Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 342
Author: Umberg (D), et al.
Amended: 8/26/26
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

SENATE FLOOR: 39-0, 1/26/26
AYES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
NO VOTE RECORDED: Gonzalez

ASSEMBLY FLOOR: Passed, 8/30/26

SUBJECT: Contractors: unlicensed work

SOURCE: California Conference of Carpenters

DIGEST: This bill permits a contractor to bring action against a party for compensation for work conducted while the contractor's license was not valid on contracts that are public works, commercial construction projects, institutional construction projects, construction of a common interest developments, and construction of multifamily residential projects consisting of four or more units, as long as the license was valid at the time the contract was executed. This bill also restricts consumers from bringing action against an unlicensed contractor in these cases during portions of the project to only during periods when the contractor's license was not valid.

Assembly Amendments reinstates the authority for unlicensed contractors to sue for compensation on most contract types, not just public works and limit consumers' ability to bring action against an unlicensed contractor to only the period when the contractor's license was not valid.

ANALYSIS:

Existing law:

1) Establishes the Contractors State License Board (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 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 and subjects the unlicensed person to punishment as follows:

    a) A fine not exceeding $5,000, imprisonment in a county jail not exceeding six months, or both for a first offense;

    b) A fine of 20 percent of the contract price, 20 percent of the aggregate payments made to the unlicensed person, or five thousand dollars ($5,000), whichever is greater, and confinement of not less than 90 days in jail for a second offense; or

    c) A fine of not less than five thousand dollars ($5,000) nor more than the greater amount of ten thousand dollars ($10,000) or 20 percent of the contract price, or 20 percent of the aggregate payments made to, or at the direction of, the unlicensed person, and by imprisonment in a county jail for not more than one year or less than 90 days for a third or subsequent conviction. (BPC § 7028(a))

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) Authorizes CSLB to issue a joint venture license to any combination of individuals, corporations, limited liability companies, partnerships, or other joint ventures, each of which holds a current, active license in good standing; automatically suspends an active joint venture license by operation of law during any period in which any member of the entity does not hold a current, active license in good standing. (BPC § 7029)

5) 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))

6) 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))

7) 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 (1) had been duly licensed as a contractor in this state prior to the performance of the act or contract, (2) acted reasonably and in good faith to maintain proper licensure, and (3) acted promptly and in good faith to remedy the failure to comply with the licensure requirements upon learning of the failure. (BPC § 7031(e))

8) 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)

9) 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)

10) 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))

11) 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) 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 and meets one of the following criteria:

   a) The contractor is party to a joint venture, but the joint venture license is suspended pursuant to 4) above;

   b) The contract is for a public work of improvement;

   c) The contract is for a commercial construction project;

   d) The contract is for a commercial construction project;

   e) The contract is for an institutional construction project;

   f) The contract is for the construction of a common interest development, as defined in Section 4100 of the Civil Code; or

   g) The contract is for the construction of a multifamily residential project consisting of four or more units if a tenant or resident is not a party to the contract.

2) 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 242,000 active licensees in 44 licensing classifications, issues two certifications, and registers approximately 30,000 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 of each of the 242,000 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. Instead, AB 1793 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 § 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.

Unlicensed activity is a crime. BPC § 7028(a) specifies that working as a contractor while unlicensed is a misdemeanor, punishable by a fine of up to $5,000, up to six months in jail, or both for a first conviction. However, this bill would not only allow, but may encourage, contractors to continue working while unlicensed because this bill would allow the contractors to be compensated for work performed while committing misdemeanor violations of the law.

Bill would compromise consumer protection. This bill permits a contractor who has had their license suspended or revoked to complete all existing contracts and sue their consumers who, consequently, could be bound to the remainder of the contract with an unlicensed contractor under the threat of legal action. The reason for the discipline is irrelevant – it could be due to a pattern of shoddy work, fraud, theft, or a substantially related arrest that puts the consumer in danger – the contractor can still bring action for compensation, even though the contractor was responsible for maintaining the license and should be aware they are to stop work when their license is not renewed, suspended, or revoked.

This bill restricts consumers to only bringing action to recover money paid to the contractor only during periods when the contractor is unlicensed. It is unreasonable for anyone doing business with a contractor to prove which days the contractor was unlicensed, what work was performed on those days, and the value of the work performed those days, when it was the contractor who violated the law. This bill will 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 impedes 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.

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." This is not true, as 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 bill would only be applicable when a contractor is non-compliant with license laws for more than three months. Since the stated purpose for this 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.

This bill could increase enforcement workload and/or complexity of complaints. Because this bill makes 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 was amended in the Assembly to apply the unlicensed contractors' ability to bring action only to only public works. The amendments reduced CSLB's fiscal to minor and absorbable. Once this bill passed the Committee on Appropriations, this bill was amended to its current form, which should be reassessed by CSLB.

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 encourages 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 Assembly Committee on Appropriations, CSLB estimates minor and absorbable costs. The committee reviewed a prior version of this bill which substantially narrowed the bill to contracts for public works, which is no longer the case. The bill will also result in cost pressures of an unknown amount, but potentially greater than $150,0000 annually, to the courts to adjudicate any additional filings by contractors to collect compensation for work performed on projects of public works. Actual costs will depend on the number of cases filed and the amount of court time needed to resolve each case.

SUPPORT: (Verified 8/27/26)

California Conference of Carpenters (source)

OPPOSITION: (Verified 8/27/26)

Association of California School Administrators
California Coalition for Adequate School Housing
California Special Districts Association

California State Association of Counties
League of California Cities
Los Angeles Unified School District
San Bernardino County Transportation Authority

ARGUMENTS IN OPPOSITION: The Association of California School Administrators, California's Coalition for Adequate School Housing, California State Association of Counties, California Special Districts Association, League of California Cities, and Los Angeles Unified School District write, "SB 342 would allow unlicensed contractors to recover compensation for work that actually leads to the revocation of their licenses. SB 342 would allow contractors whose licenses are revoked by the Contractors State License Board, for such violations as project abandonment, failing to pay workers or suppliers, committing financial fraud, or failing to maintain required workers' compensation insurance or surety bonds, to be compensated for work prior to the revocation, despite this conduct serving as the basis for revocation. California should not allow contractors whose licenses are subsequently revoked to be compensated for their violations of the licensing laws."

The San Bernardino Transportation Authority writes, "Existing law already provides a pathway for contractors to demonstrate substantial compliance when a lapse is inadvertent and promptly corrected. SB 342 goes beyond addressing these limited circumstances by weakening the broader enforcement framework designed to deter unlicensed activity. For major, multi-year infrastructure projects, this could require extensive review of project schedules, invoices, billing periods, change orders, and overlapping phases of construction – imposing additional administrative, audit, and legal costs on public agencies because of a contractor's failure to maintain its required license."

Prepared by: Yeaphana La Marr / B., P. & E.D. /
8/30/26 15:20:37

****** END ******