

RENEWAL OF YOUR CONTRACTORS' LICENSE AND THE AFFECT OF A LATE RENEWAL

By Kenneth S. Grossbart
Abdulaziz, Grossbart & Rudman

In past articles, we have addressed the issue of licensing and the effect on your ability to collect your money if for any reason you are deemed to be unlicensed. Not only will the unlicensed nature of your business affect your ability to collect monies but will also put you in the precarious position of having to return all monies that you have collected on the job.

The harshness of *Business and Professions Code* Section 7031 which states in part that if you perform work that requires a license, you must be “duly licensed at ALL times.” This means that if you have a gap in your license status at any time during the course of a construction project, you could be considered not to be “duly licensed” at ALL times. Be assured that if you are involved in a lawsuit, your opposition will check your license status and if a determination is made that you have a gap in your license, the issue of licensure will be raised and you will have to defend yourself and prove that you have been licensed at all times or satisfied the substantial compliance requirements of *Business and Professions Code* Section 7031.

This brings us to the renewal of your contractors' license. As all contractors know, your contractors' license must be renewed on a regular basis. The Contractors' State License Board (“CSLB”) sends out the renewal notice. The number one requirement for you as the contractor is to make sure that the CSLB has your correct address. If you have moved or changed address, you MUST notify the CSLB of your new address. The CSLB sends the renewal notice to the address they have on file and if you do not get the notice then you are not going to know that your license needs to be renewed and, ultimately, you could be operating with an expired license. Once your license is expired, you will then have a gap in your license history. Even if the license renewal is sent to you, often times you are so busy that you put it aside or delegate someone else to renew the license. Oftentimes, because of the press of business and the forgetfulness of people, your license is not renewed on time. In that scenario, you will have a gap in your license history. It could be days or even weeks before you recognize the fact that you forgot to renew your license.

During a recent CSLB Committee meeting, the Board staff proposed a legislative change that would provide a 90-day grace period. The CSLB staff set forth the following argument for making this change:

“Each year, more than 14,000 contractors renew their license more than 30 days after it expires. This occurs annually even though the renewals are sent to licensees 60 to 90 days prior to the date the license expires. To meet the current requirement for retroactive renewal, staff must determine if a licensee's failure to renew timely was out of their control. This forces staff to

inquire into facts about a licensee's operations and make a subjective value judgment about the licensee's decision making. **It is also a heavy burden to meet: CSLB had to deny nearly every petition for retroactive renewal received last year because a failure to renew timely will almost never be out of the licensee's control.**"

"This law should be changed to simply allow a retroactive renewal, if an acceptable renewal is received within 90 days of the license expiration date, without forcing staff to conduct a case-by-case analysis of why the renewal is late. The Medical Board of California has a similar provision (*Business and Professions Code* Section 2424). This change would also mirror the provisions for retroactive acceptance of other license maintenance documents, such as workers' compensation and license bonds, that already exist in the law."

The proposed language, if adopted, would appear as *Business and Professions Code* Section 7141.5 and state essentially the following:

~~"The registrar may~~ ***shall*** grant the retroactive renewal of a license if the licensee ~~requests the retroactive renewal in a petition to the registrar, files an application for renewal on a form prescribed by the registrar, and~~ pays the appropriate renewal fee and delinquency fee prescribed by this chapter. ~~The registrar shall reinstate the license to which the renewal pertains. and an acceptable renewal is received with a postmark date within 90 days of the expiration of the license. This section shall only apply for a period not to exceed 90 days from the due date and only upon a showing by the contractor that the failure to renew was due to circumstances beyond the control of the licensee."~~

Keep in mind, that this is just a proposal at this time and is not the current state of the law. It is extremely important that you maintain licensure. Making sure that you renew your license is an easy way to avoid a gap in your license.

We will keep you posted on this proposal as it moves through the CSLB, and ultimately, the legislative process.



Kenneth Grossbart is recognized as one of the foremost authorities in California construction law. Over the past 35 years, Ken has become a respected speaker on Mechanic's Liens and other construction related issues. Abdulaziz, Grossbart & Rudman provides this information as a service to its friends & clients and it does not establish an attorney-client relationship with the reader. This document is of a general nature and is not a substitute for legal advice. Since laws change frequently, contact an attorney before using this information. Ken Grossbart can be reached at Abdulaziz, Grossbart & Rudman:

(818) 760-2000 or by E-Mail at ksg@agrlaw.com, or at www.agrlaw.com

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