

Senate Bill No. 465

Passed the Senate August 31, 2016

Secretary of the Senate

Passed the Assembly August 31, 2016

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 7021 and 7071.18 to the Business and Professions Code, to add and repeal Section 18924.5 of the Health and Safety Code, and to amend Section 6313.5 of the Labor Code, relating to building construction.

LEGISLATIVE COUNSEL'S DIGEST

SB 465, Hill. Building construction: contractors: discipline: reporting: building standards.

(1) Existing law, the Contractors' State License Law, provides for the licensure, regulation, and discipline of contractors by the Contractors' State License Board. Existing law requires the board, with the approval of the Director of Consumer Affairs, to appoint a registrar of contractors to serve as the executive officer and secretary of the board. Under existing law, protection of the public is required to be the highest priority for the Contractors' State License Board in exercising its licensing, regulatory, and disciplinary functions.

Under existing law, the Division of Occupational Safety and Health has the power, jurisdiction, and supervision over every employment and place of employment in this state, which is necessary to adequately enforce and administer all laws and lawful standards and orders, or special orders requiring such employment and place of employment to be safe, and requiring the protection of the life, safety, and health of every employee in such employment or place of employment. Existing law requires the division to transmit to the Registrar of Contractors copies of any reports made in any investigation, as specified, and authorizes the division, upon its own motion or upon request, to transmit copies of any other reports made in any investigation conducted involving a licensed contractor.

This bill would instead require the Division of Occupational Safety and Health, after consultation with the board, to transmit to the board copies of any citations or other actions taken by the division against a contractor, as defined. The bill would authorize the board to enter into an interagency agreement with any other

state or local agency the board deems to be in possession of information relevant to its priority to protect the public.

This bill would require a licensee to report to the registrar within 90 days of the date that the licensee has knowledge of the conviction of the licensee for any felony or any other crime substantially related to the qualifications, functions, and duties of a licensed contractor.

This bill would require the board to consult with licensees, consumers, and other interested stakeholders in order to prepare a study of judgments, arbitration awards, and settlements that were the result of claims for construction defects for rental residential units and, by January 1, 2018, report to the Legislature the results of the study to determine if the board's ability to protect the public would be enhanced by regulations requiring licensees to report judgments, arbitration awards, or settlement payments of those claims. This bill would specify that participation in the study by licensees and consumers is voluntary. The bill would require records or documents obtained by the board during the course of implementing this study that are exempt from public disclosure to remain exempt from disclosure.

(2) Under existing law, there exists the California Building Standards Commission. Existing law requires the California Building Standards Commission to, among other things, review the standards of adopting state agencies and approve, return for amendment with recommended changes, or reject building standards submitted to the commission for its approval, as provided.

This bill, until January 1, 2018, would require the working group formed by the California Building Standards Commission to study recent exterior elevated element failures in the state to submit a report to the appropriate policy committees of the Legislature containing any findings and possible recommendations for statutory or other changes to the California Building Standards Code and would require the working group to review related documents and reports, as specified. However, if, at any time, it is determined by the working group that one or more changes to the California Building Standards Code are needed as soon as possible in order to protect the public, the bill would, until January 1, 2018, require the working group to submit the recommended changes to the

California Building Standards Commission for consideration as soon as possible, as specified.

(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The people of the State of California do enact as follows:

SECTION 1. Section 7021 is added to the Business and Professions Code, to read:

7021. The board may enter into an interagency agreement with any other state or local agency the board deems to be in possession of any information relevant to its priority to protect the public described in Section 7000.6.

SEC. 2. Section 7071.18 is added to the Business and Professions Code, to read:

7071.18. (a) Notwithstanding any other law, a licensee shall report to the registrar in writing the occurrence of any of the following within 90 days after the licensee obtains knowledge of the event:

(1) The conviction of the licensee for any felony.

(2) The conviction of the licensee for any other crime that is substantially related to the qualifications, functions, and duties of a licensed contractor.

(b) (1) The board shall consult with licensees, consumers, and other interested stakeholders in order to prepare a study of judgments, arbitration awards, and settlements that were the result of claims for construction defects for rental residential units and, by January 1, 2018, shall report to the Legislature the results of this study to determine if the board's ability to protect the public as described in Section 7000.6 would be enhanced by regulations requiring licensees to report judgments, arbitration awards, or settlement payments of those claims. Participation by licensees and consumers shall be voluntary. The study shall include, but not be limited to, criteria used by insurers or others to differentiate between settlements that are for nuisance value and those that are not, whether settlement information or other information can help

identify licensees who may be subject to an enforcement action, if there is a way to separate subcontractors from general contractors when identifying licensees who may be subject to an enforcement action, whether reporting should be limited to settlements resulting from construction defects that resulted in death or injury, the practice of other boards within the department, and any other criteria considered reasonable by the board. The board shall submit the report to the Legislature in accordance with Section 9795 of the Government Code.

(2) Records or documents obtained by the board during the course of implementing this subdivision that are exempt from public disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) shall remain exempt from disclosure pursuant to that act.

SEC. 3. Section 18924.5 is added to the Health and Safety Code, to read:

18924.5. (a) By January 1, 2018, the working group formed by the California Building Standards Commission to study recent exterior elevated element failures in California shall submit a report to the appropriate policy committees of the Legislature containing any findings and possible recommendations for statutory changes or changes to the California Building Standards Code.

(b) The working group shall review related documents and reports, including, but not limited to, any available forensic reports related to exterior elevated element failures in California, reports and studies used in the development of national and state building codes, and any other material deemed relevant to make recommendations to the appropriate state agency or agencies for the development of proposed building standards for exterior elevated elements.

(c) The working group shall solicit technical expertise as appropriate from, but not limited to, representatives from the Department of Housing and Community Development, the Division of the State Architect—Structural Safety, the Office of the State Fire Marshal, local building officials and plan checkers, structural engineers, apartment owners and managers, the building industry, the wood, steel and concrete industries, and any other interested parties.

(d) Notwithstanding the deadline in subdivision (a), if, at any time, it is determined by the working group that one or more changes to the California Building Standards Code are needed as soon as possible in order to protect the public, the working group shall submit the recommended changes to the appropriate state agency or agencies for consideration as soon as possible according to this part.

(e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 4. Section 6313.5 of the Labor Code is amended to read:

6313.5. The division, after consultation with the Contractors' State License Board, shall transmit to the Contractors' State License Board copies of any citations or other actions taken by the division against a contractor as defined in the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code).

SEC. 5. The Legislature finds and declares that Section 2 of this act, which adds Section 7071.18 to the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

By allowing records and documents exempt from disclosure to be shared with the Contractors' State License Board and remain nonpublic under the Public Records Act, the act adding this section would encourage private individuals and entities to provide the board with information that is vital to the success of its study and report to determine whether additional regulations are appropriate. Therefore, this act properly balances the public's right to access to public records in the possession of the board with the need for the state to obtain otherwise private information.

Approved _____, 2016

Governor