

# American Institute of Architects, California Council November 2005

## New Laws Of Interest to California Architects

### Architects Practice Act

**AB 302** – Amends the requirement in the California Architects Practice Act that architects and their insurers have to report to the California Architects Board (CAB) settlements and arbitration awards to certain claims that exceed \$5,000.

The old reporting requirement in the Practice Act, Business & Professions Code sections 5588 and 5589, require an architect and his/her insurer to report to the CAB “any settlement or arbitration awards in excess of five thousand dollars (\$5,000) of a claim or action for damages caused by the license holder’s fraud, deceit, negligence, incompetency, or recklessness in practice.”

The new law, which went into effect in early October, 2005, was proposed jointly by the AIACC and CAB due to legal opinions that the existing requirement had broad implications in how a “settlement” should be viewed. In short, “settlement” could include change orders or several other events common in the practice of architecture that results in an architect either giving money to the client or reducing his/her fee.

The new reporting requirement clarifies that a “settlement” is a settlement to a legal action – not a financial settlement in and of itself (as the old requirement had been interpreted) but a settlement to a lawsuit.

Under the new law, an architect must report to the CAB whenever he/she is sued (whether the action results in a settlement or judgment) or there is an arbitration award in the amount of \$5,000 or greater to any action alleging fraud, deceit, negligence, incompetence, or recklessness by the licensee in the practice of architecture.

Please see the November issue of the AIACC’s *Relevance* for a detailed Practice Advisory of the new reporting law.

[Click here to view a copy of AB 302.](#)

## **Building Standards**

**AB 304** – Allows local governments to establish seismic retrofit standards for "soft-story" multiunit residential buildings.

Specifically, AB 304 allows local governments to identify soft-story residential buildings constructed before January 1, 1978, as potentially hazardous to life in the event of an earthquake, and to establish local standards for the seismic retrofit of these buildings, so long as the standards are substantially equivalent with a nationally recognized model code relating to the retrofit of existing building. The locally adopted standards shall remain in effect until such time as the California Building Standards Commission adopts statewide standards relating to the retrofit of an existing building, after which time the Commission's standards shall apply, unless the local agency amends the statewide standards pursuant to the law which allows a local jurisdiction to amend the statewide standards to account for local climatic, geological, or topographical conditions. Soft-story residential buildings are those constructed with a wood frame, where the ground floor contains parking or open floor space that causes soft, weak, or open front walls.

AB 304 goes into effect 1/1/06.

[Click here to view a copy of AB 304.](#)

## **Residential Construction**

**AB 662** – This bill authorizes a homeowner and a contractor to voluntarily agree to incorporate the SB 800 rights and remedies for residential construction defect disputes in a contract for free reconstruction of a home lost during the October 2003 Cedar Fire in San Diego County. This bill sunsets on January 1, 2008.

AB 662 went into effect 7/11/05.

[Click here to view a copy of AB 662.](#)

**AB 758** – Places limits on the indemnification provisions that can be included in contracts for residential construction entered into after 1/1/06.

Specifically, AB 758 provides that, for all residential construction contracts, and amendments to the contract, entered into after 1/1/06, all provisions, clauses, covenants, or agreements contained in any such construction contract, and amendments to the contract, that purport to indemnify, including cost to defend, the builder by a subcontractor against liability for claims of construction defects would be unenforceable to the extent the claims arise out of, pertain to, or relate to the negligence of the builder or the builder's other agent's, other servants, or other independent contractors who are directly responsible to the builder, or for defects in design furnished

by those persons, or to the extent the claims do not arise out of, pertain to, or relate to the scope of work in the written agreement between the parties.

AB 758 does not specifically apply to design professionals, but attorneys who specialize in design and construction believe it does. Also, it is important to note that AB 758 does not change the Joint and Several Liability standard that can require a single party that is only partially responsible for a defect to be wholly responsible for fixing the defect.

AB 758 goes into effect 1/1/06.

[Click here to view a copy of AB 758.](#)

### **Home Improvement Contracts**

**AB 316** – Changes what is required to be included in a home improvement contract between an owner and licensed contractor. This law affects the language that must be included in the A-series AIA documents. The AIACC is preparing the necessary amendments to the A-series documents.

AB 316 goes into effect 1/1/06.

[Click here to view a copy of AB 316.](#)

### **Construction Materials**

**AB 574** – Encourages the use of recycled concrete, establishes the conditions when it can be used, and specifies the procedures that must be followed.

Specifically, AB 574 defines “recycled concrete” as a concrete mixture that includes reclaimed concrete material in accordance with certain specifications (e.g. Greenbook Standard Specifications for Public Works, American Concrete Institute, American Society of Testing Materials).

AB 574 also requires the user to be fully informed that the concrete may contain recycled concrete materials, and defines “fully informed” as notifying the user “of the potential use of recycled materials in a concrete product prior to or at the time of ordering, either orally or in writing, and informed by the delivery receipt as to the recycled ingredients at delivery acceptance.”

AB 574 goes into effect 1/1/06.

[Click here to view a copy of AB 574.](#)

## Communities

**AB 691** – Allows a city or county to declare that a portion of a specific plan or redevelopment plan adopted before January 1, 2006 is a transit village plan. After publishing a public notice 10 days before its public meeting, local officials must make findings and declarations demonstrating that the existing plan conforms to the statutory requirements for a transit village plan. Local officials must act before December 31, 2006.

AB 691 goes into effect 1/1/06.

[Click here to view a copy of AB 691.](#)

**AB 1233** – Requires a city or county to rezone, within one year of the start of a new housing element planning period, sufficient land to make up for any shortage of adequate sites for meeting the locality's regional housing need from the previous planning period.

AB 1233 goes into effect 1/1/06.

[Click here to view a copy of AB 1233.](#)

**SB 326** – Expands existing law to provide that any attached housing development is a permitted use not subject to a conditional use permit in a residential zone if various criteria are met.

SB 326 goes into effect 1/1/06.

[Click here to view a copy of SB 326.](#)

## Public Schools

**AB 882** – Requires school districts to indemnify and hold harmless architects, structural engineers, their consultants and employees if a school district reuses their plans on a different project and without their involvement.

AB 882 goes into effect 1/1/06.

[Click here to view a copy of AB 882.](#)

**AB 1358** – Requires any school district or charter school to give the California Department of Education written notice before acquiring title to or leasing property if the site is within two miles of an airport runway or potential runway.

AB 1358 goes into effect 1/1/06.

[Click here to view a copy of AB 1358.](#)

## **Health Facilities**

**SB 224** – Authorizes the Office of Statewide Health Planning and Development (OSHPD) to establish a plan review project that would exempt multistory hospital buildings from plan review and inspection by OSHPD if the facility meets certain conditions.

Requires, instead of authorizes as is current law, OSHPD to perform plan review and building inspection services for any building where outpatient clinical services of a licensed health facility are provided that is separated from a building in which hospital services are provided upon a request from the governing authority of a hospital.

SB 224 goes into effect 1/1/06.

[Click here to view a copy of SB 224.](#)

**SB 666** -- Increases the capacity of a congregate living health facility from no more than six beds to no more than 12 beds, with certain exceptions.

SB 666 goes into effect 1/1/06.

[Click here to view a copy of SB 666.](#)

## **Solar Energy**

**AB 1099** – Extends until January 1, 2010 the exclusion of an active solar energy system from the definition of new construction for property tax purposes.

AB 1099 went into effect September 9, 2006.

[Click here to view a copy of AB 1099.](#)

## Design-Build for Public Works

**AB 1329** – Allows the cities in Solano and Yolo Counties to use design-build until January 1, 2011. Establishes a specific process for the cities to follow in using design-build, and allows the selection of the design-build entity to be according to either lump-sum bid or best value.

AB 1329 goes into effect 1/1/06.

[Click here to view a copy of AB 1329.](#)

**AB 1511/SB 287** – Makes several changes to the existing law that authorizes certain counties to use design-build. The existing law applies to the Counties of Alameda, Contra Costa, Sacramento, Santa Clara, Solano, Sonoma, and Tulare.

The changes made include:

1. Adding the Counties of Butte, Del Norte, El Dorado, Fresno, Humboldt, Kings, Los Angeles, Madera, Mariposa, Mendocino, Merced, Monterey, Napa, Orange, Placer, San Diego, San Joaquin, San Luis Obispo, Shasta, Siskiyou, Stanislaus, Yolo, and Yuba.
2. Reducing the project cost threshold that must be met before design-build is an option from \$10 million to \$2.5 million.
3. Eliminating the requirement that the design-build entity must be selected according to price on projects less than \$20 million. Instead, the counties can make the selection either by cost (lump-sum bid) or by best value.
4. Limiting the types of projects that are eligible for this authority by defining projects as “the construction of a building and improvements directly related to the construction of a building, but does not include the construction of other infrastructure, including, but not limited to, streets and highways, public rail transit, or water resources facilities and infrastructure.”
5. Sunsets this authority on January 1, 2011.

AB 1511/SB 287 go into effect 1/1/06.

[Click here to view a copy of AB 1511.](#)

[Click here to view a copy of SB 287.](#)

## Stop Notices

**SB 130** – Provides that a stop notice claimant on a work of improvement may reduce or release a stop notice served on an owner, and that any such reduction or release would not preclude service of subsequent stop notices which are timely and proper. Allows the use of a stop notice release in a form other than that currently provided in statute.

SB 130 goes into effect 1/1/06.

[Click here to view a copy of SB 130.](#)

### **Industrial Development Authorities**

**AB 382** – Eliminates the 1/1/06 sunset date in the California Industrial Development Financing Act, thus continuing the ability of local agencies to issue Industrial Development Bonds to finance the acquisition, construction, or rehabilitation of certain facilities.

AB 382 goes into effect 1/1/06.

[Click here to view information on AB 382.](#)

*For more information on these new laws, contact Mark Christian, AIACC Director of Legislative Affairs, at 916.448.9082 or [mchristian@aiacc.org](mailto:mchristian@aiacc.org).*