

CONTRACTORS STATE LICENSE BOARD

Title 16, California Code of Regulation Sections 811 and 812

SECTION 100 CHANGE WITHOUT REGULATORY EFFECT

WRITTEN STATEMENT OF EXPLANATION REGARDING CHANGES WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 100(a), of the California Code of Regulations (CCR), the Department of Consumer Affairs, the Contractors State License Board (Board or CSLB) submits this written statement explaining why the proposed amendments to sections 811 and 812 of Article 1.5, Division 8, of Title 16, CCR do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

Business and Professions Code (BPC) section 7008 authorizes the Board to adopt rules and regulations, in accordance with the Administrative Procedure Act (APA), that are reasonably necessary to carry out the provisions of the chapter of the BPC. CCR section 100(a) provides that an agency may add to, revise, or delete text published in the CCR without complying with the rulemaking procedure specified in Article 5 of the APA only if the change does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision. A change without regulatory effect includes the condition of changing a regulatory provision consistent with a changed California statute if both: (a) the regulatory provision is inconsistent with and superseded by the changed statute; and (b) the adopting agency has no discretion to adopt a change that differs in substance from the one chosen. (1 CCR § 100, subd. (a)(6).)

BPC section 7137 authorizes the Board to set fees by regulation according to the schedule of fees contained in the statute. Section 7137 sets the fees at specific amounts and establishes maximum limits up to which the Board may increase the fees in regulation. Government Code section 6157 authorizes public agencies to impose a reasonable charge, not to exceed the actual costs incurred by the agency, for any returned check.

To implement and clarify BPC section 7137, the Board promulgated Title 16, section 811, in the CCR (Register 2003, No. 1), to establish the fees charged by the Board. This regulation became operative on January 1, 2003. To implement and clarify GC section 6157, the Board promulgated CCR section 812 (Register 82, No. 40) to establish the dishonored check fee charged when a check is returned without payment. This regulation became operative on October 30, 1982.

BPC section 7137 was revised by Senate Bill (SB) 607 (Min, Chapter 376, Statutes of 2021), effective January 1, 2022, which added organizational structure to the fee schedule, increased most fees, and added a set fee of \$25 for the service charge for a

dishonored check authorized by Section 6157 of the Government Code. SB 607 organized the fees by the following categories: application, examination scheduling, initial license and registration, license and registration renewal, delinquency, and miscellaneous. SB 607 also established a two-tier fee system for initial and renewal licenses based on the business' structure: one for individual owners and another for partnerships, corporations, limited liability companies, and joint ventures.

Effective January 1, 2022, BPC section 7137 states the following:

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

(1) Application fees shall be set as follows:

(A) The application fee for an original license in a single classification shall be four hundred fifty dollars (\$450) and may be increased to not more than five hundred sixty-three dollars (\$563).

(B) The application fee for each additional classification applied for in connection with an original license shall be one hundred fifty dollars (\$150) and may be increased to not more than one hundred eighty-eight dollars (\$188).

(C) The application fee for each additional classification pursuant to Section 7059 shall be two hundred thirty dollars (\$230) and may be increased to not more than two hundred eighty-eight dollars (\$288).

(D) 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 two hundred thirty dollars (\$230) and may be increased to not more than two hundred eighty-eight dollars (\$288).

(E) The application fee to add personnel, other than a qualifying individual, to an existing license shall be one hundred twenty-five dollars (\$125) and may be increased to not more than one hundred fifty-seven dollars (\$157).

(F) The application fee for an asbestos certification examination shall be one hundred twenty-five dollars (\$125) and may be increased to not more than one hundred fifty-seven dollars (\$157).

(G) The application fee for a hazardous substance removal or remedial action certification examination shall be one hundred twenty-five dollars (\$125) and may be increased to not more than one hundred fifty-seven dollars (\$157).

(2) Examination scheduling fees shall be set as follows:

(A) 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 be one hundred dollars (\$100) and may be increased to not more than one hundred twenty-five dollars (\$125).

- (B) The fee for scheduling or rescheduling an examination for a licensee who is required to take the examination as a condition of probation shall be one hundred dollars (\$100) and may be increased to not more than one hundred twenty-five dollars (\$125).
- (3) Initial license and registration fees shall be set as follows:
- (A) The initial license fee for an active or inactive license for an individual owner shall be two hundred dollars (\$200) and may be increased to not more than two hundred fifty dollars (\$250).
- (B) The initial license fee for an active or inactive license for a partnership, corporation, limited liability company, or joint venture shall be three hundred fifty dollars (\$350) and may be increased to not more than four hundred thirty-eight dollars (\$438).
- (C) The registration fee for a home improvement salesperson shall be two hundred dollars (\$200) and may be increased to not more than two hundred fifty dollars (\$250).
- (4) License and registration renewal fees shall be set as follows:
- (A) The renewal fee for an active license for an individual owner shall be four hundred fifty dollars (\$450) and may be increased to not more than five hundred sixty-three dollars (\$563).
- (B) The renewal fee for an inactive license for an individual owner shall be three hundred dollars (\$300) and may be increased to not more than three hundred seventy-five dollars (\$375).
- (C) The renewal fee for an active license for a partnership, corporation, limited liability company, or joint venture shall be seven hundred dollars (\$700) and may be increased to not more than eight hundred seventy-five dollars (\$875).
- (D) The renewal fee for an inactive license for a partnership, corporation, limited liability company, or joint venture shall be five hundred dollars (\$500) and may be increased to not more than six hundred twenty-five dollars (\$625).
- (E) The renewal fee for a home improvement salesperson registration shall be two hundred dollars (\$200) and may be increased to not more than two hundred fifty dollars (\$250).
- (5) The delinquency fee is an amount equal to 50 percent of the renewal fee, if the license is renewed after its expiration.
- (6) Miscellaneous fees shall be set as follows:
- (A) 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.
- (B) 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.

(C) The fee for the processing and issuance of a duplicate copy of any certificate of licensure or other form evidencing licensure or renewal of licensure pursuant to Section 122 shall be twenty-five dollars (\$25).

(D) The fee to change the business name of a license as it is recorded under this chapter shall be one hundred dollars (\$100) and may be increased to not more than one hundred twenty-five dollars (\$125).

(E) The service charge for a dishonored check authorized by Section 6157 of the Government Code shall be twenty-five dollars (\$25) for each check.

(b) 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.

Because the statute provides for fee ranges, CSLB cannot increase those ranges until the statutory floors are in regulation. CSLB cannot do so with CCR section 811 in its current form. Further, BPC 7137(a) states that CSLB shall set fees by regulation, which meets the standard for allowing for overlap as set forth in 1 CCR 12(b)(3)(B). Subject to the approval of the Office of Administrative Law, the Board would add to, revise, or delete text in sections 811 and 812 as follows:

Amend Section 811 as follows:

§811. Fees

Repeal subdivisions (a)(1) – (13)

Existing language in subdivisions (a)(1) through (13) sets forth various fees charged by the Board for the original application, examination, and renewal of licenses and registrations.

This proposal would repeal the existing language in CCR section 811 subdivisions (a)(1) through (13) in their entirety. The individual subdivisions would be relocated and updated in new subdivisions (a) through (d) to provide consistency with the reorganization and fee increases described in BPC section 7137, effective January 1, 2022. The proposed repeal of subdivision (a) would allow for updated language, as follows:

- Existing subdivision (a)(1) would be relocated and updated in new (a)(1).
- Existing subdivision (a)(2) would be relocated and updated in new (a)(2) and (3).
- Existing subdivision (a)(3) would be relocated and updated in new (a)(4).
- Existing subdivision (a)(4) would be relocated and updated in new (b)(1).
- Existing subdivision (a)(5) would be relocated and updated in new (b)(2).

- Existing subdivision (a)(6) would be relocated and updated in new (c)(1) and (2).
- Existing subdivision (a)(7) would be relocated and updated in new (d)(1) and (3).
- Existing subdivision (a)(8) would be relocated and updated in new (d)(2) and (4).
- Existing subdivision (a)(9) would be repealed because it is codified in statute in BPC section 7076.5(g).
- Existing subdivision (a)(10) would be relocated and updated in new (c)(3).
- Existing subdivision (a)(11) would be relocated and updated in new (d)(5).
- Existing subdivision (a)(12) would be relocated and updated in new (a)(6).
- Existing subdivision (a)(13) would be relocated and updated in new (a)(7).

These are changes without regulatory effect because they make regulatory provisions consistent with BPC sections 7076.5 and 7137. The proposed repeal of subdivision (a)(9) would remove duplication as the section is codified in statute. The proposed repeal of this section is authorized under CCR section 100 as (1) the existing regulatory provisions are inconsistent with and superseded by statutes, and (2) the Board has no discretion to adopt a change which differs in substance from the one chosen. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

Add new subdivisions (a)(1) – (7)

This proposal would amend CCR section 811 by adding new subdivisions (a)(1) through (7) to establish the application fees for the Board’s applications. The proposed subdivisions are based on the referenced subdivisions of BPC section 7137, as follows:

New subdivision (a)(1)

The new subdivision (a)(1) would provide consistency with BPC section 7137(a)(1)(A) which establishes the application fee for the original license in a single classification and sets the minimum application fee to \$450.

New subdivision (a)(2)

The new subdivision (a)(2) would provide consistency with BPC section 7137(a)(1)(B) which establishes the application fee for each additional classification applied for in connection with the original license and sets the minimum application fee to \$150.

New subdivision (a)(3)

The new subdivision (a)(3) would provide consistency with BPC section 7137(a)(1)(C) which establishes the application fee for each additional classification pursuant to BPC section 7059 and listed in that section, and sets the minimum application fee to \$230.

New subdivision (a)(4)

The new subdivision (a)(4) provides consistency with BPC section 7137(a)(1)(D) which establishes the application fee for replacing the responsible managing personnel and sets the minimum application fee to \$230.

New subdivision (a)(5)

The new subdivision (a)(5) provides consistency with BPC section 7137(a)(1)(E) which establishes the application fee to add personnel other than a qualifying individual and sets the minimum application fee to \$125.

New subdivision (a)(6)

The new subdivision (a)(6) would provide consistency with BPC section 7137(a)(1)(F) which establishes the application fee for an asbestos certification examination and sets the minimum application fee to \$125.

New subdivision (a)(7)

The new subdivision (a)(7) would provide consistency with BPC section 7137(a)(1)(G) which establishes the application fee for the hazardous substance removal or remedial action certification examination and sets the minimum application fee to \$125.

These are changes without regulatory effect because they make regulatory provisions consistent with BPC section 7137, and (1) the regulatory provisions are inconsistent with and superseded by section 7137, effective January 1, 2022, and (2) the Board has no discretion to adopt a change which differs in substance from the one chosen. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

Add new subdivisions (b)(1) – (2)

This proposal would amend CCR section 811 by adding new subdivisions (b)(1) and (2) to establish fees for the Board's examination scheduling. The proposed subdivisions are based on the referenced subdivision of BPC section 7137, as follows:

New subdivision (b)(1)

The new subdivision (b)(1) would provide consistency with BPC section 7137(a)(2)(A) which establishes the rescheduling fee for examination for an applicant who applied for, including, and limited to, 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. BPC section 7137(a)(2)(A) also sets the minimum rescheduling fee to \$100.

New subdivision (b)(2)

The new subdivision (b)(2) would provide consistency with BPC section 7137(a)(2)(B) which establishes the scheduling and rescheduling of an examination specifically and limited to, for a licensee as a condition of probation and sets the minimum scheduling or rescheduling fee to \$100.

These are changes without regulatory effect because they make regulatory provisions consistent with BPC section 7137, and (1) the regulatory provisions are inconsistent with and superseded by section 7137, effective January 1, 2022, and (2) the Board has

no discretion to adopt a change which differs in substance from the one chosen. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

Add new subdivisions (c)(1) – (3)

This proposal would amend CCR section 811 by adding new subdivisions (c)(1) through (3) to establish fees for the Board's initial license and registration. The individual subdivisions are being added based on the referenced subdivision of BPC section 7137.

New subdivision (c)(1)

The new subdivision (c)(1) would provide consistency with BPC section 7137(a)(3)(A) which establishes the initial license fee for an active or inactive license limited to an individual owner and sets that minimum initial license fee at \$200.

New subdivision (c)(2)

The new subdivision (c)(2) would provide consistency with BPC section 7137(a)(3)(B) which establishes the initial license fee for active and inactive licenses, including, and limited to, a partnership, corporation, limited liability company, or joint venture and sets the minimum initial license fee to \$350.

New subdivision (c)(3)

The new subdivision (c)(3) would provide consistency with BPC section 7137(a)(3)(C) which establishes the registration fee for a home improvement salesperson and sets the minimum registration fee to \$200.

These are changes without regulatory effect because they make regulatory provisions consistent with BPC section 7137, and (1) the regulatory provisions are inconsistent with and superseded by section 7137, effective January 1, 2022, and (2) the Board has no discretion to adopt a change which differs in substance from the one chosen. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

Add new subdivisions (d)(1) – (5)

This proposal would amend CCR section 811 by adding new subdivisions (d)(1) through (5) to establish fees for the Board's license and registration renewals. The individual subdivisions are being added based on the referenced subdivision of BPC section 7137, as follows:

New subdivision (d)(1)

The new subdivision (d)(1) provides consistency with BPC section 7137(a)(4)(A) which establishes the renewal fee for an active license for an individual owner and sets the minimum renewal fee to \$450.

New subdivision (d)(2)

The new subdivision (d)(2) provides consistency with BPC section 7137(a)(4)(B) establishes the renewal fee limited to an inactive license for an individual owner and sets the minimum renewal fee to \$300.

New subdivision (d)(3)

The new subdivision (d)(3) provides consistency with BPC section 7137(a)(4)(C) which establishes the renewal fee for an active license, including and limited to, a partnership, corporation, limited liability company, or joint venture and sets the minimum renewal fee to \$700.

New subdivision (d)(4)

The new subdivision (d)(4) would provide consistency with BPC section 7137(a)(4)(D) which establishes the renewal fee for an inactive license, including and limited to, for a partnership, corporation, limited liability company, or joint venture and sets the minimum renewal fee to \$500.

New subdivision (d)(5)

The new subdivision (d)(5) would provide consistency with BPC section 7137(a)(4)(E) which establishes the renewal fee for a home improvement salesperson registration and sets the minimum registration fee to \$200.

These are changes without regulatory effect because they make regulatory provisions consistent with BPC section 7137, and (1) the regulatory provisions are inconsistent with and superseded by section 7137, effective January 1, 2022, and (2) the Board has no discretion to adopt a change which differs in substance from the one chosen. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

Add new subdivision (e)(1)

This proposal would amend CCR section 811 by adding new subdivision (e)(1) to establish a miscellaneous fee for the Board. The individual subdivision is being added based on the referenced subdivision of BPC section 7137, as follows:

The new subdivision (e)(1) would provide consistency with BPC section 7137(a)(6)(D) which establishes the fee to change the business name of a license and sets the minimum fee to \$100.

This is a change without regulatory effect because it makes regulatory provisions consistent with BPC section 7137, and (1) the regulatory provision is inconsistent with and superseded by section 7137, effective January 1, 2022, and (2) the Board has no discretion to adopt a change which differs in substance from the one chosen. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

Repeal Section 812 as follows:

§812. Dishonored Check Service Charge

Repeal regulation in its entirety, including section number, title, and Note

With the passage of SB 607, subdivision (a)(6)(E) is added to BPC section 7137 to establish that the “service charge for a dishonored check authorized by Section 6157 of the Government Code shall be twenty-five dollars (\$25) for each check.”

Based on this amendment, CSLB proposes to repeal CCR section 812 in its entirety, including the section number, title, and Authority and Reference Note at the end of the regulation because the dishonored check service charge has been incorporated in BPC section 7137(a)(6)(E).

This is a change without regulatory effect because it deletes a regulatory provision that is (1) inconsistent with and superseded by section 7137, effective January 1, 2022, and (2) the Board has no discretion to adopt a change which differs in substance from the one chosen. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)