

JULY 24, 2020
SACRAMENTO, CALIFORNIA



CONTRACTORS STATE LICENSE BOARD

Board Meeting





NOTICE OF PUBLIC BOARD TELECONFERENCE MEETING

Friday, July 24, 2020, 9:00 a.m. – 11:00 a.m. (or until the conclusion of business)

Pursuant to the provisions of Governor Newsom's March 17, 2020 Executive Order N-29-20, neither a public location nor teleconference locations are provided.

Teleconference Information to Register/Join Meeting for Members of the Public via Webex:
<https://cslb.webex.com/cslb/onstage/g.php?MTID=e1ff9d605aa63092ddbcb93708614ab3>

Call-In Number: (415) 655-0001 or (844) 621-3956

Access Code: 126 258 7963

Meetings are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. All times when stated are approximate and subject to change without prior notice at the discretion of the Board unless listed as "time certain." Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. Action may be taken on any item listed on this agenda, including information-only items. The meeting may be canceled without notice.

Members of the public can address the board during the public comment session. Public comments will also be taken on agenda items at the time the item is heard and prior to the board taking any action on said items. Total time allocated for public comment may be limited at the discretion of the board chair.

- A. Call to Order, Roll Call, Establishment of Quorum and Chair's Introduction
- B. Public Comment for Items Not on the Agenda and Future Agenda Item Requests
(Note: Individuals may appear before the CSLB to discuss items not on the agenda; however, the CSLB can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).
- C. Review, Discussion, and Possible Action Regarding Comments Received During the 15-Day Comment Period Regarding Previously Board Approved Proposed Rulemaking to Amend Title 16, California Code of Regulations (CCR) Sections 868, 869, and 869.9 (Criteria to Aid in Determining if Crimes or Acts Are Substantially Related to Contracting Business, Criteria for Rehabilitation, and Criteria to Aid in Determining Earliest Date a Denied Applicant May Reapply for Licensure), to Add Section 868.1 (Criteria to Aid in Determining if Financial Crimes Are Directly and Adversely Related to Fiduciary Qualifications, Functions, or Duties of a Licensee or Registrant for the Purpose of Considering Denials of Applications), and to Repeal Section 869.5 (Inquiry into Criminal Convictions)
- D. Review, Discussion, and Possible Action to Initiate a Rulemaking to Adopt Title 16, California Code of Regulations (16 CCR) Section 825.5 (General Manufactured Housing Contractor Initial Installer Training Requirement)
- E. Adjournment

In addition to teleconference, the board intends to provide a live webcast of the teleconference meeting. The webcast can be found at www.cslb.ca.gov or on the board's YouTube Channel:

<https://www.youtube.com/user/ContractorsBoard/>. Webcast availability cannot, however, be guaranteed due to limitations on resources or technical difficulties. The meetings will continue even if the webcast is unavailable.

Note that viewers of the webcast can only view the meeting, not participate. If you wish to participate, you must join the teleconference itself via the Webex link above. If participating via teleconference, on day of meeting please register/join Webex at least 15-30 minutes early to ensure that you have adequate time to install any required plugins or apps.

The meetings are accessible to those needing special accommodation. A person who needs a disability-related accommodation or modification in order to participate in the meetings may make a request by contacting Phyliz Jones at (916) 255-4000, or phyliz.jones@cslb.ca.gov, or 9821 Business Park Drive, Sacramento, CA, 95827. Providing your request at least five business days prior to the meetings will help ensure availability of the requested accommodation.



CONTRACTORS STATE LICENSE BOARD

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AGENDA ITEM A

Call to Order, Roll Call, Establishment of Quorum and Chair's Introduction

Roll is called by the Board Chair or, in his/her absence, by the Board Vice Chair or, in his/her absence, by a Board member designated by the Board Chair.

Eight members constitute a quorum at a CSLB Board meeting, per Business and Professions Code section 7007.

Board Member Roster

KEVIN J. ALBANESE	MARLO RICHARDSON
FRANK ALTAMURA, JR.	JAMES RUANE
AGUSTIN BELTRAN	JOHNNY SIMPSON
DAVID DE LA TORRE	NANCY SPRINGER
SUSAN GRANZELLA	MARY TEICHERT
DIANA LOVE	



AGENDA ITEM B

Public Comment Session - Items Not on the Agenda

(Note: Individuals may appear before the CSLB to discuss items not on the agenda; however, the CSLB can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)). Public comments will be taken on agenda items at the time the item is heard and prior to the CSLB taking any action on said items. Total time allocated for public comment may be limited at the discretion of the Board Chair.

BOARD AND COMMITTEE MEETING PROCEDURES

To maintain fairness and neutrality when performing its adjudicative function, the Board should not receive any substantive information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending administrative or criminal action.

- (1) If, during a Board meeting, a person attempts to provide the Board with substantive information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person shall be requested to refrain from making such comments.
- (2) If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action:
 - (a) The Board may designate either its Registrar or a board employee to review whether the proper procedure or protocol was followed and to report back to the Board once the matter is no longer pending; or,
 - (b) If the matter involves complaints against the Registrar, once the matter is final or no longer pending, the Board may proceed to hear the complaint in accordance with the process and procedures set forth in Government Code section 11126(a).
- (3) If a person becomes disruptive at the Board meeting, the Chair will request that the person leave the meeting or be removed if the person refuses to cease the disruptive behavior.



AGENDA ITEM C

Review, Discussion, and Possible Action Regarding Comments Received During the 15-Day Comment Period Regarding Previously Board Approved Proposed Rulemaking to Amend Title 16, California Code of Regulations (CCR) Sections 868, 869, and 869.9 (Criteria to Aid in Determining if Crimes or Acts Are Substantially Related to Contracting Business, Criteria for Rehabilitation, and Criteria to Aid in Determining Earliest Date a Denied Applicant May Reapply for Licensure), to Add Section 868.1 (Criteria to Aid in Determining if Financial Crimes Are Directly and Adversely Related to Fiduciary Qualifications, Functions, or Duties of a Licensee or Registrant for the Purpose of Considering Denials of Applications), and to Repeal Section 869.5 (Inquiry into Criminal Convictions)





Proposed Rulemaking to Amend Title 16 CCR Sections 868, 869, and 869.9

Background

In response to Assembly Bill (AB) 2138 (Chiu, 2018), CSLB had to amend its existing regulations regarding contractors and applicants who have been convicted of a crime.

The board approved the needed changes to CSLB regulations and authorized the registrar to initiate the rulemaking process at its September 2019 meeting. The required public hearing on the rulemaking was held on April 28, 2020, after which two events occurred that required board action:

1. CSLB received ten public comments about this rulemaking. The board approved responses to these comments at its June 5, 2020 meeting, and authorized staff to include the responses in the final rulemaking.
2. Modifications to the original board-approved text of the regulations were made, as recommended by legal counsel. The board approved these modifications at its June 5, 2020 meeting, and authorized staff to complete the rulemaking process, including sending out the modified text for an additional 15-day public comment period, as required by law.

On June 10, 2020, CSLB received three additional public comments during the second 15-day public comment period. As a result, staff cannot complete the rulemaking process until the board approves responses to these public comments.

Because the provisions AB 2138 became effective July 1, 2020, the CSLB regulations need to be finalized as soon as practicable.

Review, Discussion, And Possible Action Regarding Comments Received During The 15-Day Comment Period

This section identifies the three parties who made public comments about the rulemaking received on June 10, 2020, reproduces their comments, and includes proposed responses. A staff recommendation for board consideration appears at the end of this document.

Responses to the comments approved by the board will be incorporated into the Board's Final Statement of Reasons for this rulemaking, which will be included in the final rulemaking file.

**PROPOSED RULEMAKING****Title 16, Division 8, California Code of Regulations
Sections 868, 868.1, 869, 869.5, and 869.9****15-DAY COMMENT PERIOD – COMMENTS AND RESPONSES****Objections or Recommendations/Responses During 15-Day Comment Period**

On June 10, 2020, the Board received three emails on the Board's modified text of proposed regulations implementing AB 2138. Below are the Board's responses to the comments made therein.

Comment 1 – Darrel Saucedo**Comment Summary:**

This comment states that AB 2138 makes no sense and that it is a bad idea if the objective of CSLB is to keep customers from being taken advantage of. The comment also states that allowing criminals to test and get contractor licenses will only give more business to attorneys, who will profit from the wrongdoing that such contractors will do. Additionally, the comment states that a person convicted of fraud or a felony crime does not learn a lesson in a short period of time and does not have respect for the law or human beings in general, and it is a character flaw to commit such crimes. Furthermore, the comment questions whether California has a shortage of contractors.

Response:

The Board rejects this comment. This comment is directed to the statutory amendments encompassed by AB 2138, not the proposed regulations. The Board does not have the power to amend statutes. Accordingly, concerns regarding the statutory amendments themselves should be directed to the Legislature. This regulation will assist the Board in implementing a balanced approach to evaluating an applicant's eligibility for licensure.

As to the question regarding a shortage of contractors, this comment is not within the scope of this rulemaking and requires no response.

Therefore, the Board is making no changes to the proposed regulations in response to this comment.

Comment 2 – Chris Davis**Comment Summary:**

This comment asks for clarification on the definition of "professional misconduct."



Response:

The term "professional misconduct" is defined in BPC section 480(a)(2), as amended by AB 2138. BPC section 480 states, in part, the following:

(a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

* * *

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement.

“Professional misconduct” in the proposed regulations is limited to circumstances as listed in BPC section 480 – times within the preceding seven years where the applicant (1) was subject to formal discipline either in California or outside California, and (2) committed professional misconduct, e.g., an act “that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties....”

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

Comment 3 – Eric Anderson

Comment Summary:

This comment states that they are fine with AB 2138.

Response:

The Board appreciates the support for the proposed regulations and is making no changes to the proposed regulations in response to this comment.



CSLB

PROPOSED RULEMAKING TO AMEND TITLE 16 CCR SECTIONS
868, 869, AND 869.9

Staff Recommendation: That the board approve the responses (as drafted) to the public comments received on June 10, 2020 on the board's proposed rulemaking regarding Title 16, Division 8, California Code of Regulations, Sections 868, 868.1, 868, 869.5, and 869.9 and authorize staff to make any nonsubstantive changes to the board's comments for inclusion in the Final Statement of Reasons.

AGENDA ITEM D

Review, Discussion, and Possible Action to
Initiate a Rulemaking to Adopt Title 16,
California Code of Regulations (16 CCR)
Section 825.5 (General Manufactured
Housing Contractor Initial Installer
Training Requirement)





Initiate Rulemaking to Adopt Title 16 CCR Section 825.5

Background

The U.S. Department of Housing and Urban Development (HUD) establishes federal standards that all states must comply with for the design and construction of manufactured homes.

The California Department of Housing and Community Development (HCD) oversees the Manufactured Housing Installation Program for HUD in the state of California. This includes issuance and approval of permits for the installation and renovation of manufactured homes.

CSLB oversees licensing requirements for manufactured homes in California. The C-47 General Manufactured Housing Contractor classification is as follows (California Code of Regulations (CCR), Title 16, Section 832.47):

- a. A general manufactured housing contractor installs, alters, repairs, or prepares for moving any type of manufactured home as defined in Section 18007 of the Health and Safety Code, any type of mobile home as defined in Section 18008 of the Health and Safety Code, and any type of multifamily manufactured home as defined in Section 18008.7 of the Health and Safety Code, including the accessory buildings or structures, and the foundations. A manufactured home does not include any recreational vehicle, commercial coach, or factory-built housing as defined in Section 19971 of the Health and Safety Code.
- b. A general manufactured housing contractor may provide utility services on a single-family individual site placement. Utility services mean the connection of gas, water, sewer, and electrical utilities to the home.

Problem

While CSLB's licensing requirements and HCD's Installation Program substantially comply with HUD's requirements, neither operate a federally approved manufactured-housing installer training program, which federal law requires.

To ensure that CSLB maintains statewide oversight of licensing and training and is not "preempted" by federal law, CSLB must confirm that all new applicants for C-47 licenses meet HUD-approved training requirements for installers. HUD's training and licensing requirements can be found in Title 24 of the Codes of Federal Regulations, Subtitle B, Chapter XX, Subpart I, Section 3286.308.



According to an August 20, 2018 letter from HUD to HCD, if HUD's requirements are not met by July 13, 2021, HUD may take over both licensing and training of C-47 installers and HCD's Installation Program.

The HCD alerted CSLB to this concern in January 2020.

Solution: Add a New Section to CSLB Regulations – CCR § 825.5

The proposed regulation is necessary to meet the federal mandate. The regulation provides that all future C-47 license applicants complete a training approved by HUD as part of the CSLB application process. Existing private vendors approved by HUD would provide the training and applicants would submit proof of completion with their application. The new regulation would not affect current C-47 license holders.

The draft regulation below has been preliminarily approved by HCD. Following the draft regulation is a staff recommendation for board consideration.

**CONTRACTORS STATE LICENSE BOARD
ORIGINALLY PROPOSED LANGUAGE**

**California Code of Regulations
Title 16, Division 8**

Article 2. Application for License

Add Section 825.5 as follows:

§ 825.5. General Manufactured Housing Contractor Initial Installer Training Requirement

- (a) Effective July 1, 2021, in addition to the experience requirements in Section 825 and other requirements for licensure in the Business and Professions Code, an applicant for a C-47 – general manufactured housing contractor license shall have completed initial installer training that is compliant with the training curriculum contained in Section 3286.308(a) of the Code of Federal Regulations, Title 24, Subtitle B, Chapter XX, Subpart D.
- (b) Such applicants shall submit proof of compliance with the initial installer training requirement contained in subsection (a) to the Board with their application for licensure. Proof of compliance shall take the form of a Certificate of Completion of Training identified in Section 3286.303 of the Code of Federal Regulations, Title 24, Subtitle B, Chapter XX, Subpart D. An application submitted without the certificate prescribed by this subsection shall not be deemed complete within the meaning of Section 7072 of the Business and Professions Code.



- (c) The initial installer training shall be obtained through one or more qualified trainers, as confirmed by the United States Department of Housing and Urban Development under Part 3286 of the Code of Federal Regulations, Title 24, Subtitle B, Chapter XX, Subpart D.

Note: Authority cited: Sections 7008 and 7059, Business and Professions Code. Reference: Sections 7026.11, 7058, 7059, 7065, and 7068, Business and Professions Code; and Part 3286 of the Code of Federal Regulations, Title 24, Subtitle B, Chapter XX, Subpart D.

Staff Recommendation

Approve the proposed regulatory text that would adopt Section 825.5 to require that all applicants for a C-47 General Manufactured Housing Contractor's License complete initial installer training compliant with the training curriculum contained in Section 3286.308(a) of the Code of Federal Regulations.

Direct staff to submit all approved text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review. If no adverse comments are received, authorize the registrar to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing

AGENDA ITEM E

Adjournment

