

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 521 (Carrillo)
Version: February 10, 2025
Hearing Date: June 24, 2025
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Contractors State License Board: bond deposits: liability for legal fees and costs

DIGEST

This bill clarifies that the Contractors State License Board (CSLB) cannot be liable for attorney's fees or costs in an action when it is named as a party to the action in its capacity as the holder of a licensee's licensing bond.

EXECUTIVE SUMMARY

Current law requires a contractor licensed by the CSLB to maintain a bond of \$25,000 to cover specified liabilities. A contractor may satisfy this requirement by obtaining a bond from a surety and filing the bond with the CSLB, or by depositing a cashier's check with the registrar of the CSLB. If the contractor is sued, the CSLB must be named as a party to the action and cannot pay any portion of the bond to the claimant unless and until the court so orders.

A recent Court of Appeal opinion held that a contractor's surety was jointly and severally liable for the attorney's fee award entered against the contractor, even though the fee award exceeded the amount of the bond. While the opinion did not directly apply to, or address, the CSLB in its role as the holder of a contractor's bond deposit, the possibility of the CSLB being held liable for an attorney's fee award raises serious concerns about the CSLB's funds. To avoid this outcome, this bill clarifies that the CSLB cannot be liable for legal fees and costs when it is a party to a case in its role as the holder of a contractor's deposit in lieu of bond.

This bill is sponsored by the CSLB and is supported by the Associated General Contractors of California. The Committee has not received timely opposition to this bill. The Senate Business, Professions and Economic Development Committee passed this bill with a vote of 8-0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Contractors State License Law (CSLL), which governs the licensure and conduct of contractors, including subcontractors, who undertake or offer to undertake construction or repair projects, under the oversight of the CSLB. (Bus. & Prof. Code, div. 3, ch. 9, §§ 7000 et seq.)
- 2) Provides that the CSLB must require, as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee file or have on file a contractor's bond of \$25,000. (Bus. & Prof. Code, § 7071.6(a).)
- 3) Requires the contractor's bond required by 2) to be executed by an admitted surety in favor of the State of California, as specified, for the benefit of a homeowner or property owner contracting with the licensee, a person damaged by the contractor for specified violations or fraud, or an employee of the licensee damaged by the licensee's failure to pay wages. (Bus. & Prof. Code, § 7071.5.)
- 4) Requires each licensee subject to any bond requirement by the CSLL to maintain the requisite bond from an admitted surety insurer or as deposited with the registrar of the CSLB (registrar) in the appropriate amount. (Bus. & Prof. Code, § 7071.4(a).)
- 5) Provides that, if the CSLB is notified, in writing, of a civil action against the deposit under 4), the deposit or any portion thereof shall not be released for any purpose, except as determined by the court. (Bus. & Prof. Code, § 7071.4(c).)
- 6) Permits the beneficiary of a bond to enforce the liability on a bond against both the principal and sureties. (Code Civ. Proc., § 996.410.)
- 7) Provides that the liability on a bond may be enforced by a civil action; in such an action, both the principal and the sureties shall be joined as parties to the action. (Code Civ. Proc., § 996.430.)
- 8) Provides that a judgment of liability on a bond shall be in favor of the beneficiary and against the principal and sureties and shall obligate each of them jointly and severally; the beneficiary may enforce the judgment directly against the sureties. (Code Civ. Proc., § 996.460.)

This bill provides that the CSLB shall not be liable for any legal fees or costs in any action against a contractor where the CSLB is named as a party as the holder of the contractor's deposit filed with the CSLB in lieu of bond, regardless of when the deposit was filed with the registrar.

COMMENTS

1. Author's comment

According to the author:

Protecting CSLB from being held liable for attorney's fees in the event of civil litigation is crucial for the success of our state's infrastructure and housing goals. By maintaining CSLB's focus on licensing and consumer protection, we ensure that resources are directed toward verifying qualified contractors and maintaining public trust. This protection helps streamline the regulatory process, enabling us to continue building the roads, homes, and important infrastructure projects that are essential to our state's growth and prosperity.

2. This bill prevents the CSLB from being liable for attorney's fees or costs when it is a party to a case in its role as the holder of a contractor's deposit in lieu of bond

The CSLB licenses and regulates contractors in California.¹ One condition of licensure is that the contractor file, or have on file, a contractor's bond of \$25,000, which must be maintained from an admitted surety insurer or deposited with the CSLB registrar.² If a contractor is sued and the CSLB is the holder of the bond, the CSLB must be added as a party to the action and cannot release any portion of the bond unless the court determines that the claimant may recover against the deposit.³

A recent Court of Appeal opinion, *Karton v. Ari Design & Construction, Inc. (Karton)*, held that, when a claimant wins an award of attorney's fees and costs in a suit against a contractor, the contractor's surety is jointly and severally liable for the attorney's fees award, even if the award exceeds the amount of the bond.⁴ While the facts of the case are arguably different than the circumstances in which the CSLB was the holder of a deposit – the surety in the case tendered its defense to fight the case rather than interplead the funds⁵ – the implications for the CSLB are potentially significant. If the CSLB could be forced to pay out substantial sums to individual claimants injured by a contractor, through no fault of the CSLB, it could meaningfully lower the CSLB's available funds for its core tasks of regulation and enforcement.

To avoid this outcome, this bill clarifies that, when the CSLB is a party to a case against a contractor in its role as the holder of a contractor's deposit, the CSLB cannot be liable for an award of legal fees or costs, regardless of when the deposit was filed with the registrar. Although this bill could potentially affect ongoing litigation, the bill's

¹ Bus. & Prof. Code, div. 3, ch. 9, §§ 7000 et seq.

² *Id.*, §§ 7071.4-7071.6.

³ *Id.*, § 7071.4(c); Code Civ. Proc., § 996.430.

⁴ (2021) 61 Cal.App.5th 734, 751.

⁵ *Ibid.*

language appears to be more of a clarification than a change of existing law because *Karton* does not directly address the CSLB, and it is not clear that a court would extend *Karton*'s logic to the CSLB.

3. Arguments in support

According to the CSLB:

AB 521 expressly provides that CSLB is not liable for attorney fees in civil claims where a contractor has made a cash deposit in lieu of maintaining a contractor's bond. As you are aware, the contractor's bond is for the benefit of consumers, employees, or other contractors who may be damaged from defective construction or violations of Contractors State License Law. Unlike surety companies, CSLB does not issue bonds, make a profit from them, or have the authority to release cash deposits without a court order. This potential liability undermines the purpose of cash deposits, which are simply an alternative for contractors who do not wish to use a surety company but still need to fulfill the bonding requirement for licensure.

SUPPORT

CSLB (sponsor)

Associated General Contractors of California

OPPOSITION

None received

RELATED LEGISLATION

Pending legislation: None known.

Prior legislation:

SB 1414 (Committee on Business, Professions and Economic Development, Ch. 312, Stats. 2020) among other things, specified that if the CSLB is notified, in writing, of a civil action against the depositor of a license bond, the deposit or any portion thereof shall not be released for any purpose except as determined by the court.

AB 3126 (Brough, Ch. 925, Stats. 2018) repealed the existing authority for the CSLB to accept a deposit in lieu of a bond, beginning January 1, 2019, unless the deposit was cash or a cashier's check, and required all other existing alternatives for a deposit in lieu of a bond to be replaced with a surety bond, cash, or a cashier's check by January 1, 2020.

PRIOR VOTES:

Senate Business, Professions and Economic Development Committee (Ayes 8, Noes 0)

Assembly Floor (Ayes 76, Noes 0)

Assembly Appropriations Committee (Ayes 15, Noes 0)

Assembly Judiciary Committee (Ayes 12, Noes 0)

Assembly Business and Professions Committee (Ayes 17, Noes 0)
