

STATE OF CALIFORNIA – DEPARTMENT OF CONSUMER AFFAIRS
CONTRACTORS STATE LICENSE BOARD
INITIAL STATEMENT OF REASONS

Hearing Date: April 28, 2020

Subject Matter of Proposed Regulations: Renewal Application Form

Sections Affected: Title 16, Division 8, California Code of Regulations Section 853

A. Specific Purpose of Each Adoption, Amendment, or Repeal

The Contractors State License Board’s (CSLB) mission is to protect consumers by regulating the construction industry through policies that promote the health, safety, and general welfare of the public in matters relating to construction. CSLB licenses more than 283,000 contractors in 44 different license classifications. Licenses are issued to individuals, partnerships, corporations, limited liability companies, and joint ventures.

Pursuant to Business and Professions Code section 7000.6, protection of the public is CSLB’s highest priority in exercising its licensing, regulatory, and disciplinary functions. The primary methods by which CSLB achieves its consumer protection goals are: examining applicants and issuing licenses to qualified applicants; administering examinations; investigating complaints against licensed and unlicensed contractors; issuing citations and suspending or revoking licenses; seeking administrative, criminal, and civil sanctions against violators of the Contractors’ State License Law; providing consumer education and outreach; and establishing mandatory consumer disclosure requirements for contractors. The proposed amendments are necessary to carry out CSLB’s mission and the legislative mandates expressed in the applicable statutes.

Business and Professions Code section 7008 authorizes CSLB to adopt rules and regulations in accordance with the Administrative Procedure Act that are reasonably necessary to carry out the provisions of the Contractors’ State License Law.

The problem being addressed, specific purpose, anticipated benefits, factual basis, and rationale of each proposed regulatory action are discussed below.

§ 853. Renewal Application Form

Problem Being Addressed / Specific Purpose

Business and Professions Code section 7137 establishes the various fees to be collected by CSLB, including the license renewal and delinquency fees. Section 7140 sets forth provisions for the timely biennial renewal of an unexpired contractor’s license and states that to renew a license, the licensee “shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the registrar and pay the renewal fee prescribed by this chapter.” Section 7141 relates to the

delinquent renewal of an expired contractor's license and provides that a delinquency fee is due "if the license is renewed after the expiration date...."

The existing language of Title 16, Division 8, California Code of Regulations (T16CCR) section 853 mandates that the Registrar of Contractors mails a renewal application form with instructions to each licensee prior to the license expiration. It also addresses submission requirements for the renewal of a contractor's license, including the processing of incomplete renewal applications and when a renewal application is considered delinquent. However, the regulation is not clear regarding the payment of fees nor the deadlines or delivery methods for renewal submissions. Historically, this has caused confusion for some licensees about renewal payment deadlines, which has resulted in some inadvertent delinquent submissions.

Amendments to Subsection (b):

While the existing regulation provides that a renewal application is delinquent if not "postmarked" by the expiration date of the license, it does not specifically indicate that the license renewal fee must accompany the renewal application. In addition, the existing regulation fails to discuss other possible submission methods (e.g., hand delivery to CSLB headquarters) or due date timelines. This proposal would amend subsection (b) by:

- Adding criteria that a renewal includes both a complete renewal application and the applicable fee that must be mailed or hand delivered to CSLB headquarters on or before the license expiration date to be a timely submission, and
- Adding a provision that failure to comply with these requirements shall result in the renewal application being deemed delinquent.

Amendments to Subsection (c):

The existing regulation discusses when corrections to an incomplete renewal application must be submitted to be considered a timely renewal, but it does not mention methods of submission (mail or hand delivery) and the fact that the corrected documentation can be submitted *on* the expiration date in addition to *before* the expiration date. This proposal would amend subsection (c) by:

- Making the change to indicate that a timely license renewal occurs with the submission of a completed license renewal (application and fee) postmarked or hand delivered to CSLB's headquarters "on or before" the license expiration date, and
- Adding a provision that failure to comply with these requirements shall result in the expiration of the license as set forth in Business and Professions Code section 7140.

The regulation is proposed to be amended to reword and clarify provisions relating to timely and delinquent license renewals and their related submission deadlines consistent with Business and Professions Code sections 7137, 7140, and 7141. In addition, since these proposed changes would interpret statutory provisions related to

expiration and renewal of licenses and their related fees, the Reference Note at the end of the section is proposed to be amended to add Sections 7137 and 7141.

Anticipated Benefits from This Regulatory Action

The amendments to T16CCR section 853 are being proposed to clarify license renewal procedures and specify deadlines for renewing contractors' licenses consistent with Business and Professions Code sections 7137, 7140, and 7141.

These regulatory changes will benefit licensees by providing a better understanding of how and when they must submit their license renewal application and fee(s), as well as any license renewal application corrections that may be required to complete the renewal process. In addition, these changes will benefit the welfare of California residents who hire contractors by helping ensure that contractors remain compliant with statutory requirements to keep their licenses actively renewed.

Regulatory action is needed because without the regulatory language there could be confusion about license renewal procedures, both timely and delinquent, resulting in more licensees becoming unlicensed due to noncompliance with renewal requirements.

Factual Basis / Rationale

Under existing law, all licensees are required to pay the license renewal fee set forth in Business and Professions Code section 7137 to renew their license. Pursuant to Section 7140, a timely renewal must be applied for "before the time at which the license would otherwise expire." Contractors' licenses expire on the last day of the month in which the license was issued. Active contractors' licenses must be renewed every two (2) years, inactive licenses every four (4) years. Except as noted below, if the license is renewed after its expiration date, the license holder must also pay the delinquency fee identified in Section 7137.

Business and Professions Code section 7141 establishes a 30-day grace period on the payment of the delinquency fee if a renewal application was submitted timely ("on or before the license expiration date") but requires some correction(s). CSLB mails the deficient renewal application back to the licensee, who has 30 days after the license expiration date in which to submit the correction(s) and not have to pay the delinquency fee. However, in such cases, the license expiration date remains the same. If the expiration date has passed, the license record reflects an expired status until the renewal is completed successfully.

Based on the foregoing statutory interpretation, a complete contractor's license renewal must contain both the completed renewal application form and the renewal fee and must be submitted on or before the license expiration date to be a timely renewal. Existing language in T16CCR section 853 requires CSLB to mail a renewal form to licensees prior to their license expiration date and indicates that a renewal application is delinquent if not "postmarked by the expiration date." However, the current regulation is silent as to the acceptability of other possible delivery methods of the renewal application by the licensee (i.e., hand delivering) and does not clarify that submission of

the license renewal “by” the expiration date includes “on or before” the expiration date of the license.

The proposed regulatory changes to T16CCR section 853 are being sought to help ensure compliance with the requirements of Business and Professions Code section 7140 for submitting a completed application and renewal fee and to clarify the renewal process and deadlines for contractor licensees.

The specific rationale for each amendment is described below.

This regulatory proposal would amend subsection (b) for the following reasons:

- To remove ambiguities about how and when a renewal application needs to be submitted to prevent it from being considered delinquent by CSLB. Currently, the regulation is silent about whether a renewal fee needs to be submitted on or before the renewal date of the license and whether hand delivering the application would be acceptable. Changes to this subsection would clean up any uncertainties about the foregoing by revising and adding language to state that the renewal fee must also be submitted with the renewal application on or before the expiration date of the license and to formalize the acceptability of the existing option of hand delivering the renewal to CSLB’s headquarters office. For many years, CSLB has accepted the submission of renewals through the mail or in person. They must be postmarked or hand delivered to CSLB’s headquarters (because that is where all license renewals are processed) before the license expires, consistent with Business and Professions Code sections 7140 and 7141, to be deemed a timely (not delinquent) submission. However, the current regulation does not indicate that hand delivery to CSLB’s headquarters on or before the expiration date is an acceptable option for submission of a license renewal. This proposed change is necessary to align T16CCR section 853 with Business and Professions Code sections 7140 and 7141 and to avoid possible misunderstandings by licensees about what is required for a timely license renewal.
- To clarify the result of failing to comply with all of the renewal requirements set forth in subsection (b). For easier comprehension and to make more specific what would trigger a delinquency determination by CSLB, the words “is delinquent if not postmarked by” are being struck and a new sentence is being added. The new sentence would state that failure to comply with this subsection shall result in the renewal application being deemed delinquent. Since a renewal application may be delinquent if either the fee or submission of the application is not timely, this amendment would provide notice and clarity to licensees regarding what would make a renewal application delinquent.

This regulatory proposal would amend subsection (c) for the following reasons:

- To correct misunderstandings about what steps need to be taken to correct an incomplete renewal application, including requiring a completed application to be resubmitted on or before the expiration date of the license. The existing regulation is silent regarding whether a licensee is required to resubmit their renewal application after it is returned by the Registrar as incomplete and fails to describe all possible delivery methods. This proposal would revise and add language to clarify that corrections to a completed renewal application can be either mailed or hand delivered to CSLB headquarters on or before the license expiration date. Subsection (c) addresses the processing of an incomplete license renewal application, requiring the completed renewal application to be resubmitted “on or before” the license expiration date to keep the license from expiring. These changes are needed to avoid misunderstandings and inadvertent lapses in licensure that have occurred in the past due to licensees not fully understanding what is required to correct an incomplete renewal application in a timely manner.
- To clarify the result of failing to comply with the resubmission requirements in subsection (c). For ease of use and to make more specific how CSLB would determine when the license would be deemed expired, the words “If the renewal application is not returned, the license shall expire” are being replaced with “Failure to comply with this subsection shall result in the expiration of the license.” This change is required to help ensure that applicants meet all requirements for resubmitting and correcting an incomplete renewal application and to provide notice to applicants that failure to comply with this subsection’s requirements will result in expiration of the license.

The proposed changes would also revise the Reference Note with the addition of Business and Professions Code sections 7137 and 7141, respectively, since these regulatory proposals will be implementing or interpreting the required fees and delinquent license renewal requirements of those statutes in the Contractors’ State License Law.

B. Underlying Data

CSLB relied upon the following documents for this proposal:

- Excerpt from CSLB May 19, 2017 Legislative Committee Meeting Minutes (pages 16–18 of the June 15-16, 2017 Board Meeting packet)
- Excerpt from CSLB June 15-16, 2017 Board Meeting Minutes (pages 374 and 386-387 of the September 29, 2017 Board Meeting packet)

C. Business Impact

This proposed regulatory action will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

Pursuant to the proposed changes to T16CCR section 853, licensees may voluntarily decide to hand deliver their license renewal applications to CSLB headquarters in lieu of mailing them, which may result in a minor and absorbable cost to the licensee who chooses to drive in lieu of mailing the renewal application to CSLB. For example, if someone were to drive from San Diego to CSLB headquarters, it would be approximately 513 miles; and if they got 25 miles to the gallon and gasoline was \$3.90 per gallon, the final cost of the drive would be just about \$80. Since this would be a voluntary decision by the contractor, the individual contractor will have made their own calculation and decision that it is in their best interest to drive the renewal application to CSLB in lieu of mailing it. However, CSLB has been accepting both mailed and hand-delivered renewal applications for many years, and licensees may choose to continue to submit license renewal applications via the mail, which would result in no additional cost to licensees except postage (averaging \$0.50 to \$6.55 [priority mail]). Based on years of experience, CSLB anticipates that the vast majority of licensees will continue to mail their renewal applications.

D. Economic Impact Assessment

This regulatory proposal will have the following effects:

- Will not create or eliminate jobs within the State of California because the proposed amendments have only minor and absorbable cost impacts on licensees. Pursuant to the proposed changes to T16CCR section 853, licensees may voluntarily decide to hand deliver their license renewal applications to CSLB headquarters in lieu of mailing them, which may result in a minor and absorbable cost to the licensee who chooses to drive in lieu of mailing the renewal application to CSLB. For example, if someone were to drive from San Diego to CSLB headquarters, it would be approximately 513 miles; and if they got 25 miles to the gallon and gasoline was \$3.90 per gallon, the final cost of the drive would be just about \$80. Since this would be a voluntary decision by the contractor, the individual contractor will have made their own calculation and decision that it is in their best interest to drive the renewal application to CSLB in lieu of mailing it. However, CSLB has been accepting both mailed and hand-delivered renewal applications for many years, and licensees may choose to continue to submit license renewal applications via the mail, which would result in no additional cost to licensees except postage (averaging \$0.50 to \$6.55 [priority mail]). Based on years of experience, CSLB anticipates that the vast majority of licensees will continue to mail their renewal applications.
- Will not create new business or eliminate existing businesses within the State of California because the proposed amendments have only minor and absorbable cost impacts on licensees. Pursuant to the proposed changes to T16CCR section 853, licensees may voluntarily decide to hand deliver their license renewal applications to CSLB headquarters in lieu of mailing them, which may result in a minor and absorbable cost to the licensee who chooses to drive in lieu of mailing the renewal application to CSLB. For example, if someone were to drive from San Diego to CSLB headquarters, it would be approximately 513 miles; and if they got 25 miles to the gallon and gasoline was \$3.90 per gallon, the final cost of the drive would be just about \$80. Since this would be a

voluntary decision by the contractor, the individual contractor will have made their own calculation and decision that it is in their best interest to drive the renewal application to CSLB in lieu of mailing it. However, CSLB has been accepting both mailed and hand-delivered renewal applications for many years, and licensees may choose to continue to submit license renewal applications via the mail, which would result in no additional cost to licensees except postage (averaging \$0.50 to \$6.55 [priority mail]). Based on years of experience, CSLB anticipates that the vast majority of licensees will continue to mail their renewal applications.

- Will not affect the expansion of businesses currently doing business within the State of California because the proposed amendments have only minor and absorbable cost impacts on licensees. Pursuant to the proposed changes to T16CCR section 853, licensees may voluntarily decide to hand deliver their license renewal applications to CSLB headquarters in lieu of mailing them, which may result in a minor and absorbable cost to the licensee who chooses to drive in lieu of mailing the renewal application to CSLB. For example, if someone were to drive from San Diego to CSLB headquarters, it would be approximately 513 miles; and if they got 25 miles to the gallon and gasoline was \$3.90 per gallon, the final cost of the drive would be just about \$80. Since this would be a voluntary decision by the contractor, the individual contractor will have made their own calculation and decision that it is in their best interest to drive the renewal application to CSLB in lieu of mailing it. However, CSLB has been accepting both mailed and hand-delivered renewal applications for many years, and licensees may choose to continue to submit license renewal applications via the mail, which would result in no additional cost to licensees except postage (averaging \$0.50 to \$6.55 [priority mail]). Based on years of experience, CSLB anticipates that the vast majority of licensees will continue to mail their renewal applications.
- Will benefit the health and welfare of California residents because the revisions will help ensure that contractors remain compliant with statutory requirements to keep their licenses actively renewed.
- Will not affect worker safety because the proposed amendments do not relate to worker safety. The regulatory proposal simply amends existing language relating to contractor license renewal requirements by clarifying ambiguous or incomplete text, none of which relates to worker safety.
- Should not affect the State's environment. The proposed amendments do not relate to environmental issues specifically, but they would allow licensees to voluntarily decide to hand deliver their license renewal applications to CSLB headquarters in lieu of mailing them, which could increase driving and possibly pollution. For example, if someone were to drive from San Diego to CSLB headquarters, it would be approximately 513 miles; and if they got 25 miles to the gallon, the final gasoline usage for the drive would be just about 20.5 gallons. Since this would be a voluntary decision by the contractor, the individual contractor will have made their own calculation and decision that it is in their best interest to drive the renewal application to CSLB in lieu of mailing it.

However, CSLB has been accepting both mailed and hand-delivered renewal applications for many years, and licensees may choose to continue to submit license renewal applications via the mail, which would result in no additional effect on the State's environment. Based on years of experience, CSLB anticipates that the vast majority of licensees will continue to mail their renewal applications.

E. Requirements for Specific Technologies or Equipment

These regulations do not mandate the use of specific technologies or equipment.

F. Description of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is being proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives that were considered and the reasons each alternative was rejected.

§ 853. Renewal Application Form

CSLB considered the possibility of not revising this regulation, which would mean that the license renewal process is not fully described in the regulation that relates specifically to the renewal application form. The current language in T16CCR section 853 is not fully consistent with Business and Professions Code sections 7137, 7140, and 7141 and does not fully describe the license renewal procedures.

This alternative was rejected because without the proposed regulatory language contractor licensees could be confused about license renewal procedures, both timely and delinquent, and about their options for submitting a renewal application.

Only the proposed regulatory action will provide licensees a better understanding of how and when they must submit their license renewal application and fee(s), as well as any license renewal application corrections that may be necessary.