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SB-610 Contractors: licensing and regulation. (2019-2020)

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Date Published: 09/30/2019 09:00 PM

Senate Bill No. 610

CHAPTER 378

An act to amend Sections 7000.5, 7006, 7011, 7018, 7040, 7071.6, 7071.17, 7124.6, 7137, and 7169 of the Business and Professions Code, relating to contractors.

[Approved by Governor September 27, 2019. Filed with Secretary of State September 27, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 610, Glazer. Contractors: licensing and regulation.

The Contractors' State License Law provides for the licensure and regulation of contractors by the Contractors' State License Board (board), which is within the Department of Consumer Affairs.

(1) Under existing law, the board is responsible for the licensure and regulation of contractors and the board is required to appoint a registrar of contractors. Existing law repeals these provisions establishing the board and requiring it to appoint a registrar on January 1, 2020.

This bill would extend the operation of these provisions to January 1, 2024.

Existing law requires the board to meet once each calendar quarter for the purpose of transacting business that comes before it. Existing law requires the board to appoint a registrar and requires the registrar, as specified, to publish a list of the names and addresses of contractors registered under that law, including a license check search function that would permit consumers to search for a licensed contractor by either ZIP Code or geographic location. Existing law requires an applicant or licensee to file or have on file a contractor's bond in the sum of \$15,000.

This bill would require the board to maintain the contractor search function on the board's internet website. The bill would require the board to conduct a study and report to the Legislature regarding whether the current amount of the contractors' bond requirement is sufficient. The bill would also require the board to make every effort to provide a webcast of all regularly scheduled quarterly meetings of the board, as specified.

(2) Existing law provides that authorized representatives of the United States government, the State of California, and other specified agencies and entities are exempt from the provisions of the Contractors' State License Law, except as specified.

This bill would make a nonsubstantive change to these provisions.

(3) Existing law requires the registrar to make available to members of the public the date, nature, and status of all complaints on file against a licensee that meet specific qualifications. Under existing law, complaints resolved in favor of the contractor are not subject to disclosure. For legal actions against a licensee that require disclosure, existing law requires the disclosure to also appear on the license of record identified as a qualifier who is listed in the members of the personnel of record of the licensee issued the citation.

This bill would make clarifying changes to these provisions relating to legal actions that require disclosure of disciplinary action against a licensee.

(3) Existing law authorizes the board to set fees by regulation, according to a prescribed schedule, including an authorization to charge C-10 and C-7 contractors a fee, not to exceed \$20, to be used by the board to enforce provisions of the Labor Code relating to electrician certification.

This bill would instead require the board to only charge C-10 contractors a \$20 fee, which would be assessed with the renewal fee for an active license, for that purpose.

(4) Existing law requires, as a condition precedent to the board accepting an application for licensure, renewal, reinstatement, or to change officers or other personnel of record, that an applicant, previously found to have failed or refused to pay a contractor, subcontractor, consumer, materials supplier, or employee based on an unsatisfied final judgment, file or have on file with the board a bond sufficient to guarantee payment of an amount equal to the unsatisfied final judgment or judgments. Under existing law, if a judgment is entered against a licensee, then a qualifying person or personnel of record is prohibited from serving as a qualifying individual or other personnel of record on any license until the judgment is satisfied.

This bill would extend that prohibition to when a judgment is entered against any personnel of record.

(5) Existing law requires the board to receive and review complaints and consumer questions, and complaints received from state agencies, regarding solar energy systems companies and solar contractors. Existing law requires the board to annually compile a report documenting complaints it received relating to solar contractors that it shall make available publicly on the board's and the Public Utilities Commission's internet websites.

This bill would make nonsubstantive changes to these provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7000.5 of the Business and Professions Code is amended to read:

7000.5. (a) There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 15 members.

(b) Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

(c) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 2. Section 7006 of the Business and Professions Code is amended to read:

7006. The board shall meet at least once each calendar quarter for the purpose of transacting business as may properly come before it. The board shall make every effort to make all regularly scheduled quarterly meetings of the board available as a webcast when the appropriate resources are available.

Special meetings of the board may be held at times as the board may provide in its bylaws. Four members of the board may call a special meeting at any time.

SEC. 3. Section 7011 of the Business and Professions Code is amended to read:

7011. (a) The board, by and with the approval of the director, shall appoint a registrar of contractors and fix the registrar's compensation.

(b) The registrar shall be the executive officer and secretary of the board and shall carry out all of the administrative duties as provided in this chapter and as delegated to the registrar by the board.

(c) For the purpose of administration of this chapter, there may be appointed a deputy registrar, a chief reviewing and hearing officer, and, subject to Section 159.5, other assistants and subordinates as may be necessary.

(d) Appointments shall be made in accordance with the provisions of civil service laws.

(e) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 7018 of the Business and Professions Code is amended to read:

7018. The board shall maintain the current contractor license check search function on their internet website that permits consumers to search for a licensed contractor by either ZIP Code or geographic location.

SEC. 5. Section 7040 of the Business and Professions Code is amended to read:

7040. (a) This chapter does not apply to an authorized representative of the United States government, the State of California, or any incorporated town, city, county, irrigation district, reclamation district or other municipal or political corporation or subdivision of this state when the entity or its representative is acting within the scope of the entity's or representative's official capacity.

(b) Nothing in this section authorizes the entity or its authorized representative thereof either to enter into or authorize a contract with an unlicensed contractor for work that is required by this chapter to be performed by a licensed contractor.

SEC. 6. Section 7071.6 of the Business and Professions Code is amended to read:

7071.6. (a) The board 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).

(b) Excluding the claims brought by the beneficiaries specified in subdivision (a) of Section 7071.5, the aggregate liability of a surety on claims brought against a bond required by this section shall not exceed the sum of seven thousand five hundred dollars (\$7,500). The bond proceeds in excess of seven thousand five hundred dollars (\$7,500) shall be reserved exclusively for the claims of the beneficiaries specified in subdivision (a) of Section 7071.5. However, nothing in this section shall be construed so as to prevent any beneficiary specified in subdivision (a) of Section 7071.5 from claiming or recovering the full measure of the bond required by this section.

(c) No bond shall be required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) Notwithstanding any other law, as a condition precedent to licensure, the board may require an applicant to post a contractor's bond in twice the amount required pursuant to subdivision (a) until the time that the license is renewed, under the following conditions:

(1) The applicant has either been convicted of a violation of Section 7028 or has been cited pursuant to Section 7028.7.

(2) If the applicant has been cited pursuant to Section 7028.7, the citation has been reduced to a final order of the registrar.

(3) The violation of Section 7028, or the basis for the citation issued pursuant to Section 7028.7, constituted a substantial injury to the public.

(e) (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.

SEC. 7. Section 7071.17 of the Business and Professions Code is amended to read:

7071.17. (a) Notwithstanding any other provision of law, the board shall require, as a condition precedent to accepting an application for licensure, renewal, reinstatement, or to change officers or other personnel of record, that an applicant, previously found to have failed or refused to pay a contractor, subcontractor, consumer, materials supplier, or employee based on an unsatisfied final judgment, file or have on file with the board a bond sufficient to guarantee payment of an amount equal to the unsatisfied final judgment or judgments. The applicant shall have 90 days from the date of notification by the board to file the bond or the application shall become void and the applicant shall reapply for issuance, reinstatement, or reactivation of a license. The board may not issue, reinstate, or reactivate a license until the bond is filed with the board. The bond required by this section is in addition to the contractor's bond. The bond shall be on file for a minimum of one year, after which the bond may be removed by submitting proof of satisfaction of all debts. The applicant may provide the board with a notarized copy of any accord, reached with any individual holding an unsatisfied final judgment, to satisfy a debt in lieu of filing the bond. The board shall include on the license application for issuance, reinstatement, or reactivation, a statement, to be made under penalty of perjury, as to whether there are any unsatisfied judgments against the applicant on behalf of contractors, subcontractors, consumers, materials suppliers, or the applicant's employees. Notwithstanding any other provision of law, if it is found that the applicant falsified the statement then the license will be retroactively suspended to the date of issuance and the license will stay suspended until the bond, satisfaction of judgment, or notarized copy of any accord applicable under this section is filed.

(b) (1) Notwithstanding any other provision of law, all licensees shall notify the registrar in writing of any unsatisfied final judgment imposed on the licensee. If the licensee fails to notify the registrar in writing within 90 days, the license shall be automatically suspended on the date that the registrar is informed, or is made aware of the unsatisfied final judgment.

(2) The suspension shall not be removed until proof of satisfaction of the judgment, or in lieu thereof, a notarized copy of an accord is submitted to the registrar.

(3) If the licensee notifies the registrar in writing within 90 days of the imposition of any unsatisfied final judgment, the licensee shall, as a condition to the continual maintenance of the license, file or have on file with the board a bond sufficient to guarantee payment of an amount equal to all unsatisfied judgments applicable under this section.

(4) The licensee has 90 days from date of notification by the board to file the bond or at the end of the 90 days the license shall be automatically suspended. In lieu of filing the bond required by this section, the licensee may provide the board with a notarized copy of any accord reached with any individual holding an unsatisfied final judgment.

(c) By operation of law, failure to maintain the bond or failure to abide by the accord shall result in the automatic suspension of any license to which this section applies.

(d) A license that is suspended for failure to comply with the provisions of this section can only be reinstated when proof of satisfaction of all debts is made, or when a notarized copy of an accord has been filed as set forth under this section.

(e) This section applies only with respect to an unsatisfied final judgment that is substantially related to the construction activities of a licensee licensed under this chapter, or to the qualifications, functions, or duties of the license.

(f) Except as otherwise provided, this section shall not apply to an applicant or licensee when the financial obligation covered by this section has been discharged in a bankruptcy proceeding.

(g) Except as otherwise provided, the bond shall remain in full force in the amount posted until the entire debt is satisfied. If, at the time of renewal, the licensee submits proof of partial satisfaction of the financial obligations covered by this section, the board may authorize the bond to be reduced to the amount of the unsatisfied portion of the outstanding judgment. When the licensee submits proof of satisfaction of all debts, the bond requirement may be removed.

(h) The board shall take the actions required by this section upon notification by any party having knowledge of the outstanding judgment upon a showing of proof of the judgment.

(i) For the purposes of this section, the term "judgment" also includes any final arbitration award where the time to file a petition for a trial de novo or a petition to vacate or correct the arbitration award has expired, and no petition is pending.

(j) (1) If a judgment is entered against a licensee or any personnel of record of a licensee, then a qualifying person or personnel of record of the licensee at the time of the activities on which the judgment is based shall be automatically prohibited from serving as a qualifying individual or other personnel of record on any license until the judgment is satisfied.

(2) The prohibition described in paragraph (1) shall cause the license of any other existing renewable licensed entity with any of the same personnel of record as the judgment debtor licensee or with any of the same judgment debtor personnel to be suspended until the license of the judgment debtor is reinstated, the judgment is satisfied, or until those same personnel of record disassociate themselves from the renewable licensed entity.

(k) For purposes of this section, lawful money or cashier's check deposited pursuant to paragraph (1) of subdivision (a) of Section 995.710 of the Code of Civil Procedure, may be submitted in lieu of the bond.

(l) Notwithstanding subdivision (f), the failure of a licensee to notify the registrar of an unsatisfied final judgment in accordance with this section is cause for disciplinary action.

SEC. 8. Section 7124.6 of the Business and Professions Code is amended to read:

7124.6. (a) The registrar shall make available to members of the public the date, nature, and status of all complaints on file against a licensee that do either of the following:

(1) Have been referred for accusation.

(2) Have been referred for investigation after a determination by board enforcement staff that a probable violation has occurred, and have been reviewed by a supervisor, and regard allegations that if proven would present a risk of harm to the public and would be appropriate for suspension or revocation of the contractor's license or criminal prosecution.

(b) The board shall create a disclaimer that shall accompany the disclosure of a complaint that shall state that the complaint is an allegation. The disclaimer may also contain any other information the board determines would be relevant to a person evaluating

the complaint.

(c) (1) A complaint resolved in favor of the contractor shall not be subject to disclosure.

(2) A complaint resolved by issuance of a letter of admonishment pursuant to Section 7099.2 shall not be deemed resolved in favor of the contractor for the purposes of this section. A letter of admonishment issued to a licensee shall be disclosed for a period of one year from the date described in paragraph (2) of subdivision (c) of Section 7099.2.

(d) Except as described in subdivision (e), the registrar shall make available to members of the public the date, nature, and disposition of all legal actions.

(e) Disclosure of legal actions shall be limited as follows:

(1) (A) Citations shall be disclosed from the date of issuance and for five years after the date of compliance if no additional disciplinary actions have been filed against the licensee during the five-year period. If additional disciplinary actions were filed against the licensee during the five-year period, all disciplinary actions shall be disclosed for as long as the most recent disciplinary action is subject to disclosure under this section. At the end of the specified time period, those citations shall no longer be disclosed.

(B) Any disclosure pursuant to this paragraph shall also appear on the license record of any other license that includes a qualifier that is listed as one of the members of personnel of record of the license that was issued the citation.

(C) The disclosure described in subparagraph (B) shall be for the period of disclosure of the citation.

(2) Accusations that result in suspension, stayed suspension, or stayed revocation of the contractor's license shall be disclosed from the date the accusation is filed and for seven years after the accusation has been settled, including the terms and conditions of probation if no additional disciplinary actions have been filed against the licensee during the seven-year period. If additional disciplinary actions were filed against the licensee during the seven-year period, all disciplinary actions shall be posted for as long as the most recent disciplinary action is subject to disclosure under this section. At the end of the specified time period, those accusations shall no longer be disclosed.

(3) All revocations that are not stayed shall be disclosed indefinitely from the effective date of the revocation.

SEC. 9. Section 7137 of the Business and Professions Code is amended to read:

7137. The board may set fees by regulation. These fees shall be set according to the following schedule:

(a) (1) The application fee for an original license in a single classification shall be three hundred thirty dollars (\$330) and may be increased to not more than three hundred seventy-five dollars (\$375).

(2) The application fee for each additional classification applied for in connection with an original license shall not be more than eighty-five dollars (\$85).

(3) The application fee for each additional classification pursuant to Section 7059 shall be one hundred fifty dollars (\$150) and may be increased to not more than one hundred seventy-five dollars (\$175).

(4) The application fee to replace a responsible managing officer, responsible managing manager, responsible managing member, or responsible managing employee pursuant to Section 7068.2 shall be one hundred fifty dollars (\$150) and may be increased to not more than one hundred seventy-five dollars (\$175).

(5) The application fee to add personnel, other than a qualifying individual, to an existing license shall be one hundred dollars (\$100) and may be increased to not more than one hundred fifteen dollars (\$115).

(b) The fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, a change of responsible managing officer, responsible managing manager, responsible managing member, or responsible managing employee, or for an asbestos certification or hazardous substance removal certification, shall not be more than seventy dollars (\$70).

(c) The fee for scheduling or rescheduling an examination for a licensee who is required to take the examination as a condition of probation shall not be more than seventy dollars (\$70).

(d) The initial license fee for an active or inactive license shall be two hundred dollars (\$200) and may be increased to not more than two hundred twenty-five dollars (\$225).

(e) (1) The renewal fee for an active license shall be four hundred dollars (\$400) and may be increased to not more than four hundred fifty dollars (\$450).

(2) The renewal fee for an inactive license shall be two hundred dollars (\$200) and may be increased to not more than two hundred twenty-five dollars (\$225).

(f) The delinquency fee is an amount equal to 50 percent of the renewal fee, if the license is renewed after its expiration.

(g) The registration fee for a home improvement salesperson shall be eighty-three dollars (\$83) and may be increased to not more than ninety-five dollars (\$95).

(h) The renewal fee for a home improvement salesperson registration shall be eighty-three dollars (\$83) and may be increased to not more than ninety-five dollars (\$95).

(i) The application fee for an asbestos certification examination shall be eighty-three dollars (\$83) and may be increased to not more than ninety-five dollars (\$95).

(j) The application fee for a hazardous substance removal or remedial action certification examination shall be eighty-three dollars (\$83) and may be increased to not more than ninety-five dollars (\$95).

(k) In addition to any other fees charged to C-10 contractors, the board shall charge a fee of twenty dollars (\$20), to be assessed with the renewal fee for an active license, which shall be used by the board to enforce provisions of the Labor Code related to electrician certification.

(l) The service fee to deposit with the registrar lawful money or cashier's check pursuant to paragraph (1) of subdivision (a) of Section 995.710 of the Code of Civil Procedure for purposes of compliance with any provision of Article 5 (commencing with Section 7065) shall be one hundred dollars (\$100), which shall be used by the board only to process each deposit filed with the registrar, to cover the reasonable costs to the registrar for holding money or cashier's checks in trust in interest bearing deposit or share accounts, and to offset the costs of processing payment of lawful claims against a deposit in a civil action.

(m) The service fee collected under subdivision (l) shall be placed in the Contractors' Deposit Fund, which is hereby created in the State Treasury, and shall, upon appropriation by the Legislature, be available only for the regulatory purposes contained in subdivision (l).

(n) The board shall, by regulation, establish criteria for the approval of expedited processing of applications. Approved expedited processing of applications for licensure or registration, as required by other provisions of law, shall not be subject to this subdivision.

(o) This section shall become operative on July 1, 2017.

SEC. 10. Section 7169 of the Business and Professions Code is amended to read:

7169. (a) The board, in collaboration with the Public Utilities Commission, shall develop and make available a "solar energy system disclosure document" or documents that provide a consumer, at a minimum, accurate, clear, and concise information regarding the installation of a solar energy system, total costs of installation, anticipated savings, the assumptions and inputs used to estimate the savings, and the implications of various financing options.

(b) On or before July 1, 2018, the board, in collaboration with the Public Utilities Commission, shall develop, and make available on its internet website the disclosure document described in subdivision (a) that a solar energy system company shall provide to a consumer prior to completion of a sale, financing, or lease of a solar energy system. The "solar energy system disclosure document" shall be printed on the front page or cover page of every solar energy contract. The "solar energy system disclosure document" shall be printed in boldface 16-point type and include the following types of primary information:

(1) The total cost and payments for the system, including financing costs.

(2) Information on how and to whom customers may provide complaints.

(3) The consumer's right to a cooling off period of three days pursuant to Section 7159 of the Business and Professions Code.

(c) At the board's discretion, other types of supporting information the board and the commission deem appropriate or useful in furthering the directive described in subdivision (a) may be included in the solar energy disclosure document following the front page or cover page, including, but not limited to:

(1) The amounts and sources of financing obtained.

(2) The calculations used by the home improvement salesperson to determine how many panels the homeowner needs to install.

(3) The calculations used by the home improvement salesperson to determine how much energy the panels will generate.

(4) Any additional monthly fees the homeowner's electric company may bill, any turn-on charges, and any fees added for the use of an internet monitoring system of the panels or inverters.

(5) The terms and conditions of any guaranteed rebate.

(6) The final contract price, without the inclusion of possible rebates.

(7) The solar energy system company's contractor's license number.

(8) The impacts of solar energy system installations not performed to code.

(9) Types of solar energy system malfunctions.

(10) Information about the difference between a solar energy system lease and a solar energy system purchase.

(11) The impacts that the financing options, lease agreement terms, or contract terms will have on the sale of the consumer's home, including any balloon payments or solar energy system relocation that may be required if the contract is not assigned to the new owner of the home.

(12) A calculator that calculates performance of solar projects to provide solar customers the solar power system's projected output, which may include an expected performance-based buydown calculator.

(d) A contract for sale, financing, or lease of a solar energy system and the solar energy system disclosure document shall be written in the same language as was principally used in the oral sales presentation made to the consumer or the print or digital marketing material given to the consumer.

(e) For solar energy systems utilizing Property Assessed Clean Energy (PACE) financing, the Financing Estimate and Disclosure form required by subdivision (b) of Section 5898.17 of the Streets and Highways Code shall satisfy the requirements of this section with respect to the financing contract only, but not, however, with respect to the underlying contract for installation of the solar energy system.

(f) The board shall post the PACE Financing Estimate and Disclosure form required by subdivision (b) of Section 5898.17 of the Streets and Highways Code on its internet website.

(g) For purposes of this section, "solar energy system" means a solar energy device to be installed on a residential building that has the primary purpose of providing for the collection and distribution of solar energy for the generation of electricity, that produces at least one kW, and not more than five MW, alternating current rated peak electricity, and that meets or exceeds the eligibility criteria established pursuant to Section 25782 of the Public Resources Code.

(h) This section does not apply to a solar energy system that is installed as a standard feature on new construction.