

THIRD READING

Bill No: SB 342
Author: Umberg (D)
Amended: 1/5/26
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 1/12/26
AYES: Ashby, Choi, Archuleta, Arreguín, Grayson, Niello, Smallwood-Cuevas,
Umberg, Weber Pierson
NO VOTE RECORDED: Menjivar, Strickland

SENATE JUDICIARY COMMITTEE: 13-0, 1/13/26
AYES: Umberg, Niello, Allen, Ashby, Caballero, Durazo, Laird, Reyes, Stern,
Valladares, Wahab, Weber Pierson, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 1/22/26
AYES: Caballero, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

SUBJECT: Contractors: unlicensed work

SOURCE: California Conference of Carpenters

DIGEST: This bill removes a requirement that contractors be licensed by the Contractors State License Board (CSLB or Board) at all times during performance of a contract in order to bring or maintain an action to recover compensation owed to them for performance of the contract. This bill permits a contractor to bring action against a party for compensation for work conducted while the contractor's license was valid if the contractor was licensed at the time the contract was executed. This bill limits the period for which a consumer may bring action to recover compensation paid to an unlicensed contractor.

ANALYSIS:

Existing law:

- 1) Establishes the CSLB to enforce and administer the Contractors State License Law (License Law). (Business and Professions Code (BPC) § 7000 et seq.)
- 2) Establishes that, unless exempted from licensure, it is a misdemeanor for a person to engage in the business of, or act in the capacity of, a contractor if the person is not licensed in accordance with the License Law. (BPC § 7028(a)(1))
- 3) Empowers the Registrar of Contractors to issue citations containing orders of abatement and civil penalties against persons acting in the capacity of or engaging in the business of a contractor without having a license in good standing to so act or engage. (BPC § 7028.6)
- 4) Provides that no person engaged in the business or acting in the capacity of a contractor may bring or maintain any action for the collection of compensation for the performance of any act or contract where a license is required without alleging that he or she was duly licensed at all times during the performance of the act or contract. (BPC § 7031(a))
- 5) Provides that a person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract. (BPC 7031(b))
- 6) States the court may determine that there has been substantial compliance with licensure requirements under this section if it is shown at an evidentiary hearing that the person who engaged in the business or acted in the capacity of a contractor (a) had been duly licensed as a contractor in this state prior to the performance of the act or contract, (b) acted reasonably and in good faith to maintain proper licensure, and (c) acted promptly and in good faith to remedy the failure to comply with the licensure requirements upon learning of the failure. (BPC § 7031(e))
- 7) Provides that all licenses issued under the provisions of the License Law shall expire two years from the last day of the month in which the license is issued, or two years from the date on which the renewed license last expired. Requires the licensee to, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the registrar and pay the prescribed renewal fee. (BPC § 7140)
- 8) Requires the Registrar to grant retroactive renewal of a license if, within 90 days of the expiration of the license, the otherwise eligible licensee submits a completed application for renewal on a form prescribed by the Registrar and

pays the appropriate renewal and delinquency fees. States an application shall be deemed submitted if it is delivered to the board's headquarters or postmarked within 90 days of the expiration of the license. (BPC § 7141.5)

- 9) Requires an applicant to qualify for licensure by written examination upon appearance of a qualifying individual, responsible managing employee, officer, manager, member, or partner, as applicable. (BPC §§ 7065(c))
- 10) Requires the examination to include questions designed to show that the applicant has the necessary degree of knowledge of the building, safety, health, and lien laws of the state and of the administrative principles of the contracting business that the board deems necessary for the safety and protection of the public and shall include pertinent questions relating to the laws of this state and the contracting business and trade. (BPC § 7068)

This bill:

- 1) Removes the existing requirement that a contractor be licensed at all times during performance of a contract in order to bring or maintain any action in any court of this state to collect compensation for the performance of the contract.
- 2) Allows a contractor to bring action in a court in this state against a consumer to recover compensation for periods of the contract when the contractor was licensed if they were licensed at the time the contract was executed.
- 3) Limits the period for which a consumer may bring action to recover compensation paid to a contractor to the portion paid while the contractor was unlicensed.

Background

Contractors and the CSLB. CSLB is responsible for implementing and enforcing the License Law and regulations related to the licensure, practice and discipline of the construction industry in California. The CSLB licenses and regulates approximately 285,000 licensees in 44 licensing classifications, issues two certifications, and registers approximately 18,000 Home Improvement Salespersons.

The License Law protects consumers from those who are unqualified, uninsured, fraudulent, negligent, or otherwise unfit to perform work as contractor. To become licensed, a contractor must obtain worker's compensation insurance, obtain a contractor's bond, and employ a qualifying individual with the knowledge of building laws of the state and administrative principles of the contracting business

as demonstrated by passing a law and ethics examination, among other requirements. The responsible managing employee, manager, or partner who qualified for the license is also required to be listed as the personnel of record, actively engaged in the contracting business, and held responsible for all violations of the contracting business, including operating while unlicensed. Simply put, there is a person who has agreed to be responsible for maintaining each of the 285,000 licenses and knows the license needs to be renewed every two years.

Currently, the License Law provides that a contractor may not bring action to recover compensation for performance of a contract while unlicensed.

Additionally, a consumer may bring action to recover any compensation paid to a contractor who was unlicensed at any time during performance of the contract. These provisions are intended to prevent unjust enrichment of those who disregard license laws by making it unprofitable to engage in illegal activity.

A previous bill, AB 1793 (Holden, Chapter 244, Statutes of 2016), proposed to remove the requirement for contractors to show they have been duly licensed “at all times” during the performance of an act or contract that requires a license in order to file an action to recover compensation for performance of that contract. AB 1793 was eventually amended to restore “at all times” (see amendment of August 2, 2016) due to concerns raised in the Senate Committee on Judiciary about diminished consumer protection and reducing consequences of failing to maintain licensure and this bill instead revised criteria to be used in an evidentiary hearing to determine whether a person acted in the capacity of a contractor.

After AB 1793 did not pass as originally proposed, the Legislature revisited the issue of disproportionate costs incurred by contractors whose licenses lapse through no fault of their own during CSLB’s subsequent sunset review oversight by reviewing the expired license process instead of disgorgement. Originally, if a license expired, a licensee had to prove that the license lapsed for reasons beyond their control and the Registrar had permissive authority to approve or not approve retroactive renewal. Throughout the joint sunset review oversight process, the Senate Committee on Business, Professions, and Economic Development and Assembly Committee on Business and Professions sought to resolve that issue as a way to eliminate the short license lapse problem.

The resulting legislation, SB 1474 (Committee on Business, Professions and Economic Development, Chapter 312, Statutes of 2020), replaced the existing permissive retroactive license renewal authority with required retroactive renewal as long as the renewal form and fees are received by CSLB within 90 days of the license expiration date. SB 1474 also eliminated the requirement that the licensee

demonstrate the renewal is late due to reasons beyond the licensee's control and specified that the renewal application is considered submitted if it is delivered or postmarked 90 days from the date of expiration. Consequently, there is no circumstance in which a one-day lapse in renewal would result in the contractor losing the right to be paid for their work.

Additionally, BPC Section 7031(e) allows the judicial doctrine of substantial compliance to be applied in cases when the person who acted in the capacity of a contractor had been duly licensed as a contractor prior to the performance of the act or contract, acted reasonably and in good faith to maintain proper licensure, and acted promptly and in good faith to remedy the failure to comply with the licensure requirements upon learning of the failure. Unless a contractor does not intend to act in good faith to comply with license requirements, this addresses any case that somehow eludes the retroactive renewal process. It is noteworthy that any other licensee within the Department of Consumer Affairs who continues to practice while unlicensed would face enforcement action, yet contractors have multiple ways to collect payment for work done while unlicensed.

Comments

Purpose of this bill is unclear. According to the Author, "Under existing law, a contractor who experiences even a brief lapse in licensure—such as a one-day delay in renewal—risks losing the right to be paid for their work, regardless of whether the project was completed successfully." Because existing law allows for a retroactive renewal for contractors who submit the renewal form and pay the renewal fee within 90 days of their license expiration, this claim is not valid. This bill would only be applicable when a contractor is non-compliant with license laws for more than three months. Since the stated purpose for the bill has a resolution in existing law and the judicial doctrine of substantial compliance applies when a contractor was licensed prior to acting as a contractor and has shown to be acting in good faith, it is not clear why this legislation is necessary.

Bill would compromise consumer protection. This bill would allow a consumer to file action to recover money paid to a contractor during periods when the contractor is unlicensed. However, it is not reasonable for a consumer to be required to prove what work was performed on which days and which days the contractor was licensed when it is the contractor who violated the law. This bill will likely lead to fewer consumers exercising their right to file action to recover compensation paid to contractors who had no right to payment in the first place.

Additionally, this bill would impede existing protections of the Licensing Law,

which provides a consumer multiple ways to remedy an issue with a contractor. For example, if an issue results in financial harm to the consumer and involves a licensed contractor, the consumer can file a complaint with the CSLB, which can mediate the complaint and negotiate a resolution such as ordering rework, issue a citation that includes a restitution order, or seek disciplinary action that includes a restitution order. The consumer may also file a claim against the contractor's bond (a condition of licensure (BPC §§ 7071.6 and 7071.6.5)). Without a license (even if the contractor was licensed at the time the contract was executed), none of these options would be available to the consumer or CSLB.

This bill could increase enforcement workload and/or complexity of complaints. Because this bill would make civil action a more difficult route for a consumer, complaints to the CSLB are likely to increase. Additionally, by creating a situation where the investigators must determine the work that was performed while the contractor was licensed and unlicensed, CSLB investigators may be faced with determining which work is subject to restitution or a bond claim or not, which work can be mediated or not, the work for which the consumer should seek damages in a civil claim, and a host of other issues not present with current law.

This bill could exacerbate California's unlicensed activity problem. It is well established that when a contractor disregards license laws, they are more likely not to carry worker's compensation insurance, and to not comply with workplace safety, employee tax, and wage and hour laws, among others. Unlicensed contractors are also less likely to pay their subcontractors. This practice is so prevalent, CSLB is a member of two multi-agency statewide enforcement collaborations – the Labor Enforcement Task Force and the Joint Enforcement Strike Force – in which multiple state agencies pool resources to enforce the multiple laws frequently violated by unlicensed contractors. This bill would encourage further disregard of California's laws by allowing contractors to profit while engaging in unlawful behavior.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Committee on Appropriations, CSLB anticipates a significant increase in complaints and associated enforcement workload to conduct investigations resulting from this bill. These costs are estimated at \$2.24 million in Fiscal Year (FY) 2027-28 and \$2.21 million in FY 2028-29 and annually ongoing (Contractors License Fund). Costs include five additional licensing and enforcement staff, as well as increased Attorney General (AG) and Office of Administrative Hearings (OAH) costs. CSLB's IT Division estimates additional costs of approximately \$120,000 to make changes to the Board's licensing system.

SUPPORT: (Verified 1/22/26)

California Conference of Carpenters (source)
California Legislative Conference of Plumbing, Heating & Piping Industry
Construction Employers' Association
Finishing Contractors Association of Southern California
National Electrical Contractors Association
Northern California Allied Trades
Northern California Floor Covering Association
Southern California Glass Management Association
United Contractors
Wall and Ceiling Alliance
Western Line Constructors Chapter, Inc., Neca, INC.
Western Painting and Coating Contractors Association
Western Wall and Ceiling Contractors Association

OPPOSITION: (Verified 1/22/26)

None received

ARGUMENTS IN SUPPORT: The California Conference of Carpenters writes that the, "...modified version of Section 7031 would make a modest but important change. It would simply make any penalty proportional to the period of unlicensed performance."

A coalition of trade associations write, "For construction contractors, SB 342 promotes fairness, predictability, and stability in project delivery, while maintaining strong incentives to remain properly licensed at all times."
The Construction Employers' Association writes, "SB 342 provides that a contractor may recover payments for work performed while a contractor was licensed, while continuing to bar compensation for any period of unlicensed activity."

Prepared by: Yeaphana La Marr / B., P. & E.D. /
1/23/26 15:39:11

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