

**State of California
Office of Administrative Law**

In re:
California Architects Board

Regulatory Action:

Title 16, California Code of Regulations

Amend section: 152

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3


OAL Matter Number: 2022-0720-02

OAL Matter Type: Regular Resubmittal (SR)

This is a resubmittal of OAL action no. 2021-1230-05S and will broaden the Board's ability to issue citations and fines to unlicensed persons for violations of the Architects Practice Act.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 10/1/2022.

Date: August 29, 2022



Eric Partington
Senior Attorney

**For: Kenneth J. Pogue
Director**

**Original: Laura Zuniga, Executive Officer
Copy: Katie Wiley**

RESUBMITAL

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 10/2019)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2022-0720-02SR	
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

AUG 29 2022

1:55 pm

OFFICE OF ADMIN. LAW
2022 JUL 20 PM 12:28

AGENCY WITH RULEMAKING AUTHORITY
California Architects Board

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Citations Concerning Orders of Abatement and/or Administrative Fines	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2021-1230-05(S)
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SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 152
	REPEAL
TITLE(S) 16	

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
March 24, 2022 - April 8, 2022

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input checked="" type="checkbox"/> Other (Specify) Kimberly Kirchmeyer, Director, Department of Consumer Affairs		

7. CONTACT PERSON Katie Wiley	TELEPHONE NUMBER (916) 575-7208	FAX NUMBER (Optional) (916) 575-7283	E-MAIL ADDRESS (Optional) Katie.Wiley@dca.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Laura Zuniga	DATE Jul 15, 2022
TYPED NAME AND TITLE OF SIGNATORY Laura Zuniga, Executive Officer, California Architects Board	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 29 2022

Office of Administrative Law

Department of Consumer Affairs
TITLE 16. CALIFORNIA ARCHITECTS BOARD

ORDER OF ADOPTION

Amend Section 152 of Article 8 of Division 2 of Title 16 of the California Code of Regulations as follows:

§ 152. Citations.

(a) The Board's executive officer is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to sections 125.9 or 148 of the code against an architect or an unlicensed person who has committed any acts or omissions which are in violation of the Architects Practice Act or any regulation adopted pursuant thereto.

(b) A citation shall be issued whenever any order of abatement is issued or any fine is levied. Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statutes or regulations alleged to have been violated. The citation shall be served upon the individual personally or by certified mail.

(c) Where citations include an assessment of an administrative fine, they shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:

(1) Class "A" violations are violations which the executive officer has determined involve an unlicensed person who has violated Business and Professions Code sections 5536, 5536.1, 5536.4, or 5536.5 of the code, or title 16, section 134 of these regulations, including but not limited to, acting in the capacity of or engaged in the practice of architecture. A class "A" violation is subject to an administrative fine in an amount not less than seven hundred and fifty dollars (\$750) and not exceeding two thousand five hundred dollars (\$2,500) for each and every violation except a higher fine may be assessed when expressly authorized by statute.

(2) Class "B" violations are violations which the executive officer has determined involve either a person who, while engaged in the practice of architecture, has violated a statute or regulation relating to the practice of architecture and which has caused physical damage to a structure or building or to real property or monetary damage to a client or member of the public or a person who has committed a class "C" violation and has one or more prior, separate class "C" violations. A class "B" violation is subject to an administrative fine in an amount

(3) not less than one thousand dollars (\$1,000) and not exceeding two thousand five hundred dollars (\$2,500) for each and every violation. Class "C"

violations are violations which the executive officer has determined involve a person who, while engaged in the practice of architecture, has violated a statute or regulation relating to the practice of architecture and which has not caused either the death or bodily injury to another person or physical damage to a structure or building or to real property or monetary damage to a client or a member of the public. A class "C" violation is subject to an administrative fine in an amount not less than two hundred and fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) for each and every violation.

(d) In assessing the amount of an administrative fine, the executive officer shall consider the following criteria:

- (1) The good or bad faith exhibited by the cited person.
- (2) The nature and severity of the violation.
- (3) Evidence that the violation was willful.
- (4) History of violations of the same or similar nature.
- (5) The extent to which the cited person has cooperated with the board's investigation.
- (6) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.
- (7) Such other matters as justice may require.

(e) Notwithstanding the administrative fine amounts specified in subsection (c), a citation may include a fine between \$2,501 and \$5,000 if one or more of the following circumstances apply:

- (1) The citation involves a violation that has an immediate relationship to the health and safety of another person.
- (2) The cited person has a history of two or more prior citations of the same or similar violations.
- (3) The citation involves multiple violations that demonstrate a willful disregard of the law.
- (4) The citation involves a violation or violations perpetrated against a senior citizen or disabled person.

(f) The sanction authorized under this section shall be separate from, and in addition to, any other civil or criminal remedies.

Note: Authority cited: Sections 125.9, 148, and 5526, Business and Professions Code.
Reference: Sections 125.9, 148, 149, 5510.1 and 5560, Business and Professions Code.