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## **IMPORTANT STEPS TO ENSURE YOUR CONTRACTOR'S LICENSE IS NOT SUSPENDED**

Recent legislation requires you take action to ensure that your status as a licensed contractor remains in good standing.

There can be significant impacts if your license is suspended. For example, even if the suspension was for a very short period of time, you can be required to disgorge all amounts paid to you in connection with contracts you were performing when the suspension occurred, including amounts you earned when your license was not suspended. Bus. & Prof. Code § 7031(b). You also can be barred from filing a lawsuit, recording a mechanic's lien, serving a stop payment notice, or making a bond claim if your license was suspended while you were performing a contract.<sup>[1]</sup> Bus. & Prof. Code § 7031(a).

The following are three steps to take to protect your license:

**1. Make Sure That You Have A License Bond For The Full Amount Required By Law.**

Effective January 1, 2023, the Legislature has increased the face amount of license bonds from \$15,000 to \$25,000. Bus. & Prof. Code §§ 7071.6. Limited liability companies must continue to provide a bond for \$100,000. Bus. & Prof. Code § 7071.6.5.

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<sup>[1]</sup> There is a limited exception these penalties if the 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.” Bus. & Prof. Code § 7031(f).

We recommend that you contact your bond broker or license bond company to make sure that they will be providing a bond in the higher amount prior to December 31, 2022.

**2. Confirm You Have A Certificate Of Workers' Compensation Insurance On File With The Contractors State License Board.**

Effective January 1, 2023, a contractor must have a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance on file with the license board if it has a license in one of the following license classifications: C-8 (Concrete), C-20 (Warm-Air Heating, Ventilating and Air-Conditioning), C-22 (Asbestos Abatement), and D-49 (Tree Service) starting January 1, 2023. The workers' compensation insurance requirement applies regardless of whether the contractor in question has employees. Bus. & Prof. Code § 7125 (b)(2).

Beginning January 2, 2026, all licensed contractors must have a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance on file regardless of whether they have employees. Bus. & Prof. Code § 7125

A contractor's license for the license category for which workers compensation insurance is required is automatically suspended if the contractor fails to file a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance with the license board. Bus. & Prof. Code § 7125 (g)(2).

**3. Draft An Employment Duty Statement For The Qualifying Individual For Your Company.**

California law now requires that a contractor prepare an "employment duty statement" for the qualifying individual for its license. Bus. & Prof. Code § 7068.1.

The licensing laws require each contractor to have a "qualifying" individual who is either an "employee" or a qualifying owner (in the case of a sole proprietorship), partner, officer (for a corporation), or member or manager (for a limited liability company). Bus. & Prof. Code § 7068. The qualifying individual is "responsible for exercising supervision and control of their employer's or principal's construction operations to secure compliance with" licensing laws and regulations. Bus. & Prof. Code § 7068.1. A qualifying individual who is an employee must be "permanently employed" by the contractor and "working 32 hours per week, or 80 percent of the total hours per week that" the contractor is in operation, whichever is less. Bus. & Prof. Code § 7068(c)(1).

Business & Professions Code section 7068.1(d) requires

... every applicant or licensee qualifying by the appearance of a qualifying individual to submit detailed information on the qualifying individual's duties and responsibilities for supervision and control of the applicant's construction operations, including, but not limited to, an employment duty statement prepared by the qualifier's employer or principal. Failure of an applicant or licensee to provide information required by this subdivision constitutes a violation of this section.

Violation of this requirement “shall constitute a cause for disciplinary action” and may be punishable as a misdemeanor. Aggressive attorneys who represent parties adverse to your company may also try to argue that not having a written duty statement is evidence that the qualifying individual was not “exercising supervision and control” and that the license for which an individual is a qualifier should be deemed to be suspended.

The Contractors State License Board (CSLB) has not adopted regulations or provided guidance concerning employment duty statements. According to one licensing consultant, the CSLB appears to be requesting a copy of the employment duty statement only if it is having difficulty determining whether a license applicant has satisfied the criteria for issuance of a license.

Given the lack of guidance from the CSLB, we recommend that any duty statement mirror the statutory language of Business & Professions Code section 7068.1 by indicating that the qualifying individual is responsible for exercising supervision and control of construction operations; the statement also should provide examples of the duties and activities to be performed by the qualifying individual. The examples should be described as illustrative but not exclusive.

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