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CONTRACTORS STATE LICENSE BOARD

SB 610 (Glazer)
License Bond Study





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Report to the Legislature

Senate Bill 610 (Glazer) Study

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INTRODUCTION



A. Sunset Review and Senate Bill 610

This study derives from an issue raised during the Contractors State License Board’s (CSLB) recent “sunset review.” CSLB’s “sunset” provision is section 7011 of the Business and Professions Code (BPC), which among other things delegates the administrative duties of CSLB to the registrar and provides a quadrennial “sunset” date for CSLB. On January 1, 2020, Senate Bill (SB) 610 (Chapter 378, Statutes of 2019) formally extended CSLB’s sunset date from January 1, 2020 to January 1, 2024.

All boards and bureaus within the Department of Consumer Affairs (DCA), and DCA itself, undergo a sunset review in the months before the expiration of their sunset statutes. The Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee jointly oversee this process. Sunset review allows DCA, the Legislature, boards, bureaus, and other stakeholders to discuss performance and recommend improvements in the agency’s laws, policies, or practice. Agencies under review can also raise their own issues for consideration by the committees. The process usually culminates in a “sunset bill” extending the date of the sunset statute applicable to the agency under review.

As required by the sunset process, in December 2018 CSLB submitted a Sunset Review Report to the Legislature in preparation for its 2019 sunset review hearings. In Section 10 of that report, CSLB answered 16 questions from the Legislature on specific issues that arose from CSLB’s 2014 sunset review. Question eight asked CSLB to describe its plan for “financially protecting consumers” after the 2016 passage of SB 467 (Hill), which eliminated the requirement that contractors have \$2,500 in working capital as a condition of licensure. In its answer to that question, CSLB explained that SB 467 raised the contractor license bond amount from \$12,500 to \$15,000 to compensate for ending the \$2,500 working capital requirement. CSLB’s answer also stated, “greater consumer protection is realized with the increase in the [contractor] bond because a construction project *can easily exceed \$15,000 in costs or potential financial injury to a consumer*” (emphasis added).¹



In addition, a consumer advocate questioned the sufficiency of the bond in a February 23, 2019 letter to the Joint Committees supporting CSLB's sunset extension, which stated the following:

The current \$15,000 Contractors Bond is wholly insufficient. The intention of the bond is to provide a consumer the financial resources to complete a job which a contractor abandons or causes others to lien on a property to get paid. Effectively, the \$15,000 bond covers only one small job, leaving the customers of the contractor exposed in many ways if the contractor defaults. To correct the deficiency, contractors should be required to post a bond which reflects the value of the work the contractor is performing.²

The Chair of the Senate Business and Professions Committee also questioned the sufficiency of the bond at CSLB's February 26, 2019 sunset review hearing. The ensuing discussion at that hearing is described in the "Background" section of this study.

B. Question Presented

Existing law provides that CSLB "shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee file or have on file a contractor's bond in the sum of fifteen thousand dollars (\$15,000)" (BPC section 7071.6). Section 6 of SB 610 (Glazer), approved by the Governor on September 27, 2019, amends BPC section 7071.6 by adding a new subdivision (e), inclusive of the following subparagraphs:

- (1) The board shall conduct a study to obtain information to evaluate whether the current fifteen-thousand-dollar (\$15,000) amount of the contractor bond is sufficient, or whether an increase may be necessary.
- (2) The board shall report its findings and recommendations to the appropriate policy committees of the Legislature, in accordance with Section 9795 of the Government Code, by January 1, 2021.

Thus, the question presented for this study is: whether the current \$15,000 amount of the contractor bond is sufficient, or whether an increase may be necessary.



C. Abstract

This study begins with a brief legislative history that indicates the purpose and policy behind CSLB's bond requirement is the protection of homeowners.

Then the study summarizes the portion of CSLB's February 26, 2019 sunset review hearing during which the question of the sufficiency of the \$15,000 bond was raised and discussed. From that discussion, three issues were identified that form Part 1 of this study: A) Barriers to Licensure and the Cost of the \$15,000 Contractor License Bond; B) Underwriting and the Impact of Raising the Contractor License Bond; and C) The Cost of Projects in a Typical Home. Three additional issues not discussed at the hearing but possibly relevant to the question presented are raised in Part 2 of the study: A) CSLB's Qualifying Individual's Bond; B) License Bonds in Other States; and C) Survey of Licensed Contractors.

After analysis of research and data related to these issues, the study **concludes that the current \$15,000 amount of the contractor bond is not sufficient and that an increase is necessary.**

Note for the reader: *there are many kinds of bonds available to contractors and owners. All references in this study to a "bond," unless indicated otherwise, refer to the license bond that is a prerequisite to a contractor license in California pursuant to BPC Section 7071.6. In addition, this study may use the terms "surety company", "admitted surety insurer" or "bond company" interchangeably, to refer to the licensed entity that promises to answer, via the license bond, for the default of a contractor (the principal).*



BACKGROUND



A. Contractor License Bond: Legislative Purpose and History

A Primary Purpose of the License Bond is Protection of Homeowners

The CSLB bond requirement started in 1963³ following the addition of Section 7071.9⁴ to the BPC to require a bond as a “condition precedent to issuance, reinstatement, reactivation, or reissuance of a license.” At that time, the bond was “for the benefit of any person damaged as a result of a violation of this chapter by the licensee, any person damaged by fraud of the licensee in the execution or performance of a contract, and any employee of the licensee damaged by the licensee’s failure to pay wages.” These persons are known as the bond beneficiaries.

In 1979, the Legislature placed homeowners at the top of the list of contractor bond beneficiaries when it included in subdivision (a) of the statute “any homeowner contracting for home improvement upon his personal family residence damaged as a result of a violation of this chapter by the licensee,”⁵ a provision that reads substantially the same today.⁶ The bill that added this protection for homeowners was part of a 36-section measure that added various consumer protection provisions to the Contractors State License Law, the Insurance Code, and the Penal Code (adding section 23, which authorizes licensing agencies to appear in a criminal case against a licensee). Section 34.5 of this 1979 measure states the legislative intent for these changes as follows:

It is the intent of the Legislature and the purpose of this act to promote and protect the interests of consumers as well as law-abiding competitive licensed contractors. It is the intent of the Legislature to protect consumers from grievous injury as a result of the acts of contractors and to protect law-abiding competitive licensed contractors from unfair competition as a result of the acts of unlicensed or non-law-abiding licensed contractors.⁷

While the bond statute has always identified bond beneficiaries as anyone harmed by a willful or deliberate act of a contractor, employees, laborers, and (most recently) an owner contracting to construct a single-family dwelling,⁸ only with the addition of homeowners to the bond statute 40 years ago did the Legislature state its specific intent to protect consumers from grievous injury by the acts of contractors. Therefore, the protection of homeowners is a primary purpose of the contractor bond.



History of the Increases to the Amount of the Contractor Bond

The bond amount, currently \$15,000, has increased over time by statutory changes. However, legislative history reviewed for this study does not indicate the method or criteria used to determine these amounts (e.g., by calculating inflation, or measuring changes in the Consumer Price Index). On this point, a 2001 CSLB study of the contractor bond notes that each time the bond amount was raised in prior years, it was “described as the highest amount surety companies can afford to pay without forcing new contractors out of business.”⁹

The first contractor bond amount was set at \$1,000 in 1963.¹⁰ Below is a chart showing each date the bond was raised thereafter, and by how much. The chart also shows what each of those prior amounts is equivalent to in 2020; for example, the \$1,000 bond in 1964 would be \$8,384.45 today.¹¹

Enabling Statute	Bond Amount	Effective Date	Years Between Raise	% Increase from Prior Bond Amount	Amount in 2020
Stats. 1963, c. 1971, § 1	\$1,000	January 1, 1964	N/A	N/A	\$8,384.45
Stats. 1972, c. 7, § 1	\$2,500	March 4, 1972	8 years 2 months	150%	\$15,545.33
Stats. 1979, c. 1013, § 11.5	\$5,000	January 1, 1980	7 years 9 months	100%	\$15,771.72
Stats. 1993, c. 1264, § 6.3	\$7,500	January 1, 1994	14 years	50%	\$13,153.74
Stats. 2002, c. 1123	\$10,000	January 1, 2004	10 years	33.3%	\$13,759.56
Stats. 2002, c. 1123.	\$12,500	January 1, 2007	3 years	25%	\$15,669.64
Stats. 2015, c. 656.	\$15,000	January 1, 2016	9 years	20%	\$16,244.40

**Increase from \$5,000 to \$7,500 in 1993**

The bond amount increased from \$5,000 to \$7,500 in 1993. An explanation for that increase is not provided in the legislative history reviewed for this study, other than it was done as part of “DCA’s annual omnibus bill containing a variety of technical and clean-up changes relating to boards and bureaus.”¹² At the time, a contractor association opposed the change with this statement: “Increasing the bond to \$7,500.00 would increase the premium by about \$30.00, giving the sureties an additional 6 1/2 million dollars pure profit, with little additional protection for the public.”¹³ Nonetheless, the measure passed, and the bond would not be raised again until 2004.

CSLB Sunset Review in 2000

The current study is not the first time the Legislature has asked CSLB to study the bond, which was a significant topic during CSLB’s 2000 sunset review. At that time, the Joint Legislative Sunset Review Committee had noted that the \$7,500 bond “is inadequate and often unavailable to consumers.”¹⁴ An August 6, 2000 Assembly analysis of CSLB’s sunset bill noted “the inadequacy of the current license bond” and suggested that “the surrounding issues need to be studied,” noting that often “contractors’ surety bonds do not pay out and if they do, the current \$7,500 requirement is insufficient to cover injuries that have occurred.”¹⁵ As a result, the 2000 sunset bill¹⁶ required CSLB to conduct a “comprehensive study in consultation with the Department of Insurance on the use of surety bonds to compensate homeowners for financial injury” sustained as a result of a contractor’s actions. The 2001 mandate included multiple criteria for CSLB to study (which are significantly beyond the scope of this study), but it did not ask CSLB to conclude whether the bond amount should be raised or by how much.

The CSLB issued its findings on October 1, 2001. The 2001 study does not expressly state that the bond amount (or “penal sum” as it is often referred to in the surety business)¹⁷ should be raised but states “that if the penal sum is raised significantly, sureties would need to increase their underwriting of these bonds,” and



concludes that “the goal for this bond might be to raise the penal sum as high as it can be raised without requiring the need to comprehensively underwrite it.”¹⁸

Increase from \$7,500 to \$10,000 and from \$10,000 to \$12,500 Between 2004 - 2007

As an additional requirement of the 2000 CSLB sunset review,¹⁹ in December of 2001, DCA appointed a CSLB “Enforcement Monitor” (Monitor) charged with the “reform and reengineering of the CSLB’s enforcement program and operations, and the improvement of the overall efficiency of the CSLB’s disciplinary system.”²⁰ The Monitor was also tasked with recommending new consumer remedies to address the “problem of inadequacy” with “current forms of restitution provided to consumers for financial injury suffered as a result of a contractor’s fraud, poor workmanship, malfeasance, abandonment, failure to perform, or other illegal acts.”²¹ The Monitor studied CSLB’s October 2001 bond study, as well as other data about consumer financial injuries, and found that:

. . . estimates of annual consumer loss in California . . . range from \$60 million to \$100 million. The surety bond of \$7,500 required of most contractors offers no realistic prospect of recovery for many cases of consumer loss because of: the limited amount of the bond, superior knowledge and experience of industry claimants who may be competing with consumers for restitution, and a difficult and burdensome payout process.²²

The result of these findings was a 2002 bill that established two increases in the bond over the ensuing years.²³ It provided that starting January 1, 2004, all licensees secure a \$10,000 bond, up from \$7,500. The same bill increased that bond to \$12,500 to start two years later, on January 1, 2007. The legislative history of this measure reviewed for this study does not provide a basis for calculating the new amounts, but the Monitor report cites the Consumer Price Index in concluding that \$7,500 in 1994 would be valued near \$10,000 in 2001.²⁴

This 2002 bill also created the “aggregate liability of a surety” provision of the bond requirements in subdivision (b) of BPC section 7071.6, which remains in the law today. It specifies that any amount greater than \$7,500 claimed against a bond will be



reserved exclusively for homeowners damaged by a contractor’s violation of the law.²⁵ This precludes a non-homeowner from claiming the entire amount.

Increase from \$12,500 to \$15,000 in 2015

The bond was raised again from \$12,500 to \$15,000 in a 2015 bill that extended CSLB’s sunset date from January 1, 2016 to January 1, 2020.²⁶ As stated in the Introduction of this study, that \$2,500 increase was the direct result of the elimination of CSLB’s “financial solvency” requirement. Prior to the 2015 sunset process, CSLB had a statute that required that “all applicants and all licensees at renewal, demonstrate, as evidence of financial solvency, that his or her operating capital exceeds \$2,500.” The Monitor commented on this requirement in 2002, as follows:

This amount - established in 1979 and unchanged in 23 years - is not meaningful as an indicator of financial capacity or solvency in 2002, when \$2,500 will not be likely to cover the smallest litigated claim. This minuscule capitalization amount provides no real guarantee of solvency or ability to meet judgment obligations, but the existence of a requirement of “financial solvency” may have the undesired effect of implying to consumers that significant CSLB standards of solvency have been met.²⁷

In its analysis of CSLB’s 2015 sunset bill, the Senate Rules Committee provided the following statement:

The CSLB has indicated that this requirement is outdated, and the information is basically unverifiable and recommended that it be eliminated. The CSLB recommended instead that the surety bond requirement be increased from the current \$12,500 to \$15,000, which this bill does.²⁸

As a result, the \$2,500 operating capital or “financial solvency” prerequisite to licensure was eliminated, and the \$12,500 bond was increased in the corresponding amount. The 2015 sunset bill took effect on January 1, 2016 with a \$15,000 bond requirement, which has been the standard ever since.



B. February 26, 2019 Joint Hearing Before the Senate Business, Professions, and Economic Development and the Assembly Business and Professions Committee

On February 26, 2019, the Legislature held its joint oversight hearing of CSLB. Then current Board Chair Marlo Richardson, past Board Chair Kevin Albanese, Registrar David Fogt, and Chief Deputy Registrar Tonya Corcoran represented CSLB at the hearing.²⁹ At the hearing, Senator Steven M. Glazer, Chair of the Senate Business, Professions and Economic Development Committee stated, “there has been some concern about the contractor’s bond amount of \$15,000 and whether or not it is sufficient,” and asked the panel to comment on this issue.

Registrar Fogt indicated CSLB would be interested in studying the issue and mentioned that discussion of raising the bond in prior years involved concerns about underwriting that may be required. Past Board Chair Albanese agreed, and indicated that \$15,000 is not a significant amount to a harmed consumer. Mr. Albanese then stated that any study of this issue should evaluate balancing the interests of limiting barriers to licensure with that of ensuring qualified people enter the industry.

Senator Glazer then asked what the cost to the contractor is of the “typical” \$15,000 bond. Mr. Albanese did not believe it is “much” but suggested that underwriting would be required for a contractor to secure a bond of \$25,000 or \$50,000. Mr. Albanese reiterated the need to strike a balance in the laws because CSLB issues licenses to wide range of professionals with difference expertise.

Senator Glazer inquired as to the percentage of work CSLB finds that “falls beneath [\$15,000] in a typical home” before stating that [the \$15,000 bond] is “a pretty low threshold.” He agreed with CSLB’s concern about how [raising the bond] may affect costs but said he would “be interested in evidence that makes it clear that costs are going to create issues,” and asked CSLB to study that question.

Public testimony was then received, from two different representatives of various construction industry associations. Both commentators emphasized either the need to



strike a balance in the license laws or the goal of limiting barriers to licensure. Senator Glazer then closed the discussion by agreeing it is a challenge to find the “balance” in the laws referenced by various parties during the testimony, but that it is also important to recognize “circumstances and experiences are changing.”

A few weeks later, the Senate Committee amended Senate Bill 610 to include the requirement that CSLB study whether the current \$15,000 amount of the contractor bond is sufficient, or whether an increase may be necessary.



PART ONE:

**STUDY OF THE ISSUES RAISED AT THE
FEBRUARY 26, 2019 HEARING**



A. Barriers to Licensure and the Cost of the \$15,000 Contractor Bond

Barriers to Licensure

At the February 26, 2019 sunset hearing, Past Board Chair Albanese indicated that any consideration of raising the bond amount should consider concern about increasing “barriers to licensure.” In preparation for this study, CSLB surveyed thousands of licensed contractors.³⁰ One of the survey questions asked if the cost of the bond is a barrier to licensure, which produced responses reflected in the following chart:

Do you believe the cost of having a contractor’s bond prevents people from joining the construction industry?	Number of Respondents	Percentage of Total Responses
Yes	622	15%
No	3,510	86%
TOTAL	4,132	100%

As the survey indicates, 86 percent of licensed contractors polled do not believe the cost of the \$15,000 bond is a barrier to entering the industry. However, the question of whether the bond is a deterrent to those who are not yet licensed – but may wish to become licensed someday – is a significant part of this inquiry.

Limiting “barriers to licensure” is a reference to 2016 report by the state oversight agency Little Hoover Commission (Commission) on California State Government Organization and Economy, “Jobs for Californians: Strategies to Ease Occupational Licensing Barriers” (Report). The Report states that occupational licensing requirements “often serve as a gate, keeping people out of occupations.”³¹ The report notes:

Licensing requirements protect those who are already licensed at the expense of those who are not, and California licenses more occupations traditionally entered into by lower-income people than nearly every other state. The financial and time costs to become licensed are not insignificant. Licensing results in higher prices and reduces the availability of services to lower income people.³²



As such, the Commission suggested that limiting barriers to licensure has the benefit of increasing access to licensed professionals, which keeps prices low, thereby ensuring consumers of all income levels have access to more services.³³ In the time since the Report, boards, bureaus, and the California State Legislature have all introduced various policies or legislation to implement some of the Commission's recommendations. Nonetheless, when the Commission released its biennial "Economy & Efficiency Report" in February of 2019 it found that "more remains to be done" to "help the most vulnerable Californians enter licensed occupations."³⁴

For this reason, increasing the bond amount raises questions about the higher costs of obtaining a contractor license and/or limiting the pool of available contractors by doing so. The "barrier to licensure" concern of increasing the bond would be the increase in the cost of the bond precluding new people from entering the construction field, which not only keeps such individuals from earning a living but may increase the cost of construction services by limiting access to the number of available contractors. The result could be a negative impact to consumers in a manner that outweighs the intended benefit of raising the bond, which is to provide more funds for consumers who are injured by the acts of a contractor. Addressing these concerns requires evaluating the cost of the contractor bond itself (discussed below) and the potential impact of raising the amount (discussed in the next section).

Cost of the \$15,000 Contractor Bond

The CSLB posed a question about the cost of the \$15,000 contractor bond to licensed contractors in its recent survey, and 72 percent of the over 4,000 respondents indicated that the bond costs them between \$0 and \$600 per year.³⁵ Bond premium calculations are based on the rate filings by each individual surety company, which are available through California Department of Insurance.³⁶ Rates are generally expressed as a percentage of the bond;³⁷ for example, a contractor license bond may cost between 1 percent and 3 percent of the bond amount,³⁸ which is between \$150 and \$450 per year. If most licensed respondents to the survey are paying a few hundred



dollars or less a year for their bond, this is not a significant cost or barrier to licensure when compared to other costs assessed on actively licensed contractors.³⁹

However, whether this cost poses a barrier to licensure requires also reviewing this question in the context of those who do not have a bond or who may be seeking to obtain a bond. Bond companies say personal credit score is among the most important of factors in determining bond premiums,⁴⁰ because it is an indicator of how likely the contractor is to reimburse the bond company for a claim payout, as required on every bond. For an individual with high credit, the \$15,000 bond can go as low as \$85.00 a year over just over \$100 to \$200 a year; but for an individual with low credit it can be as high as \$1,300 a year.⁴¹ However, preliminary research indicates that an applicant for a contractor license can still obtain a bond inexpensively regardless of credit, in one case \$140 a year.⁴² Therefore, even if an applicant has poor credit, the \$15,000 bond does not appear to be a significant barrier to licensure, for at least the first year of licensure.

In addition, there are mechanisms for those with poor credit, no credit, or no social security number (SSN) to file a bond, possibly at an extra cost. Several bonding companies will issue a bond to an applicant without a SSN and/or with only an individual taxpayer identification number (ITIN). Like an applicant with no credit, such applicants would likely pay a higher rate for the bond. Companies may also accept third party guarantors of a bond on behalf of someone with no credit, poor credit, or with no SSN.⁴³

The CSLB studied the issue of bonding and credit when sponsoring a bill to eliminate all bond alternatives and require all contractors obtain a surety bond.⁴⁴ CSLB used to allow contractors to file a \$15,000 “certificate of deposit” instead of obtaining a \$15,000 bond with an admitted surety insurer (a bond company). A contractor could deposit \$15,000 in a bank and file evidence of the deposit with CSLB as an alternative to the surety bond. But CSLB was often advised by various consumers claiming against a \$15,000 certificate of deposit that the money was no longer available because the funds were removed from the bank some time prior to the claim, or the account simply no longer existed. CSLB had no ability to prevent this from happening, and sponsored Assembly Bill (AB) 3126 (Brough, Chapter 925, Statutes of 2018) to address it.



As AB 3126 progressed through the Legislature, the Senate Judiciary raised the following concern: “because companies issuing surety bonds typically require a social security number, this bill could have the unintended effect of creating a barrier to licensure for undocumented licensees.”⁴⁵ The CSLB’s research at the time confirmed that having a SSN is a critical element when obtaining a bond because the bond is a “credit product,” and a SSN is usually required to generate credit. If the applicant has low credit or no credit, they will pay a higher rate for the bond; and if they have higher credit, they will get a preferred rate. The impact is a possible higher cost of licensure for applicants with financial problems or without a credit profile. As such, even if obtaining a bond through a surety without a credit score or SSN is possible, the method for doing so still required extra steps and/or extra costs to those who did not have either.

As a result, the bill author agreed to amend AB 3126 so that securing a bond with a surety insurer was not the only way to obtain a bond. The measure preserved one alternative to the surety bond, the filing of a cashier’s check in an interest-bearing account with the state. This allows anyone without a SSN or credit score to avoid bonding through a surety and ensures the funds are available if a claim is made against the bond. Since the implementation of AB 3126, 28 applicants have applied for a license with the cashier’s check option instead of a surety bond as of the fall of 2020.

After the foregoing discussion, the complete answer to Senator Glazer’s question about the cost of the \$15,000 bond is that for those with good credit or just starting out, it costs somewhere between less than \$100 a year to \$150 to \$200 a year. If one has financial liabilities or prior bond claims, it can be hundreds of dollars or over a thousand dollars a year. And credit is the largest factor is because, unlike an insurance policy, the bond requires the contractor to reimburse the bond company if a claim is paid. The bond premium will also need to be paid throughout the life of an active license. But if one does not obtain a surety bond, the cost is the full bond amount up front via cashier’s check, but there are no ongoing costs and interest is earned on the bond. And if one does not or cannot obtain a bond at all, they cannot maintain a license with CSLB. There is a risk that such individuals forgo the license entirely and work underground.

**B. Underwriting and the Impact of Raising the Contractor License Bond**

During the February 26, 2019 sunset hearing, Registrar Fogt explained that when the topic of increasing the bond was discussed in previous years insurance companies opposed increasing the bond to an amount that would require underwriting the bond. Generally, “underwrite” means “the authority to accept or reject risk on behalf of the insurer,”⁴⁶ or in this case, on behalf of an admitted surety insurer. Past Board Chair Albanese suggested underwriting might be required for a contractor to secure a bond of \$25,000 or \$50,000. Senator Glazer shared CSLB’s concern about how raising the bond may affect costs but noted would “be interested in evidence that makes it clear that costs are going to create issues,” and asked CSLB to study that question.

How Does Underwriting Relate to the License Bond?

A bond, regardless of type, is a guarantee.⁴⁷ The surety writing the bond is the party providing the guarantee that they will answer for the debt, default, or miscarriage of the contractor.⁴⁸ However, there is a fundamental difference between a bond as a prerequisite to licensure and other available bonds in the construction industry. Understanding that difference is helpful to the discussion of underwriting.

In the case of “contract” surety bonds, such as a bid bond, performance bond, payment bond, warranty bond, or maintenance bond⁴⁹ (maintenance bonds are common for public works projects), the surety is focused on whether it can reasonably guarantee that the contractor will perform their obligations in a particular contract or agreement.⁵⁰ Contract bonds potentially involve penal sums much larger than \$15,000 that are connected to those specific set of promises to perform in a specific way. In contrast, for the \$15,000 contractor license bond required by CSLB, the surety is focused only on the guarantee that the contractor will comply – generally – with the rules and regulations of the Contractors State License Law.^{51 52} As such, a contractor license bond does not guarantee a specific contract.⁵³ It is regarded as a “low” penal sum without specific promises associated with it, other than the general obligation that the contractor comply with the license law, which all contractors have to do anyway.



As a result, the surety undergoes very different analysis when it comes to issuing a contract bond versus a license bond. The underwriting for a contract bond issued for a particular purpose is done on a “case-by-case basis” following a “review the contract documents, especially the scope of work” to “make sure that the work under the contract fits within the contractor’s normal abilities and capabilities.”⁵⁴ Surety writers are evaluating the risk under the specific contract for which the contractor seeks a bond.⁵⁵ This requires reviewing the contract or agreement at issue and evaluating factors like the “contractor’s entire work portfolio, past performance, experience, operational efficiency, managerial skills, business plan, and reputation for integrity.”⁵⁶

In contrast, the license bond is not underwritten⁵⁷ in the traditional sense of the word. This is because sureties consider the \$15,000 contractor license bonds to be “low-risk due to their relatively low number of claims and/or small penalty sum.”⁵⁸ Indeed, as of 2020, the industry loss ratio on a license bond remains at about 20 percent,⁵⁹ meaning that either up to 80 percent of licensed contractors uphold their obligation on the license bond to comply with CSLB laws, or an unknown number of that 80% received bond claims but they were not sufficiently proven for the bond company to pay out.⁶⁰ As a result of this “manageable” ratio, unlike the detailed case-by-case review required by underwriting a contract bond, obtaining a license bond is based only a credit rating, or in some cases only a CSLB application fee number⁶¹ and can be purchased instantly with no underwriting process necessary.⁶²

Impact of Raising the Contractor License Bond Amount

At the February 26, 2019 sunset hearing, Senator Glazer shared CSLB’s concern about how raising the bond may affect costs, but stated he would “be interested in evidence that makes it clear that costs are going to create issues,” and asked CSLB to look into that question. Given how license bonds are currently written, this requires an analysis of how an increase, and by how much, would affect that process.

As discussed, license bonds are not currently comprehensively underwritten on the contractor’s ability to reimburse the surety; instead, the surety simply expects a “loss



ratio” of approximately 20 percent.⁶³ Thus, a surety might be “exposed” on 200 bonds at \$15,000 and 40 of those bonds may pay out, resulting in \$600,000 in losses.⁶⁴ Sources tell CSLB that with the license bond at \$15,000, this is a manageable loss in the event of payouts against the bonds in their portfolios.⁶⁵ The CSLB obtained a statement from a surety bond company that increasing the license bond to \$25,000 would be manageable for contractors and the surety industry would not require underwriting.⁶⁶ However, an increase in the bond amount would likely result in a proportional increase in the premium calculation.⁶⁷ For a “typical contractor with a clear bond history” this might result in an increase in the annual bond premium of \$100 to \$200.⁶⁸ And for those utilizing the cashier’s check option as opposed to obtaining a bond with a surety, they would need to provide \$25,000 cash.

However, there is a correlation between the bond amount and how much underwriting is involved.⁶⁹ For example, if the \$15,000 bond suddenly triples in size, this would be a “massive change for the industry” and almost certainly would result in “substantially stricter” risk-based underwriting.⁷⁰ Surety bonds would no longer reflect a “low risk” penal sum product qualified with a credit rating and small premium based on a basic guarantee of compliance with the license laws. Instead, almost all sureties would begin considering things like a contractor’s financial capacity, net worth, cash flow, assets, credit score, existing projects, prior projects, expertise and experience, banking relationships, nature of projects, and character.⁷¹

There are therefore two issues to consider in evaluating a bond increase in the context of underwriting. First, if the bond is raised to a level that requires underwriting, the concern is that such a change “would force new applicants and contractors with poor credit out of the market, or...into the underground economy,”⁷² thus raising some barriers to licensure. Second, if a license bond begins to require underwriting to demonstrate the contractor’s ability to perform or pay in some specific way, it becomes another kind of bond entirely. The focus becomes a critical review of the contractor’s situation instead of a bond given in the furtherance of meeting a minimum standard for licensure.⁷³ It may also elongate the license application process.



Keeping the bond below the threshold for extensive underwriting invariably raises consumer protection concerns; indeed, because the bond is not underwritten, California consumers “should not assume that this bond signifies that the contractor is creditworthy or competent.”⁷⁴ However, the bond is a condition of licensure, which means there is a statutory measure of protection for all consumers associated with the \$15,000 bond. This is because CSLB evaluates all applicants for licensure and their fitness to understand and comply with the laws⁷⁵ that the license bond ultimately obligates them to. As such, in a sense CSLB already performs a form of “underwriting” for the license bond, which may invariably help keep costs low on the surety side.

Finally, whether the \$15,000 amount itself is sufficient is not a question that can fully be answered without evaluating the type of projects for which this bond amount may typically pay out. This is the purpose of the next section of this study, which focuses entirely on residential projects. The focus on residential projects is due to the contention in the first section of this study that, despite the bond having multiple statutory beneficiaries, a primary purpose of the license bond is the protection of residential consumers.

C. The Cost of Projects in a Typical Home

At the February 26, 2019 hearing, Senator Glazer stated he did not know what percentage of work CSLB finds “falls beneath that [amount] in a typical home” but stated \$15,000 is “a pretty low threshold.” To address this question, CSLB studied: 1) CSLB consumer complaint data; 2) the cost of typical home remodeling projects; and 3) CSLB bond payment of claims information.

CSLB Consumer Complaint Data

The CSLB opens approximately 20,000 complaints a year. Complaints come from different sources and can involve a variety of construction projects, including public works, commercial, and residential. Approximately 80 percent of complaints each year are “reactive,” and 20 percent are “proactive.” Reactive cases are complaints filed by a consumer who has hired a contractor. Proactive cases are filed by third parties that



direct CSLB to certain jobsites or geographical areas for compliance checks, or they involve undercover sting operations. Between the two types of complaints, approximately 90 percent involve residential projects.

The following chart shows the value of construction contracts found in CSLB reactive complaints filed by residential consumers between 2015 and 2020, for which the price of the contract or invoice is available in the complaint record.

Year	\$501 - \$5,000	\$5,001- \$10,000	\$10,001 - \$15,000	\$15,001 - \$25,000	\$25,001- \$50,000	\$50,001- \$75,000	\$75,001 - \$100k	\$100,001 - \$500k	Over \$500k
2015	31.10%	17.40%	10.00%	11.40%	12.30%	5.30%	2.50%	7.90%	2.10%
2016	28.90%	16.70%	10.10%	12.50%	12.50%	4.80%	2.80%	9.70%	2.60%
2017	25.40%	16.50%	8.70%	12.30%	16.10%	6.00%	3.20%	9.10%	2.50%
2018	25.30%	15.40%	8.80%	12.70%	16.10%	6.10%	3.40%	9.90%	2.40%
2019	22.40%	15.00%	9.50%	12.90%	16.30%	6.20%	3.80%	10.80%	3.00%
2020	24.30%	13.10%	8.10%	14.50%	17.40%	5.80%	3.50%	10.20%	2.90%
AVG	26.2%	15.7%	9.2%	12.7%	15.1%	5.7%	3.2%	9.6%	2.6%

The chart supports the following conclusions:

- Approximately 48.9 percent of complaints involved contracts over \$15,000, the current threshold of the license bond amount.
- Most CSLB consumers (52.7 percent) file complaints for contracts between \$5,001 and \$50,000.
- More complaints are filed about contracts between \$15,001 and \$50,000 (28 percent) than between \$5,001 and \$15,000 (25 percent).
- Every year, the number of complaints filed between \$15,001 and \$25,000, as well as between \$25,001 and \$50,000, has steadily increased.
- The value of contracts has risen steadily every year within the range that most consumers seem to complain: between \$5,001 and \$50,000.



- Even though over a quarter (26.2%) of complaints each year are valued below \$5,000, the number of people filing in this category has declined by 27% between 2015 and 2020 (from 31.1% of complaints down to 24.3% of complaints)

In all, it appears the \$15,000 bond covers slightly more than half of the residential construction contracts subject to CSLB complaints today.

The Cost of Home Remodeling Projects

This section provides information about the cost of different remodeling projects in the year 2020, in the Pacific U.S. (Hawaii, Alaska, California, Oregon, and Washington).⁷⁶ The information in the following chart is drawn from Hanley Wood business intelligence and data service, via their “Metrostudy” feature.

Project	Level	Cost
Bathroom Remodel	Midrange	\$24,757
Bathroom Remodel	Upscale	\$75,763
Bathroom Addition	Midrange	\$58,038
Bathroom Addition	Upscale	\$104,722
Deck Addition	Composite	\$22,762
Deck Addition	Wood	\$18,059
Entry Door Replacement	Steel	\$2,048
Garage Door Replacement		\$3,874
Major Kitchen Remodel	Midrange	\$75,292
Major Kitchen Remodel	Upscale	\$148,216
Manufactured Stone Veneer		\$10,175
Master Suite Addition	Midrange	\$159,510
Master Suite Addition	Upscale	\$325,452
Minor Kitchen Remodel	Midrange	\$26,150
Roofing Replacement	Asphalt Shingles	\$27,769



Roofing Replacement	Metal	\$46,932
Siding Replacement	Fiber-Cement	\$20,064
Siding Replacement	Vinyl	\$16,937
Window Replacement	Vinyl	\$19,184
Window Replacement	Wood	\$22,976
Average Cost of Improvements in Chart:		\$60,434

The chart supports the following findings:

- The average cost of a significant remodeling project of the type indicated in the chart is \$60,424.
- The lower range of cost is between \$2,000 and \$3,000 for the replacement of doors of varying types.
- The middle range of cost is between \$15,000 and \$25,000 for siding replacement or entry level bathroom remodels.
- The higher range of projects for room additions or upscale room remodels well exceed \$100,000.

The chart excludes service and repair projects (such as plumbing replacement or repair, heating, ventilation and air conditioning, roof repair, etc.) because they tend to fall beneath the \$15,000 bond amount.

Bond Payment of Claims

With an understanding of the type and costs of residential projects that could be subject to a claim, a discussion of the bond claim process is necessary. Contractors State License Law requires that bond companies notify CSLB within 30 days of payment on the \$15,000 contractor bond (BPC section 7071.11(e)), the \$100,000 LLC bond (BPC section 7071.65), and the \$12,500 bond of qualifying individual (BPC section 7071.9). CSLB may suspend the license by operation of law if the licensee does not reimburse the surety or perform an investigation to determine if a good faith payment was warranted and/or if a citation is appropriate.



The CSLB compiled all the bond payment of claims bond companies have filed with CSLB pursuant to BPC 7071.11 between September 1, 2017 and September 1, 2020.⁷⁷ The notification to CSLB of these claims does not include the facts underlying the bond payout; CSLB merely records certain information about the claims, like the statutory basis for them, names of parties involved, and whether the payment is the result of a good faith action by the surety. Unpaid claims result in license suspension.

The CSLB may perform an investigation of a payment of claim if a licensee files a protest with CSLB against the bond payout. Not all bond payouts are investigated; for example, between January 1 and September 1, 2020, CSLB was notified of 782 payment of claims against license bonds; 243 (or 31 percent) were investigated due to a licensee protest. As such, not all the information in the chart below can be said to relate to residential projects since the facts are not available for most of the payouts. The claims, therefore, may relate to a payout to any of the beneficiaries named in BPC Section 7071.5: a homeowner; an owner contracting for construction of a single-family dwelling; a person damaged because of a willful and deliberate violation of the law; an employee of a licensee damaged by a failure to pay wages; or a fringe benefits claim.

However, since most CSLB complaints involve residential projects, it is reasonable to assume that most of the payment of claims involve residential projects. This is particularly true given that contracting parties on non-residential projects, as opposed to making a claim against the license bond, tend to consult attorneys or obtain bonds or insurance to protect themselves, which homeowners are less likely to do.⁷⁸ Homeowners are more likely than non-homeowners to claim against a license bond.

Time Period	Total Claims	> One Claim	\$1,001-\$7,499	\$7,500	\$7,501 - \$10,000	\$10,001-\$14,999	\$15,000	Avg. Claim
2017-2018	1,290	124	626	267	67	128	202	\$7,302
2018-2019	1,432	146	607	328	93	118	286	\$7,766
2019-2020	1,223	111	503	276	75	101	268	\$8,144
Averages	1,315	127	579	290	78	116	252	\$7,737



This chart supports the following findings:

- Nearly 10 percent (127) of contractors each year have two or more claims against their bond (indicated by the “> One Claim” column).
- Nearly 20 percent (252) of claims each year max out the \$15,000 bond.
- Over 22 percent (290) of claimants each year are limited to the aggregate liability cap of \$7,500 because another party has a valid claim to the bond as well.⁷⁹

It is important to note that bond payment of claim information does not provide a complete assessment of damages that are alleged or due on construction projects in California. Many people will not bother to claim against the bond because their perceived damages are much higher than \$15,000. For example, between January 1, 2020 and July 3, 2020, the average restitution amount CSLB ordered in a stipulation or proposed decision pursuant to an accusation to suspend or revoke a contractor license was \$36,318. The lowest order was for \$617, and the highest was for \$333,850.



PART TWO:

**OTHER ISSUES RELEVANT TO THE
CONTRACTOR LICENSE BOND**



The following sections of this study address issues that were not raised at the 2019 sunset hearing but are relevant to the topic of the contractor license bond.

A. CSLB'S Qualifying Individual's Bond

The CSLB issues contractor licenses to individual owners, as well as partnerships, corporations, and limited liability companies.⁸⁰ All licenses must have an individual that “qualifies” that license entity using their construction knowledge and experience.⁸¹ If the qualifying individual on a license is not the owner of the entity, or a general partner of the entity, the law requires that individual to file a \$12,500 “qualifying individual’s bond.”⁸² The qualifying individual’s bond is in addition to any other required bond. The named beneficiaries of the qualifying individual’s bond are the same as those named for the contractor license bond.⁸³

There are two reasons why the qualifying individual’s bond is referenced in this study. First, the qualifying individual’s bond should be raised concurrently with the contractor license bond. Second, issues surrounding the qualifying individual’s bond may warrant a review by the Legislature.

Raising the Qualifying Individual’s Bond Concurrently with the Contractor License Bond

The qualifying individual’s bond became law in 1967,⁸⁴ three years after the contractor license bond, and was correspondingly set at \$1,000 to match the contractor license bond. Each time the qualifying individual’s bond was raised thereafter, it was done concurrently with an increase in the contractor license bond: from \$1,000 to \$2,500 in 1972; from \$2,500 to \$5,000 in 1980; from \$5,000 to \$7,500 in 1994; and \$7,500 to \$12,500 in 2007. However, when the license bond increased from \$12,500 to \$15,000 in CSLB’s 2015 sunset bill,⁸⁵ the bond of qualifying individual was not correspondingly raised at the same time, for the first time in history. The legislative history for the 2015 sunset bill reviewed for this study does not provide an explanation for the omission; it is assumed to have been inadvertent.



Issues Surrounding the Qualifying Individual's Bond

The person qualifying a contractor's license on behalf of another person or an entity is 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."⁸⁶ Direct supervision and control "includes any one or any combination of the following activities: supervising construction, managing construction activities by making technical and administrative decisions, checking jobs for proper workmanship, or direct supervision on construction job sites."⁸⁷ Failure to exercise these qualifier responsibilities is cause for administrative discipline of the license, and is punishable as a misdemeanor by imprisonment and a fine up to \$5,000.⁸⁸

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 involved in the business. This is particularly important when there are many individuals associated with a license or when an individual is qualifying more than one license. It is for this reason that there is an additional bond for license qualifiers. Unfortunately, when CSLB investigates a complaint against a licensed contractor it is not uncommon to discover that the individuals running the business are not associated with the license qualifier identified in CSLB records. In some cases, the individuals running the license business will pay the license qualifier for the use of their name on the license application. This is known as a "sham RMO" (responsible managing officer), a term used to describe this phenomenon by California Court of Appeal, Second District Court of Appeal.⁸⁹ Since January of 2018, CSLB has taken 317 legal actions (citation, accusation to suspend or revoke a license, or criminal referral) against licensees whose qualifiers failed to exercise direction and control over construction operations.

In 2018, CSLB approved a legislative proposal to modify the qualifier bond requirements to address some of these concerns but was unable to locate an author to introduce the measure. Therefore, in addition to the need to raise the bond of the



qualifying individual to match the contractor license bond, the CSLB appreciates the Legislature’s consideration of the concerns identified in consumer complaints about the failure of license qualifiers to be sufficiently involved in the construction operations.

B. License Bonds in Other States

Other states also require contractor license bonds, and for comparative purposes CSLB is providing information about the requirements in other selected states.⁹⁰ The states are Arizona, Hawaii, Louisiana, Nevada, Oregon, Utah, and Washington, as these states have license classifications or policies with similarities to CSLB.

State	Bond and Financial Requirements
Arizona	License bonds range from \$2,500 to \$100,000. The amount of the bond is based on the type of license and anticipated volume of work
Hawaii	Bonds in varying amounts are required; the minimum is \$5,000. Whether a bond is required at all, as well as the amount of the bond is based on financial statements provided by the applicant and what kind of work is being performed.
Louisiana	Contractors shall post a bond or other surety in the minimum amount of \$1,000. Financial statements are provided with the license application.
Nevada	Bonds range from \$1,000 to \$500,000 based on financial data provided by applicants.
Oregon	Contractors are divided by residential services or commercial services. Required commercial services bonds range from \$20,000 to \$75,000. Required residential services bond range from \$10,000 to \$20,000.
Utah	Contractors are classified by the value of their contracts and their annual volume of work. Bonds between \$15,000 and \$50,000 may be required depending on contractor’s debt.
Washington	Contractors are divided between general and specialty. For general contractors, the bond amount is \$12,000. For specialty contractors, the bond amount is \$6,000. ⁹¹

C. Survey of Licensed Contractors

The CSLB distributed a survey to assess licensed contractors’ opinions about the sufficiency of the \$15,000 contractor bond for reimbursing consumers harmed by a contractor’s actions.⁹²



The CSLB asked about accepting a contract to fix another contractor’s work because it is common, particularly in bond cases or consumer complaints, that a “correcting contractor” is retained to repair substandard workmanship.

How often have you had to correct or complete another contractor’s project?	Number of Respondents	Percentage of Total Responses
0 – 2 times per year	3,395	82%
3 – 5 times per year	470	11%
6 – 10 times per year	105	3%
More than 10 times per year	148	4%
TOTAL	4,118	100%

Most respondents have either not had to correct another contractor’s work or have done it only one or two times in a year, with another 11 percent of respondents correcting or completing another contractor’s project three to five times a year. And 4 percent have corrected or completed another contractor’s project more than 10 times per year. As reflected in the following chart, for those that stated they had to correct or complete another contractor’s project, 43 percent stated that \$15,000 was a sufficient remedy for the consumer, and 17 percent stated that it was not.

In cases where you have had to correct or complete another contractor’s project, was \$15,000 sufficient to provide a remedy for the consumer?	Number of Respondents	Percentage of Total Responses
Yes	1,772	43%
No	694	17%
Not Applicable	1,633	40%
TOTAL	4,099	100%

In addition, most respondents stated that the \$15,000 contractor bond is sufficient for the residential construction industry, while 27 percent believe the bond amount is not sufficient, as reflected in the table below.



Do you believe the \$15,000 contractor's bond is sufficient for the residential construction industry?	Number of Respondents	Percentage of Total Responses
Yes	3,006	73%
No	1,121	27%
TOTAL	4,127	100%

Among those contractors who said it was sufficient, many appeared to represent trades for which the cost of projects tends to fall beneath \$15,000. Others objected to anything that would increase costs of doing business generally. And still others commented that more “expensive” projects tend to have other protections associated with them (like required contract bonds discussed earlier in this study). However, of those that responded that the amount of the bond is insufficient, associated comments mentioned that \$15,000 is very low compared to the cost of construction, labor, materials, and other factors. And many recommended raising the license bond to specific amounts and suggested minimum bond amounts ranging from \$20,000 to \$100,000. Significantly, the survey received 94 comments explaining why the bond is insufficient, compared to only 37 comments explaining why it is sufficient.

Contractors were also asked if they believe their bond brings value to their license. This question was premised on the expectation that meeting license standards and having work backed by a bond professionalizes the industry and contributes to a sense of pride in workmanship. As the table below reflects, 69 percent of respondents agreed that the bond brings value to the license, while 31 percent said that it does not.

Do you believe the contractor’s bond brings value to the license?	Number of Respondents	Percentage of Total Responses
Yes	2,850	69%
No	1,294	31%
TOTAL	4,144	100%



Frequent comments to this question cited the inability of the contractor to advertise the fact that they have the bond, an act which is prohibited by BPC Section 7027.4. Other comments indicated that liability insurance would provide more value to the license than a bond. Notably, the requirement that liability insurance be required for all contractors was proposed in a bill 20 years ago, but the measure was not successful.⁹³

The CSLB also collected demographic data for this survey. Slightly over half of the survey respondents held the B–General Building license, followed by the C-10 Electrical license at 14 percent, and the A–General Engineering license with 10 percent. Other common classifications included C-36 Plumbing, C-20 HVAC, and C-61 Limited Specialty. It is significant that different license classifications had differing views on the value and impact of the bond. In interviewing industry stakeholders, construction associations, lobbyist groups, and construction law attorneys, a common recommendation was that CSLB consider varied bond amounts for various license types. One construction law attorney stated that the \$15,000 bond is sufficient for many of the specialty licenses but not for the general contractor licenses.⁹⁴ Similar comments were made by contractors in the comment boxes of the bond survey. Notably, “individualized” bond requirements have existed before at CSLB; from 1979 to 2002, a separate \$10,000 bond was required for swimming pool contractors.⁹⁵



CONCLUSION

This study concludes that **the current \$15,000 amount of the contractor bond is not sufficient, and an increase is necessary.**

Prior to this study, CSLB noted the insufficiency of the \$15,000 bond. In its December 2018 Sunset Review Report CSLB wrote that “greater consumer protection is realized with the increase in the [contractor] bond because a construction project can easily exceed \$15,000 in costs or potential financial injury to a consumer.” And, Past Board Chair Albanese testified at the February 26, 2019 sunset hearing that, “\$15,000 is not a huge dollar amount to a harmed consumer.”

In addition, Senator Glazer noted during the hearing that \$15,000 is a “pretty low threshold” and that it is important to recognize that “circumstances and experiences are changing.” There is direct evidence that circumstances and experiences are changing in the CSLB consumer complaint data that shows increased contract values over the years. The number of residential complaints reflecting contract values between \$15,000 and \$25,000 as well as between \$25,000 and \$50,000 have steadily increased each year for the last six years, with a corresponding decline in the number of complaints valued at less than \$5,000. In addition, the average home remodel project is just over \$60,000, well above the \$15,000 bond amount. The evidence shows that the \$15,000 bond covers slightly over half of the residential construction contracts subject to CSLB complaints today. These facts demonstrate that an increase in the bond is necessary.

The payment of claims information also suggests that the \$15,000 bond is insufficient. Nearly 20 percent of the claims max out the \$15,000 bond; and this does not account for the unknown damage on construction contracts that are too large to bother with the \$15,000 bond. In addition, each year around 10 percent of contractors subject to payment of claims have more than one claim against their bond. This is concerning, because assuming there is a homeowner involved in a given claim, any time there are multiple good faith claims against a single bond, there is conceivably less money available to the homeowner on that bond. The data reviewed for this study



shows that between 2017-2020, 22 percent of claims paid out at exactly \$7,500, which suggests that a non-homeowner took a portion of that bond.⁹⁶ Therefore, an increase of the \$15,000 bond would ensure sufficient relief exists for homeowners contracting for home improvement upon their personal family residence damaged by a contractor's violation of the law. This may require an evaluation of whether the \$7,500 aggregate liability cap should accompany any increase in the bond amount.⁹⁷

Concerns about barriers to licensure associated with raising the license bond can be addressed if it is raised below the point that would require underwriting. The research conducted for this study suggests that this amount is \$25,000. That amount could ensure that the bond serves the dual functions of increasing the available funds for consumers harmed by contractors while ensuring that the bond is still accessible for all applicants to meet the minimum standards of licensure. It would not serve the goal of limiting barriers to licensure if the license bond required case by case underwriting of the personal financial affairs of applicants for contractor's licenses.

As reflected in interview and survey comments reviewed for this study, some have suggested that California implement a tiered bond system that prescribes different bond amounts by type of license classification. This assumes that some work, such as that of general contractors, is valued higher than the work of other contractors, such as service and repair. CSLB is willing to explore this option with the Legislature if asked to do so. CSLB also welcomes the opportunity to review some of the concerns with the qualifier individual's bond discussed in this study and recommends that any increase in the license bond correspond with an increase in the qualifier's bond.

In addition to the findings of this study that support an increase in the bond, there are well-stated reasons to raise the bond provided in an April 23, 2002 Senate Committee analysis of SB 1919 that are still valid today. In raising the bond to \$12,500, the Committee stated that the increase will "guarantee an increase in restitution available to homeowners, reduce the competition for existing license bond payouts, help professionalize the home improvement industry, and provide the CSLB with a vehicle for consumer relief toward which it could direct consumer complaints."

**ENDNOTES**

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- ¹ Contractors State License Board Sunset Review, December 2018, page 113.
<https://www.cslb.ca.gov/Resources/Reports/Sunset/SunsetReviewReport2018.pdf>
- ² February 23, 2019 letter from stakeholder to Joint Committee. Redacted copy available upon request. Call 916-255-4000.
- ³ Statutes of 1963, Chapter 1971, Section 1.
- ⁴ Section 7071.9 was renumbered to Section 7071.6 by Statutes of 1967, Chapter 1604, Section 5.
- ⁵ Statutes of 1979, Chapter 1013, Section 10.5.
- ⁶ See subdivision (a) of BPC Section 7071.5.
- ⁷ Statutes of 1979, Chapter 1013, Section 34.5, page 3460.
- ⁸ Senate Bill 1432, Chapter 157, Statutes of 2008.
- ⁹ Using Surety Bonds & Insurance to Protect Consumers. California Contractors State License Board. October 1, 2001. Page 31.
- ¹⁰ Statutes of 1963, Chapter 1971, Section 1.
- ¹¹ According to U.S. Inflation Calculator, <https://www.usinflationcalculator.com/>, last accessed September 30, 2020.
- ¹² Senate Bill 574, Senate Floor Analysis, July 13, 1993. Page 1.
- ¹³ Senate Bill 574, Senate Floor Analysis, July 13, 1993. Page 3.
- ¹⁴ Joint Legislative Sunset Review Committee, 2002 Sunset Review Report. Background Paper for the 2001 Public Hearing, and Final Recommendations of the Joint Committee and the Department of Consumer Affairs. Page 8 (describing prior JLSRC findings that let up to SB 2029 in 2000).
- ¹⁵ Senate Bill 2029, July 3, 2000 Analysis by the Assembly Committee on Consumer Protection, Governmental Efficiency, and Economic Development. Page 8.
- ¹⁶ Senate Bill 2029 (Figueroa), Chapter 1005, Statutes of 2000.
- ¹⁷ The bond amount is referred to as “Penal Sum” because the purpose of the bond is to provide restitution when a licensee has caused financial injury by violating contractor’s license law. The bond is not an insurance policy and a licensee must reimburse the surety or discharge the payout amount in bankruptcy to maintain licensure.
- ¹⁸ Using Surety Bonds & Insurance to Protect Consumers. California Contractors State License Board. October 1, 2001. Page 32.
- ¹⁹ Pursuant to Senate Bill 2029 (Figueroa), Chapter 1005, Statutes of 2000, which created the Enforcement Monitor position.
- ²⁰ Senate Bill 1919, April 22, 2002 Analysis by the Senate Committee on Business and Professions, page 3.
- ²¹ Id.
- ²² Senate Bill 1919, June 25, 2002 Analysis by the Assembly Committee on Business Professions Analysis, page 2.
- ²³ Senate Bill 1919 (Figueroa) Chapter 1123, Statutes of 2002.
- ²⁴ Second Report, Contractors State License Board, Enforcement Program Monitor. April 1, 2002. Page 56.
- ²⁵ Senate Bill 1919, June 25, 2002 Analysis by the Assembly Committee on Business Professions Analysis, page 2.
- ²⁶ Senate Bill 467 (Hill), Chapter 656, Statutes of 2015.
- ²⁷ Second Report, Contractors State License Board, Enforcement Program Monitor. April 1, 2002, page 58.
- ²⁸ Senate Bill 467, September 8, 2015, Analysis by the Senate Rules Committee, page 7.
- ²⁹ A recording of the hearing is available to stream on the California State Senate media archives page. Date of Hearing February 26, 2019. <https://www.senate.ca.gov/media-archive> .
- ³⁰ Survey distributed to approximately 124,128 email addresses associated with licensed contractors, via “Survey Monkey.” Survey open September 22, 2020 and closed September 29, 2020. The survey received 4,411 responses.
- ³¹ Jobs for Californians: Strategies to Ease Occupational Licensing Barriers. Report #234, October 2016. Little Hoover Commission. Page 5. <https://lhc.ca.gov/sites/lhc.ca.gov/files/Reports/234/Report234.pdf>.
- ³² Id. at pages 22-23.
- ³³ Id. at page 1.



³⁴ The Economy & Efficiency Report, 2017-2018. The Little Hoover Commission’s Biennial Review of California State Government Operations. Report #246, February 2019. Pages 8-9. <https://capitolmr.com/wp-content/uploads/2019/02/Little-Hoover.pdf>.

³⁵ This question was asked in same survey described in endnote 30. Unfortunately, CSLB asked the question in terms how much licensees pay “by month” for the bond. The CSLB later discovered that with rare exceptions, the industry standard for a contractor bond is annual billing, not monthly (as confirmed by October 8, 2020 correspondence from a surety underwriter and senior vice president of a commercial property casualty and surety broker). Therefore, CSLB cannot be certain that all respondents to the “by month” question understood the question or correctly calculated what their annual bill is per month. The data/results from that question were therefore thrown out for the body of this study; nonetheless the results are as follows: 2,923 respondents said they pay \$0-\$50 per month; 657 respondents pay \$51-\$100 per month; 324 pay \$101-\$200 per month; and 165 pay \$201 or more a month.

³⁶ This information is provided courtesy of the Surety and Fidelity Association of America.

³⁷ Id.

³⁸ This is drawn from an interview of three surety company representatives conducted by CSLB staff in April 2020.

³⁹ For example, see many of the CSLB fees in Business and Professions Code section 7137.

⁴⁰ Id. at endnote 38.

⁴¹ Id. at endnote 38. Indeed, the Surety and Fidelity Association of America states that the rate can be up to 8% or higher of the bond. 8% is \$1,200 a year for the \$15,000 bond.

⁴² Offer located at <https://bond911.com/bond/california-contractors-license-bond>, last accessed October 5, 2020. States, “(w)e offer a special program for all NEW CA Contractors applying with an application fee number! We will waive the credit check requirement for underwriting and approve your bond for \$140.00 for a one year term.”

⁴³ This sentence and the two sentences before it are drawn from a December 8, 2020 conversation with the head underwriter and head of claims for a national surety company that is a leader in the market for the contractor license bond.

⁴⁴ See Assembly Bill (AB) 3126, Brough, Chapter 925, Statutes of 2018.

⁴⁵ Assembly Bill 3126, Senate Judiciary Committee Analysis, June 18, 2018. Page 4.

⁴⁶ California Insurance Code Section 769.81 subdivision (d).

⁴⁷ See generally, The Basic Bond Book, Second Edition. Copyright 2011. The Associated General Contractors of America and National Association of Surety Bond Producers. Page 5.

⁴⁸ California Civil Code Section 2787.

⁴⁹ National Association of Surety Bond Producers. <https://www.nasbp.org/getabond/about-surety/surety-bond>. Last accessed October 5, 2020.

⁵⁰ See generally, The Basic Bond Book, Second Edition. Copyright 2011. The Associated General Contractors of America and National Association of Surety Bond Producers. Page 6.

⁵¹ National Association of Surety Bond Producers. Copyright 2016 by NASBP. A SuretyLearn Publication. Answers to 51 Questions Small Contractors Ask About Bonding. Page 5.

⁵² Indeed, the face of the Contractor’s Bond form filed with the Registrar of Contractors by any licensed contractor using a surety bond to comply with the \$15,000 bond requirement, states the following: “The conditions of the foregoing obligation are that if the Principal shall comply with and be subject to the provisions of Division 3, Chapter 9 (commencing with Section 7000) of the Business and Professions Code, then this obligation shall be null and void; otherwise to remain in full force and effect.”

⁵³ National Association of Surety Bond Producers. Copyright 2016 by NASBP. A SuretyLearn Publication. Answers to 51 Questions Small Contractors Ask About Bonding. Page 5.

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ Using Surety Bonds & Insurance to Protect Consumers. California Contractors State License Board. October 1, 2001. Page 7.

⁵⁸ Everything you Need to Know About the Surety Underwriting Process. Surety Bonds Direct. Copyright 2020.

<https://www.suretybondsdirect.com/educate/surety-bond-underwriting-process>, last accessed October 5, 2020.



⁵⁹ September 9, 2020 conversation with a surety underwriter and senior vice president of a commercial property casualty and surety broker.

⁶⁰ The 2001 CSLB study, “Using Surety Bonds & Insurance to Protection Consumers,” October 1, 2001, page 7, stated that about 27% of the total cost of premiums each year is paid out in bond claims in the California construction industry. The 2001 study does not indicate where this number comes from, and CSLB was unable to locate a source, despite attempts to do so, to provide an updated figure to this amount for 2020. It is unknown as of the date of this study, how many license bond claims are made and paid versus made but denied by surety companies in California in aggregate.

⁶¹ See endnote 42.

⁶² Everything you Need to Know About the Surety Underwriting Process. Surety Bonds Direct. Copyright 2020. <https://www.suretybondsdirect.com/educate/surety-bond-underwriting-process>, last accessed October 5, 2020.

⁶³ September 9, 2020 conversation with a surety underwriter and senior vice president of a commercial property casualty and surety broker.

⁶⁴ Id.

⁶⁵ Id.

⁶⁶ Id. In addition, the Surety and Fidelity Association of America later concurred with the contention made in this sentence.

⁶⁷ This information is provided courtesy of the Surety and Fidelity Association of America.

⁶⁸ October 6, 2020 correspondence with a surety underwriter and senior vice president of a commercial property casualty and surety broker. The representatives made it clear the actual amount of bond premium pricing of a license bond set at \$25,000 cannot be authoritatively predicted; that these amounts are an “educated guess.”

⁶⁹ This information is provided courtesy of the Surety and Fidelity Association of America.

⁷⁰ September 9, 2020 conversation with a surety underwriter and senior vice president of a commercial property casualty and surety broker.

⁷¹ National Association of Surety Bond Producers. Copyright 2016 by NASBP. A SuretyLearn Publication. Answers to 51 Questions Small Contractors Ask About Bonding. Page 6.

⁷² Using Surety Bonds & Insurance to Protect Consumers. California Contractors State License Board. October 1, 2001. Page 7.

⁷³ See Business and Professions Code Section 101.6., the purpose of DCA licensing agencies is to set minimum standards for licensure.

⁷⁴ Using Surety Bonds & Insurance to Protect Consumers. California Contractors State License Board. October 1, 2001. Page 7.

⁷⁵ See Business and Professions Code Section 7068 for the minimum qualifications of a contractor.

⁷⁶ The data for this section, including how it is presented and organized, is drawn entirely from Hanley Wood business intelligence and data service, via their “Metrostudy” feature. Metrostudy tracks more than 3.2 million lot and land parcels and gathers details on more than 100 million households and over 360 remodeling activity markets. Hanley Wood provides this information through the “Cost vs. Value” feature in their Remodeling Magazine. See <https://www.hanleywood.com/about/our-company> and <https://www.remodeling.hw.net>, last accessed October 7, 2020.

⁷⁷ The payment of claim data reviewed for this study did not identify what kind of bond against which the claim payment was made (i.e., qualifier bond, license bond, or LLC bond). However, it can be assumed that the data is largely reflective of claims against the license bond, because all licensed contractors have a license bond versus much smaller percentage of contractors having the LLC bond and qualifier bond. In addition, excluded from the claim data for this study were any payments made over \$15,000 (i.e. the LLC bond) because they are not the focus of this study (and there were very few of them). And all the payments made over \$12,500 cannot be against the qualifier bond.

⁷⁸ Nguyen, Terrence. Resolving the Double Liability Problem: A Critique of California’s Mechanics Lien Statute. UMass Law Review. 9 U. Mass. L. Rev 136. Page 136.

⁷⁹ See BPC Section 7071.6(b). It is impossible to know from the existing data how many \$7,500 payouts were because of the liability cap, versus those being simply a bond payment that happened to be valued at \$7,500.



However, because there were a large number of payouts at exactly \$7,500, more than there were payouts at other specific amounts, it can be assumed that most if not all of the \$7,500 payouts were the result of the liability cap.

⁸⁰ See Business and Professions Code Section 7065.

⁸¹ See Business and Professions Code Section 7068.

⁸² See Business and Professions Code Section 7071.9.

⁸³ Cf.: Business and Professions Code Section 7071.5 and 7071.10.

⁸⁴ See Statutes of 1967, Chapter 1604, Section 7.

⁸⁵ See Senate Bill 467 (Hill), Chapter 656, Statutes of 2015.

⁸⁶ See Business and Professions Code Section 7068.1.

⁸⁷ See Title 16, Division 8, Article 2, Section 823 of the California Code of Regulations.

⁸⁸ See Business and Professions Code Section 7068.1.

⁸⁹ See *Jeff Tracy, Inc. v. City of Pico Rivera* (2015), 240 Cal.App.4th 510, at 514.

⁹⁰ With the exception of the information in this table about Washington State, this information is drawn from a report published by the National Association of State Contractors Licensing Agencies. www.nascla.org.

⁹¹ This information was obtained from a December 8, 2020 conversation with the head underwriter and head of claims for a national surety company that is a leader in the market for the contractor license bond. See also Washington Code 18.27.040.

⁹² This is the same survey referred to in endnote 30. Readers are also encouraged to contact the CSLB Executive Office at (916) 255 – 4000 for a copy of the full survey results with contractor comments.

⁹³ See Assembly Bill 1288 (Davis), which would have required contractors to demonstrate to CSLB that they carry general liability insurance in an amount of \$1 million as a condition of license renewal.

⁹⁴ This interview occurred on October 8, 2020.

⁹⁵ Enacted by Statutes 1979, Chapter 747, Section 1. Terminated by Senate Bill 1919, Stats.2002, c. 1123, § 1, when all contractor's bonds were raised from \$7,500 to \$10,000.

⁹⁶ The \$7,500 liability cap in BPC Section 7071.6 does not apply to homeowners. See also page 10 of this study.

⁹⁷ BPC 7071.6 provides that for all non-homeowner claimants, the surety's liability on the bond is \$7,500. If the \$7,500 liability cap were raised, there could be less money available to the consumer in a situation where, for example, a material supplier or another contractor makes a valid claim against a bond and obtains a bond payout before a homeowner can do so.