

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: SB 641 **VERSION:** INTRODUCED FEBRUARY 20, 2025

AUTHOR: ASHBY **SPONSOR:** AUTHOR

STAFF RECOMMENDED POSITION: WATCH

SUBJECT: DEPARTMENT OF CONSUMER AFFAIRS AND DEPARTMENT OF REAL ESTATE:
STATES OF EMERGENCY: WAIVERS AND EXEMPTIONS

Summary: This bill would permit boards under the Department of Consumer Affairs (DCA) and the Department of Real Estate to waive certain specified provisions of their licensing laws for licensees and applicants who are affected by a declared federal, state, or local emergency.

Existing Law:

1. Defines three types of emergencies (Government Code (GC) §8558):
 - a. “State of emergency,” which means proclaimed existence of disaster or extremely perilous conditions to safety of persons or property in the state. Examples of causes include air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, electromagnetic pulse attach, plant or animal infestation or disease, or earthquake, which are by reason of their magnitude, likely to be beyond the control of services, personnel, equipment, and facilities of any single county and city and that instead require combined mutual aid.
 - b. “Local emergency,” which means proclaimed existence of disaster or extremely perilous conditions to safety of persons or property in a county and/or city. Examples of causes include air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, deenergization event, electromagnetic pulse attach, plant or animal infestation or disease, or earthquake, which are likely beyond the control of services, personnel, equipment, and facilities of a political subdivision and that instead require combined forces.
 - c. “State of war emergency,” which is a condition, with or without a proclamation by the Governor, in which the state or nation is attacked by an enemy of the U.S. or warned by the federal government that an attack is probable or imminent.
2. Allows state agencies that issue business licenses (including licensing boards under the Department of Consumer Affairs (DCA)) to establish a process to apply for a

reduction or waiver of any fees required to obtain, renew, or activate a license, or replace a physical license for display, for persons or businesses that have been displaced or are experiencing economic hardship because of an emergency. (GC §1009.5))

3. Permits the California Board of Pharmacy to waive provisions of its practice act or corresponding regulations during a declared federal, state, or local emergency, if in the board's opinion the waiver will aid in the protection of public health or the provision of patient care. The Board of Pharmacy may elect to continue such waivers for up to 90 days from the termination of the declared emergency if in its opinion, the continued waiver will aid in the protection of public health or in the provision of patient care. (Business and Professions Code (BPC) §4062(b), (d))
4. Provides that applicants, registrants, or licensees of the Board of Behavioral Sciences (Board) who have an electronic mail address must provide the Board with that email address. They must notify the Board of any changes to their email address within 30 calendar days. Specifies that the email addresses provided to the Board are confidential and not subject to public disclosure. (BPC §4990.07)
5. Allows DCA boards to charge a fee of up to \$25 for processing and issuance of a duplicate copy of a license. (BPC §122)
6. Requires DCA licenses and registrants to notify their licensing board of a change in their mailing address within 30 days. Failure to comply constitutes grounds for a citation and administrative fine. (BPC §136)

This Bill:

1. Allows boards under DCA or the Department of Real Estate to waive certain provisions of law for licensees and applicants impacted by a declared federal, state or local emergency or whose home or business is in a disaster area. Provisions of law that relate to the following may be waived (BPC §108.1):
 - Exam eligibility and timing requirements
 - Licensure renewal deadlines
 - Continuing education completion deadlines
 - Fee submission timing requirements
 - Delinquency fees
2. Defines a "disaster area" as an area for which a federal, state or local emergency or disaster has been declared. (BPC §108.1)
3. Provides that a waiver extends through the duration of the declared emergency or disaster, and a board may decide to extend it for either one year after the end of the

declared emergency or disaster, or for an additional period beyond one year after the end (BPC §108.1).

4. Requires DCA boards to waive the fee charged for processing and issuance of a duplicate copy of a license for a licensee impacted by a declared federal, state or local emergency or disaster or whose home or business is in such an area. (BPC §122)
5. Exempts licenses and registrants whose home or business mailing address is in a declared federal, state or local emergency or disaster area from the requirement to notify their licensing board of a change in their mailing address within 30 days. (BPC §136)
6. Requires all applicants and licensees to provide their board with an email address. (BPC §136.5)
7. This bill also contains other provisions, unrelated to the Board's practice acts, designed to protect property owners in times of disaster.
8. States in intent language that the Legislature does not intend for the provisions of this bill to require regulations to implement.

Comment:

1. **Intent.** In the fact sheet for the bill, the author states the following:

“When disasters strike, licensed professionals in affected areas face significant barriers to maintaining their ability to work. Current law does not consider disruptions caused by emergencies, leaving professionals at risk of losing their licenses due to their inability to meet renewal deadlines, mandatory fees, and continuing education requirements. These barriers are especially harmful when disaster survivors rely on these skilled professionals to rebuild”... “SB 641 will authorize licensing programs to waive certain requirements for individuals in disaster areas during a state of emergency. This will help professionals maintain their licensure status, ensuring they can continue to work without facing administrative burdens.”

2. **Past Waivers.** Most DCA licensing boards do not currently have the authority to issue their own law waivers. During the COVID-19 pandemic, the Governor declared a state of emergency and issued an executive order permitting the Director of DCA to waive any statutory or regulatory professional licensing requirements pertaining to healing arts licensees under the Department. The Director granted several waivers pertaining to the Board's licensees and registrants, including waiving in-person supervision requirements, extending exam eligibility periods, and LMFT trainee practicum enrollment requirements.

Most recently, due to the LA wildfires, the Governor issued an executive order which postponed license renewal fees for one year for DCA licensees whose residence or business is within one of the specified zip codes impacted by the wildfires.

3. **Urgency Bill.** This bill is an urgency measure, meaning that it requires a 2/3 approval vote of the Legislature, and if signed by the Governor, it would become effective immediately.
4. **Confirmation of Emergency.** It is unclear how Board staff would confirm the existence of a declared emergency. Would official government notice be provided to DCA? Or would staff be responsible for confirming all declared emergencies? If staff must confirm, an additional position may be required to confirm emergencies and advise the Board on the scale of their impact.
5. **May Not Cover All Provisions of Law.** The bill grants boards the authority to waive provisions of law related to exam eligibility and timing, renewal deadlines, and fees. However, this does not appear to cover all aspects of the Board's licensing requirements. For example, during the COVID-19 state of emergency, the Board obtained waivers to in-person supervision requirements and practicum requirements, that would likely not be included in the waiver authority granted by this bill.
6. **Existing Email Requirement.** This bill requires all applicants and licensees to provide the Board with an email address. The Board currently has a law in place requiring its applicants, registrants, and licensees to provide their email address if they have one.
7. **Fiscal Impact.** This bill permits the Board to waive laws in a declared emergency. It is not required. Therefore, a fiscal for any given law waiver will only occur if the Board elects to do a waiver.

Additional Board Meetings Possibly Required. To elect to waive a provision of law, it appears the Board would be required to take formal action. Therefore, the Board may need to call an additional Board meeting if a state of emergency happens in between Board meetings. This would result in travel costs for Board members, possible site rental costs, and costs for Board member pay and per diem. It is unknown how frequently states of emergency that would rise to the level of law waivers being needed would happen in any given year, and therefore the number of additional meetings is unknown.

Confirmation of an Emergency. It is unknown how the Board would receive confirmation that there is a declared state of emergency, especially for smaller-scale emergencies that take place at a local level. Would Board staff be responsible for confirming the existence of a declared emergency and associated details, or would DCA or another state entity inform the Board of this? If staff is responsible, what constitutes adequate confirmation, and what is the threshold for the Board to act in any given situation? It is possible that additional staff

resources may be needed to monitor for and confirm emergencies, and determine which ones rise to the level of Board consideration for a law waiver.

Potential Lost Fee Revenue. The bill requires the Board to waive its \$25 fee for a duplicate license for those affected by a declared emergency. This would result in some lost revenue, although without knowing the number and impact of emergencies, the amount cannot be estimated. Additionally, the Board could choose to implement other fee waivers in the future based on the circumstances of a particular emergency. Staff believes the amount of lost revenue would be minor and absorbable for the duplicate licenses. However, if the Board chose to waive other fees in the future, the revenue loss could be more significant.

Potential Breeze Costs. There could be potential Breeze costs depending on the waivers implemented, for example if modifiers or other Breeze changes were needed. OIS would need to determine these costs.

8. Staff Recommended Position. Staff recommends watching this bill at this time.

9. Support and Opposition.

Support:

- California Association of Licensed Investigators
- Contractors State License Board

Opposition:

- None at this time.

10. History

03/18/25 Set for hearing April 7.

03/05/25 Referred to Coms. on B. P. & E.D. and PUB. S.

02/21/25 From printer. May be acted upon on or after March 23.

02/20/25 Introduced. Read first time. To Com. on RLS. for assignment. To print.

Introduced by Senator Ashby
(Principal coauthors: Senators Cervantes, Cortese, Gonzalez,
Grayson, Hurtado, and Pérez)
(Coauthors: Senators Allen, Cabaldon, Padilla, Rubio, and Wahab)

February 20, 2025

An act to amend Sections 122, 136, and 10176 of, and to add Sections 108.1, 136.5, 7058.9, and 10089 to, the Business and Professions Code, relating to professions and vocations, and declaring the urgency thereof, to take effect immediately.

legislative counsel's digest

SB 641, as introduced, Ashby. Department of Consumer Affairs and Department of Real Estate: states of emergency: waivers and exemptions.

Existing law establishes in the Business, Consumer Services, and Housing Agency the Department of Real Estate to license and regulate real estate licensees, and the Department of Consumer Affairs, which is composed of various boards that license and regulate various businesses and professions.

This bill would authorize the Department of Real Estate and boards under the jurisdiction of the Department of Consumer Affairs to waive the application of certain provisions of the licensure requirements that the board or department is charged with enforcing for licensees and applicants impacted by a declared federal, state, or local emergency or whose home or business is located in a declared disaster area, including certain examination, fee, and continuing education requirements. The bill would exempt impacted licensees of boards from, among other requirements, the payment of duplicate license fees. The bill would require all applicants and licensees of the Department of Real Estate or

boards under the Department of Consumer Affairs to provide the board or department with an email address. The bill would prohibit a contractor licensed pursuant to the Contractors State License Law from engaging in private debris removal unless the contractor has one of specified license qualifications or as authorized by the registrar of contractors during a declared state of emergency or for a declared disaster area. The bill would require the Real Estate Commissioner, upon the declaration of a state of emergency, to determine the nature and scope of any unlawful, unfair, or fraudulent practices, as specified, and provide specified notice to the public regarding those practices. The bill would authorize the commissioner to suspend or revoke a real estate license if the licensee makes an unsolicited offer to an owner of real property to purchase or acquire an interest in the real property for an amount less than the fair market value of the property or interest of the property if the property is located in a declared disaster area, and would also make a violation of that provision a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

- 1 SECTION 1. It is the intent of the Legislature to provide
- 2 boards, bureaus, commissions, and regulatory entities within the
- 3 jurisdiction of the Department of Consumer Affairs and the
- 4 Department of Real Estate with authority to address licensing and
- 5 enforcement concerns in real time after an emergency is declared.
- 6 The Legislature does not intend for any provision of this bill to
- 7 require regulations to implement.
- 8 SEC. 2. Section 108.1 is added to the Business and Professions
- 9 Code, to read:

1 108.1. (a) For purposes of this section, “disaster area” means
2 an area for which a federal, state, or local emergency or disaster
3 has been declared.

4 (b) To aid in the protection of the public health, the provision
5 of patient care, the continuity of services, and to support impacted
6 individuals, the Department of Real Estate or any board under the
7 jurisdiction of the Department of Consumer Affairs, as specified
8 in Section 101, may waive the application of any provision of law
9 that the board or department is charged with enforcing for licensees
10 and applicants impacted by a declared federal, state, or local
11 emergency or whose home or business is located in a disaster area,
12 that is related to any of the following:

- 13 (1) Examination eligibility and timing requirements.
- 14 (2) Licensure renewal deadlines.
- 15 (3) Continuing education completion deadlines.
- 16 (4) License display requirements.
- 17 (5) Fee submission timing requirements.
- 18 (6) Delinquency fees.

19 (c) The authority specified in subdivision (b) shall extend
20 through the duration of a declared federal, state, or local emergency
21 or disaster for licensees and applicants located in a disaster area
22 and for either of the following, as determined by the board or the
23 Department of Real Estate and will aid in the protection of the
24 public health, the provision of patient care, the continuity of
25 services, or the support of impacted individuals:

- 26 (1) One year after the end of the declared emergency or disaster.
- 27 (2) An additional period of time beyond one year after the end
28 of the declared emergency or disaster, as determined by the board
29 or the Department of Real Estate.

30 SEC. 3. Section 122 of the Business and Professions Code is
31 amended to read:

32 122. (a) Except as *specified in subdivision (b) or otherwise*
33 *provided by law*, the department and each of the boards, bureaus,
34 committees, and commissions within the department may charge
35 a fee for the processing and issuance of a duplicate copy of any
36 certificate of licensure or other form evidencing licensure or
37 renewal of licensure. The fee shall be in an amount sufficient to
38 cover all costs incident to the issuance of the duplicate certificate
39 or other form but shall not exceed twenty-five dollars (\$25).

1 **(b)** *This section shall not apply to a licensee impacted by a*
2 *declared federal, state, or local emergency or disaster or whose*
3 *home or business is located in an area for which a federal, state,*
4 *or local emergency or disaster has been declared.*

5 SEC. 4. Section 136 of the Business and Professions Code is
6 amended to read:

7 136. (a) Each person holding a license, certificate, registration,
8 permit, or other authority to engage in a profession or occupation
9 issued by a board within the department shall notify the issuing
10 board at its principal office of any change in the person's mailing
11 address within 30 days after the change, unless the board has
12 specified by regulations a shorter time period.

13 (b) Except as otherwise provided by law, failure of a licensee
14 to comply with the requirement in subdivision (a) constitutes
15 grounds for the issuance of a citation and administrative fine, if
16 the board has the authority to issue citations and administrative
17 fines.

18 **(c)** *This section shall not apply to a licensee whose home or*
19 *business mailing address is located in an area for which a federal,*
20 *state, or local emergency or disaster area is declared.*

21 SEC. 5. Section 136.5 is added to the Business and Professions
22 Code, to read:

23 136.5. Every applicant for licensure and every licensee of the
24 Department of Real Estate or a board under the jurisdiction of the
25 Department of Consumer Affairs, as specified in Section 101, shall
26 provide the Department of Real Estate or the board with an email
27 address.

28 SEC. 6. Section 7058.9 is added to the Business and Professions
29 Code, to read:

30 7058.9. (a) A contractor shall not engage in private debris
31 removal unless the contractor has one of the following licenses or
32 classifications:

33 (1) A - General Engineering Contractor.

34 (2) B - General Building Contractor.

35 (3) A C-61 - Limited Specialty Contractor Classification for
36 Debris Removal and Flood Muck Out. The board may adopt
37 regulations to define the scope and requirements of this
38 classification.

39 (b) During a declared federal, state, or local emergency or for
40 a declared disaster area, the registrar may authorize additional

1 classifications to perform private debris removal or muck out
2 services based on the needs of the declared emergency or disaster.

3 (1) The registrar may make the determination on a case-by-case
4 basis and without requiring regulations.

5 (2) The registrar may require the qualifier for the license to have
6 passed an approved hazardous substance certification examination
7 as the disaster requires.

8 SEC. 7. Section 10089 is added to the Business and Professions
9 Code, to read:

10 10089. Immediately upon the declaration of a federal, state, or
11 local emergency or disaster area, the commissioner, in consultation
12 with other agencies and departments, as appropriate, shall do the
13 following:

14 (a) Expeditiously, and until 90 days following the end of the
15 emergency, determine the nature and scope of any unlawful, unfair,
16 or fraudulent practices employed by any individual or entity
17 seeking to take advantage of property owners in the wake of the
18 emergency.

19 (b) Provide notice to the public of the nature of these practices,
20 their rights under the law, relevant resources that may be available,
21 and contact information for authorities to whom violations may
22 be reported.

23 SEC. 8. Section 10176 of the Business and Professions Code
24 is amended to read:

25 10176. The commissioner may, upon ~~his or her~~ *their* own
26 motion, and shall, upon the verified complaint in writing of any
27 person, investigate the actions of any person engaged in the
28 business or acting in the capacity of a real estate licensee within
29 this state, and ~~he or she~~ *the commissioner* may temporarily suspend
30 or permanently revoke a real estate license at any time where the
31 licensee, while a real estate licensee, in performing or attempting
32 to perform any of the acts within the scope of this chapter has been
33 guilty of any of the following:

34 (a) Making any substantial misrepresentation.

35 (b) Making any false promises of a character likely to influence,
36 persuade, or induce.

37 (c) A continued and flagrant course of misrepresentation or
38 making of false promises through licensees.

39 (d) Acting for more than one party in a transaction without the
40 knowledge or consent of all parties thereto.

1 (e) Commingling with ~~his or her~~ *their* own money or property
2 the money or other property of others ~~which~~ *that* is received and
3 held by ~~him or her~~ *the licensee*.

4 (f) Claiming, demanding, or receiving a fee, compensation, or
5 commission under any exclusive agreement authorizing a licensee
6 to perform any acts set forth in Section 10131 for compensation
7 or commission where the agreement does not contain a definite,
8 specified date of final and complete termination.

9 (g) The claiming or taking by a licensee of any secret or
10 undisclosed amount of compensation, commission, or profit or the
11 failure of a licensee to reveal to the buyer or seller contracting with
12 the licensee the full amount of the licensee's compensation,
13 commission, or profit under any agreement authorizing the licensee
14 to do any acts for which a license is required under this chapter
15 for compensation or commission prior to or coincident with the
16 signing of an agreement evidencing the meeting of the minds of
17 the contracting parties, regardless of the form of the agreement,
18 whether evidenced by documents in an escrow or by any other or
19 different procedure.

20 (h) The use by a licensee of any provision, which allows the
21 licensee an option to purchase, in an agreement with a buyer or
22 seller that authorizes the licensee to sell, buy, or exchange real
23 estate or a business opportunity for compensation or commission,
24 except when the licensee, prior to or coincident with election to
25 exercise the option to purchase, reveals in writing to the buyer or
26 seller the full amount of the licensee's profit and obtains the written
27 consent of the buyer or seller approving the amount of the profit.

28 (i) Any other conduct, whether of the same or of a different
29 character than specified in this section, which constitutes fraud or
30 dishonest dealing.

31 (j) Obtaining the signature of a prospective buyer to an
32 agreement which provides that the prospective buyer shall either
33 transact the purchasing, leasing, renting, or exchanging of a
34 business opportunity property through the broker obtaining the
35 signature, or pay a compensation to the broker if the property is
36 purchased, leased, rented, or exchanged without the broker first
37 having obtained the written authorization of the owner of the
38 property concerned to offer the property for sale, lease, exchange,
39 or rent.

1 (k) Failing to disburse funds in accordance with a commitment
2 to make a mortgage loan that is accepted by the applicant when
3 the real estate broker represents to the applicant that the broker is
4 either of the following:

5 (1) The lender.

6 (2) Authorized to issue the commitment on behalf of the lender
7 or lenders in the mortgage loan transaction.

8 (l) Intentionally delaying the closing of a mortgage loan for the
9 sole purpose of increasing interest, costs, fees, or charges payable
10 by the borrower.

11 (m) Violating any section, division, or article of law which
12 provides that a violation of that section, division, or article of law
13 by a licensed person is a violation of that person's licensing law,
14 if it occurs within the scope of that person's duties as a licensee.

15 (n) *(1) Making an unsolicited offer to an owner of real property,*
16 *on their own behalf or on behalf of a client, to purchase or*
17 *otherwise acquire any interest in the real property for an amount*
18 *less than the fair market value of the property or interest in the*
19 *property when that property is located in an area included in a*
20 *declared federal, state, or local emergency or disaster area, for*
21 *the duration of the declared emergency and for three months*
22 *thereafter.*

23 *(2) Any person, including, but not limited to, an officer, director,*
24 *agent, or employee of a corporation, who violates this subdivision*
25 *is guilty of a misdemeanor punishable by a fine of up to ten*
26 *thousand dollars (\$10,000), by imprisonment for up to six months,*
27 *or both.*

28 SEC. 9. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

37 SEC. 10. This act is an urgency statute necessary for the
38 immediate preservation of the public peace, health, or safety within
39 the meaning of Article IV of the California Constitution and shall
40 go into immediate effect. The facts constituting the necessity are:

1 In order to support licensed professionals impacted by the
2 disasters caused by the Palisades and Eaton wildfires, it is
3 necessary that this act take effect immediately.

O