Thus, CSLB would like to consider potential sources of funding for solar restitution that do not impact contractors in unrelated classifications. Potential sources of funding under consideration are:

- Additional funding through a proposed PACE restitution fund that would earmark additional funding for SESRP claims as well as an extension of the July 2024 sunset of the SESRP program. The PACE restitution fund will be discussed in the next agenda item.
- Authority for CSLB to require a licensee to pay a fee to cover the cost of investigation and enforcement when a solar contractor is found to be in violation of the Contractors State License Law and the complaint is settled. This will incentivize contractors to address their customers concerns before a complaint is filed, which will lead to faster resolution of consumer complaints. Additionally, the fees will help to offset the cost of investigating or providing restitution for solar complaints.
- Consideration of a proposal to assess a fee for interconnection to the grid.



**Staff Recommendation:** The Legislative Committee to recommend to the full Board to consider alternative means of funding to continue SESRP.



### Property Assessed Clean Energy (PACE) Restitution Proposal

The success of the Solar Energy System Restitution Program (SESRP) has led to interest in creating a larger, similar restitution fund for residential energy efficiency projects that were funded through the Property Assessed Clean Energy (PACE) program.

Efforts to fund a PACE restitution fund are being led by the Clean Energy Justice (CEJ) group, a coalition of 12 public advocacy groups, including the National Housing Law Project (NHLP). CEJ has proposed creating a \$32 million PACE restitution fund, with \$2.5 million of that amount allocated for fund administration.

NHLP staff have discussed the proposal with CSLB and are recommending that CSLB administer the program if it is funded by the Legislature. NHLP has explained their efforts to obtain funds for homeowners defrauded by PACE and the budget request they intend to make this year.

The PACE restitution fund would be for any victim of PACE home improvements, not just solar. This proposal would require a complaint to be filed with CSLB to be considered for restitution. Through its efforts with SESRP program, CSLB staff is supportive of a PACE restitution fund. Many of the SESRP claims already reviewed demonstrate predatory sales practices, extremely high interest rates, and gross overcharging for PACE funding improvements.

The proposed PACE fund restitution program would be similar in structure and statutory language as CSLB's SESRP. NHLP also hopes to combine a request for continued funding of CSLB's SESRP (which sunsets in 2024) for another four years with their budget request for the \$32 million PACE restitution fund and believes the Board's support would go a long way to the success of both. More information about SESRP and related concepts is in the prior agenda item.

**Staff Recommendation:** The Legislative Committee to recommend to the full Board that they support this proposal to create a PACE restitution fund for consumers harmed by PACE loans.

# AGENDA ITEM F

Adjournment

