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September 9, 2016

SENATOR
JERRY HILL

THIRTEENTH SENATE DISTRICT



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The Honorable Edmund G. Brown Jr.
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

RE: SB 465 (Hill & Hancock) — Request for Signature

Dear Governor Brown:

We respectfully request your signature on SB 465 which improves the state's oversight of the construction industry in the wake of last year's deadly Berkeley balcony collapse that killed six students and severely injured seven others.

This reform was first introduced in July of 2015 and since then the Senate Business and Professions Committee held an oversight hearing on April 25, 2016 to solicit feedback from interested stakeholders including victims' families, consumers, the construction industry, the Contractors State License Board, the California Building Standards Commission, and others. We've worked tirelessly to negotiate language with the construction industry and the administration to achieve a meaningful bill that's received unanimous bipartisan support.

SB 465 does the following:

1. Beginning January 1, 2017 requires the Department of Industrial Relations and the Division of Occupational Safety & Health to transmit information relating to actions against licensees to the Contractors State License Board.
 - In our research we discovered that state departments overseeing the construction industry and worker health & safety were not sharing information with CSLB about actions taken against licensees. Now CSLB can take action against problem contractors when they receive information from sister agencies.
2. Authorizes CSLB to enter into interagency agreements with other state and local agencies to receive information regarding actions against licensees.
 - Similar to the reform above, this encourages CSLB to partner with state and local entities to share information about bad actors in the industry so they can take action.
3. Beginning January 1, 2017 requires licensees to report to the CSLB within 90 days if they are convicted of any felony or any other crime that is substantially related to the qualifications, functions, and duties of a licensed contractor.
 - Other boards already require this – will allow CSLB to go after bad actors. Another example of CSLB needing to improve their oversight based on best practices of other boards.

4. By January 1, 2018 CSLB shall report to the Legislature the results of a study to determine if the board's ability to protect the public would be enhanced by regulations requiring licensees to report judgments, arbitration awards against them, or settlement payments of claims for construction defects they have made in excess of a certain amount to be determined by the board.
 - This is critical – other boards already do this for other licensed professionals including architects and the companies that insure them, engineers (BPC Section 6770), land surveyors (BPC Section 8776), medical professionals (BPC Section 801), and accountants (BPC Section 5063).
 - CSLB's chief of enforcement said that if they had the settlement information on Segue Construction prior to the Berkeley incident they would have taken action. Segue Construction of Pleasanton agreed to \$26.5 million in legal settlements for construction-defect cases from 2012 to 2015.

5. 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.
 - The Building Standards Commission's working group wasn't doing much until we included them in the bill and required them to provide recommendations to the legislature by Jan 1, 2018. Industry experts have said that it's time to examine the types of materials used in balconies and exterior structures and see if improvements need to be made. Deaths have not only occurred in Berkeley but also a student was killed in Sacramento last year when an apartment stairwell collapsed on him because of water intrusion and dry-rot.

Currently, state law does not require contractors to report defect settlement cases to the CSLB. Such disclosure requirements are routine for such professionals as doctors, architects, and engineers. While the Board for Professional Engineers, Land Surveyors, and Geologists receives roughly 60 settlement reports per year, the California Architects Board receives 29 settlement reports per year. Both boards underscore that there are minor, absorbable costs associated with this enforcement measure and underline that they conduct their own independent analysis of the settlement reports.

The firm that constructed the Berkeley apartment complex, Segue Construction Company, had a history of questionable work and in previous years had paid out \$26.5 million dollars in construction defect settlements. The state's construction watchdog, the Contractors State License Board, didn't have a mechanism to flag and investigate contractors with a history of defect settlements since they don't collect this information like other licensing boards. The CSLB's chief of enforcement stated that:

"Had we known about the suits and the underlying reasons for them, we would have absolutely taken action."

SB 465 provides the Contractors State License Board with the tools to take action against bad actors in the construction industry.

The bill also ensures that the working group formed by the California Building Standards Commission finalize their report by January 1, 2018 on whether changes need to be made to the Building Standards Code for balconies and exterior structures. The following excerpt from a July 21, 2015 article in the Sacramento Bee titled, "Collapses in Folsom, Berkeley invite scrutiny of building flaws" illustrates the need for the working group recommendations:

After recent fatal collapses of an apartment stairwell in Folsom and a balcony in Berkeley, officials said rotted wood failed to support the weight of the victims.

While building experts don't know how widespread the underlying conditions are, they say problems are common enough that another building failure could happen and that lawmakers and the construction industry should work together to find solutions.

Some structural engineers say the deaths highlight the need to use stronger building materials, while others say they show the need for better weatherproofing and maintenance. The Berkeley City Council last week approved regulations on the construction and inspection of balconies and other external structures, and building trade associations are discussing whether such measures are needed statewide.

"This is not just a local issue," said Ryan Kersting, president of the Structural Engineers Association of California, which is forming a task force with the American Institute of Architects and the California Building Officials to examine how to respond to these problems. "This is going to follow through to other jurisdictions."

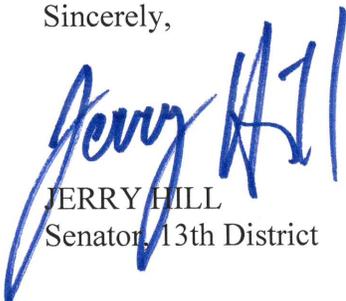
The Berkeley City Council has asked the California Building Standards Commission to update the state's building code to require corrosive-resistant steel as a support for balconies. In a letter to the commission, the council says "there's a possibility that the current standard allowing wood reinforcing of balcony floors will mean that failures in sealing and subsequent water damage may lead to more balcony collapses."

The Berkeley council has updated its code to require the use of "naturally durable or preservative-treated" wood for structural supports. The council also approved a requirement that apartment balconies be inspected by the city every three years.

Due to the recent fatal collapses of a balcony in Berkeley and an apartment stairwell in Folsom, it's imperative as lawmakers that we make sure our state agencies and departments overseeing the construction industry are doing all they can to protect the public. Senate Bill 465 is a reasonable measure that will create immediate improvements in oversight beginning January 1, 2017 and help us determine the best way to move forward with construction defect settlement reporting and building standard improvements beginning January 1, 2018.

Thank you for your consideration of this request. If you have any questions regarding the legislation please contact either myself at 650-619-6430 or my chief of staff Nate Solov at 916-651-4238.

Sincerely,



JERRY HILL
Senator, 13th District



LONI HANCOCK
Senator, 9th District