

BUSINESS AND PROFESSIONS CODE

SECTION 5500-5502

5500. As used in this chapter, architect means a person who is licensed to practice architecture in this state under the authority of this chapter.

5500.1. (a) The practice of architecture within the meaning and intent of this chapter is defined as offering or performing, or being in responsible control of, professional services which require the skills of an architect in the planning of sites, and the design, in whole or in part, of buildings, or groups of buildings and structures.

(b) Architects' professional services may include any or all of the following:

- (1) Investigation, evaluation, consultation, and advice.
- (2) Planning, schematic and preliminary studies, designs, working drawings, and specifications.
- (3) Coordination of the work of technical and special consultants.
- (4) Compliance with generally applicable codes and regulations, and assistance in the governmental review process.
- (5) Technical assistance in the preparation of bid documents and agreements between clients and contractors.
- (6) Contract administration.
- (7) Construction observation.

(c) As a condition for licensure, architects shall demonstrate a basic level of competence in the professional services listed in subdivision (b) in examinations administered under this chapter.

5501. This chapter constitutes the chapter on professional architects. It shall be known and may be cited as the Architects Practice Act.

5502. As used in this chapter, board refers to the California Architects Board.

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SECTION 5615-5616

5615. As used in this chapter:

"Landscape architect" means a person who holds a license to practice landscape architecture in this state under the authority of this chapter.

A person who practices landscape architecture within the meaning and intent of this article is a person who offers or performs professional services, for the purpose of landscape preservation, development and enhancement, such as consultation, investigation, reconnaissance, research, planning, design, preparation of drawings, construction documents and specifications, and responsible

construction observation. Landscape preservation, development and enhancement is the dominant purpose of services provided by landscape architects. Implementation of that purpose includes: (1) the preservation and aesthetic and functional enhancement of land uses and natural land features; (2) the location and construction of aesthetically pleasing and functional approaches and settings for structures and roadways; and, (3) design for trails and pedestrian walkway systems, plantings, landscape irrigation, landscape lighting, landscape grading and landscape drainage.

Landscape architects perform professional work in planning and design of land for human use and enjoyment. Based on analyses of environmental physical and social characteristics, and economic considerations, they produce overall plans and landscape project designs for integrated land use.

The practice of a landscape architect may, for the purpose of landscape preservation, development and enhancement, include: investigation, selection, and allocation of land and water resources for appropriate uses; feasibility studies; formulation of graphic and written criteria to govern the planning and design of land construction programs; preparation review, and analysis of master plans for land use and development; production of overall site plans, landscape grading and landscape drainage plans, irrigation plans, planting plans, and construction details; specifications; cost estimates and reports for land development; collaboration in the design of roads, bridges, and structures with respect to the functional and aesthetic requirements of the areas on which they are to be placed; negotiation and arrangement for execution of land area projects; field observation and inspection of land area construction, restoration, and maintenance.

This practice shall include the location, arrangement, and design of those tangible objects and features as are incidental and necessary to the purposes outlined herein. Nothing herein shall preclude a duly licensed landscape architect from planning the development of land areas and elements used thereon or from performing any of the services described in this section in connection with the settings, approaches, or environment for buildings, structures, or facilities, in accordance with the accepted public standards of health, safety, and welfare.

This chapter shall not empower a landscape architect, licensed under this chapter, to practice, or offer to practice, architecture or engineering in any of its various recognized branches.

5616. (a) A landscape architect shall use a written contract when contracting to provide professional services to a client pursuant to this chapter. The written contract shall be executed by the landscape architect and the client, or their representatives, prior to the landscape architect commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following:

(1) A description of services to be provided by the landscape architect to the client.

(2) A description of any basis of compensation applicable to the contract, including the total price that is required to complete the contract, and the method of payment agreed upon by both parties.

(3) A notice that reads:

"Landscape architects are licensed by the State of California."

(4) The name, address, and license number of the landscape architect and the name and address of the client.

(5) A description of the procedure that the landscape architect and client will use to accommodate additional services.

(6) A description of the procedure to be used by either party to terminate the contract.

(b) This section shall not apply if the client knowingly states in writing after full disclosure of this section that a contract that complies with this section is not required.

(c) This section shall not apply to any of the following:

(1) Professional services rendered by a landscape architect for which the client will not pay compensation.

(2) An arrangement as to the basis for compensation and manner of providing professional services implied by the fact that the landscape architect's services are of the same general kind that the landscape architect has previously rendered to, and received payment for from, the same client.

(3) Professional services rendered by a landscape architect to any of the following:

(A) A landscape architect licensed under this chapter.

(B) An architect licensed under Chapter 3 (commencing with Section 5500).

(C) A professional engineer licensed under Chapter 7 (commencing with Section 6700).

(D) A contractor licensed under Chapter 9 (commencing with Section 7000).

(E) A geologist or geophysicist licensed under Chapter 12.5 (commencing with Section 7800).

(F) A professional land surveyor licensed under Chapter 15 (commencing with Section 8700).

(G) A manufacturing, mining, public utility, research and development, or other industrial corporation, if the services are provided in connection with, or incidental to, the products, systems, or services of that corporation or its affiliates.

(H) A public agency.

(d) As used in this section, "written contract" includes a contract that is in electronic form.

BUSINESS AND PROFESSIONS CODE

SECTION 5640-5644

5640. It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment, for a person to do any of the following without possessing a valid, unrevoked license as provided in this chapter:

(a) Engage in the practice of landscape architecture.

(b) Use the title or term "landscape architect," "landscape

architecture," "landscape architectural," or any other titles, words, or abbreviations that would imply or indicate that he or she is a landscape architect as defined in Section 5615.

(c) Use the stamp of a licensed landscape architect, as provided in Section 5659.

(d) Advertise or put out a sign, card, or other device that might indicate to the public that he or she is a licensed landscape architect or qualified to engage in the practice of landscape architecture.

5641. This chapter shall not be deemed to prohibit any person from preparing drawings for the conceptual design and placement of tangible objects and landscape features or plans, drawings, and specifications for the selection, placement, or use of plants for a single family dwelling. Construction documents, details, or specifications for the tangible objects or landscape features, and alteration of site requiring grading and drainage plans shall be prepared by a licensed professional as required by law.

5641.1. This chapter shall not be deemed to prohibit any person from preparing any plans, drawings, or specifications for any property owned by that person.

5641.2. Every person who holds a valid license issued by the State of California under the provisions of Chapter 1 (commencing with Section 6721) of the Food and Agricultural Code, authorizing engagement in the business of selling nursery stock in this state, may engage in the preparation of planting plans or drawings as an adjunct to merchandising nursery stock and related products, but may not use the title of landscape architect. That activity is exempt from licensure under the provisions of this chapter.

5641.3. An architect, professional engineer or land surveyor licensed or registered under the statutes of this state, insofar as the licensed or registered professional practices the profession for which he or she is licensed or registered, is exempt from the provisions of this chapter, except that an architect, professional engineer, or land surveyor may not use the title "landscape architect" unless he or she holds a license as required under this chapter.

5641.4. A landscape contractor licensed under the statutes of this state, insofar as he or she works within the classification for which the license is issued, may design systems and facilities for work to be performed and supervised by that landscape contractor and is exempt from the provisions of this chapter, except that a landscape contractor may not use the title "landscape architect" unless he or she holds a license as required under this chapter.

5641.5. (a) Nothing contained in this chapter shall be deemed to prohibit a person from engaging in the practice of, or offering to practice as, a golf course architect.

(b) As used in this section, "golf course architect" means a person who performs professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications and responsible supervision, where the dominant purpose of such service is the design of a golf course, in accordance with accepted professional standards of public health and safety.

5641.6. (a) Nothing contained in this chapter shall be deemed to prohibit a person from engaging in the practice of, or offering to practice as, an irrigation consultant.

(b) As used in this section, "irrigation consultant" means a person who performs professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications and responsible supervision, where the dominant purpose of such service is the design of landscape irrigation, in accordance with accepted professional standards of public health and safety.

5642. This chapter shall not be deemed to prevent a landscape architect from forming a partnership, firm, or corporation with, or employing, persons who are not landscape architects if the signature, date, and license number of the landscape architect appears on all instruments of service. In no case shall the other members of the partnership, firm, or corporation be designated or described as landscape architects.

The name of the licensed landscape architect shall appear wherever the firm name is used in the professional practice of the partnership, firm, or corporation, and the landscape architect shall reside in California when the partnership, firm, or corporation maintains a California office or mailing address. The name of the licensee shall appear on all partnership, firm, or corporation stationery, brochures, business cards and any instruments of service used or provided in the professional practice of the partnership, firm, or corporation.

No partnership, firm, or corporation shall engage in the practice of landscape architecture unless the work is under the immediate and responsible direction of a licensee of the board.

Failure of any person to comply with this section constitutes a ground for disciplinary action.

5644. Any person who holds a valid state license or other authority that authorizes the person to engage in a business or occupation, insofar as the person engages in a professional, occupational, or business activity within the scope of that license or other authority, shall not be required to be licensed under this chapter.

BUSINESS AND PROFESSIONS CODE

SECTION 6700-6706.3

6700. This chapter constitutes the chapter on professional engineers. It may be cited as the Professional Engineers Act.

6701. "Professional engineer," within the meaning and intent of this act, refers to a person engaged in the professional practice of rendering service or creative work requiring education, training and experience in engineering sciences and the application of special knowledge of the mathematical, physical and engineering sciences in such professional or creative work as consultation, investigation, evaluation, planning or design of public or private utilities, structures, machines, processes, circuits, buildings, equipment or projects, and supervision of construction for the purpose of securing compliance with specifications and design for any such work.

6702. "Civil engineer" as used in this chapter means a professional engineer in the branch of civil engineering and refers to one who practices or offers to practice civil engineering in any of its phases.

6702.1. "Electrical engineer" as used in this chapter means a professional engineer in the branch of electrical engineering and refers to one who practices or offers to practice electrical engineering in any of its phases.

6702.2. "Mechanical engineer" as used in this chapter means a professional engineer in the branch of mechanical engineering and refers to one who practices or offers to practice mechanical engineering in any of its phases.

6703. The phrase "responsible charge of work" means the independent control and direction, by the use of initiative, skill, and independent judgment, of the investigation or design of professional engineering work or the direct engineering control of such projects. The phrase does not refer to the concept of financial liability.

6703.1. "Supervision of the construction of engineering structures" means the periodic observation of materials and completed work to determine general compliance with plans, specifications, and design and planning concepts. However, "supervision of the construction of engineering structures" does not include responsibility for the superintendence of construction processes, site conditions, operations, equipment, personnel, or the maintenance of a safe place to work or any safety in, on, or about the site.

For purposes of this subdivision, "periodic observation" means

visits by an engineer, or his or her agent, to the site of a work of improvement.

6704. (a) In order to safeguard life, health, property, and public welfare, no person shall practice civil, electrical, or mechanical engineering unless appropriately licensed or specifically exempted from licensure under this chapter, and only persons licensed under this chapter shall be entitled to take and use the titles "consulting engineer," "professional engineer," or "registered engineer," or any combination of those titles or abbreviations thereof, and according to licensure with the board the engineering branch titles specified in Section 6732, or the authority titles specified in Sections 6736 and 6736.1, or the title "engineer-in-training."

(b) The provisions of this section shall not prevent the use of the title "consulting engineer" by a person who has qualified for and maintained exemption for using that title under the provisions of Section 6732.1, or by a person licensed as a photogrammetric surveyor.

6704.1. (a) The Department of Consumer Affairs, in conjunction with the board, and the Joint Committee on Boards, Commissions, and Consumer Protection shall review the engineering branch titles specified in Section 6732 to determine whether certain title acts should be eliminated from this chapter, retained, or converted to practice acts similar to civil, electrical, and mechanical engineering, and whether supplemental engineering work should be permitted for all branches of engineering. The department shall contract with an independent consulting firm to perform this comprehensive analysis of title act registration.

(b) The independent consultant shall perform, but not be limited to, the following: (1) meet with representatives of each of the engineering branches and other professional groups; (2) examine the type of services and work provided by engineers in all branches of engineering and interrelated professions within the marketplace, to determine the interrelationship that exists between the various branches of engineers and other interrelated professions; (3) review and analyze educational requirements of engineers; (4) identify the degree to which supplemental or "overlapping" work between engineering branches and interrelated professions occurs; (5) review alternative methods of regulation of engineers in other states and what impact the regulations would have if adopted in California; (6) identify the manner in which local and state agencies utilize regulations and statutes to regulate engineering work; and (7) recommend changes to existing laws regulating engineers after considering how these changes may affect the health, safety, and welfare of the public.

(c) The board shall reimburse the department for costs associated with this comprehensive analysis. The department shall report its findings and recommendations to the Legislature by September 1, 2002.

6705. A subordinate is any person who assists a registered professional engineer in the practice of professional engineering without assuming responsible charge of work.

6706. (a) An engineer who voluntarily, without compensation or expectation of compensation, provides structural inspection services at the scene of a declared national, state, or local emergency at the request of a public official, public safety officer, or city or county building inspector acting in an official capacity shall not be liable in negligence for any personal injury, wrongful death, or property damage caused by the engineer's good faith but negligent inspection of a structure used for human habitation or owned by a public entity for structural integrity or nonstructural elements affecting life and safety.

The immunity provided by this section shall apply only for an inspection that occurs within 30 days of the declared emergency.

Nothing in this section shall provide immunity for gross negligence or willful misconduct.

(b) As used in this section:

(1) "Engineer" means a person registered under this chapter as a professional engineer, including any of the branches thereof.

(2) "Public safety officer" has the meaning given in Section 3301 of the Government Code.

(3) "Public official" means a state or local elected officer.

6706.3. Any reference in any law or regulation to a registered engineer, or to a registered civil, electrical, or mechanical engineer, is deemed to refer to a licensed engineer, or to a licensed civil, electrical, or mechanical engineer, as the case may be.

BUSINESS AND PROFESSIONS CODE

SECTION 7025-7034

7025. (a) "Members of the personnel of record" as used in this chapter means every person listed in the records of the registrar as then associated with a licensee.

(b) "Person" as used in this chapter includes an individual, a firm, partnership, corporation, limited liability company, association or other organization, or any combination thereof.

(c) "Qualifying person," "qualifying individual," or "qualifier," as used in this chapter, means a person who qualifies for a license pursuant to Section 7068.

7026. "Contractor," for the purposes of this chapter, is synonymous with "builder" and, within the meaning of this chapter, a contractor is any person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or herself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, or the cleaning of grounds or structures in connection therewith, or the preparation and removal of roadway construction zones, lane closures, flagging, or

traffic diversions, or the installation, repair, maintenance, or calibration of monitoring equipment for underground storage tanks, and whether or not the performance of work herein described involves the addition to, or fabrication into, any structure, project, development or improvement herein described of any material or article of merchandise. "Contractor" includes subcontractor and specialty contractor. "Roadway" includes, but is not limited to, public or city streets, highways, or any public conveyance.

7026.1. (a) The term "contractor" includes all of the following:

(1) Any person not exempt under Section 7053 who maintains or services air-conditioning, heating, or refrigeration equipment that is a fixed part of the structure to which it is attached.

(2) (A) Any person, consultant to an owner-builder, firm, association, organization, partnership, business trust, corporation, or company, who or which undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct any building or home improvement project, or part thereof.

(B) For purposes of this paragraph, a consultant is a person, other than a public agency or an owner of privately owned real property to be improved, who meets either of the following criteria as it relates to work performed pursuant to a home improvement contract as defined in Section 7151.2:

(i) Provides or oversees a bid for a construction project.

(ii) Arranges for and sets up work schedules for contractors and subcontractors and maintains oversight of a construction project.

(3) A temporary labor service agency that, as the employer, provides employees for the performance of work covered by this chapter. The provisions of this paragraph shall not apply if there is a properly licensed contractor who exercises supervision in accordance with Section 7068.1 and who is directly responsible for the final results of the work. Nothing in this paragraph shall require a qualifying individual, as provided in Section 7068, to be present during the supervision of work covered by this chapter. A contractor requesting the services of a temporary labor service agency shall provide his or her license number to that temporary labor service agency.

(4) Any person not otherwise exempt by this chapter, who performs tree removal, tree pruning, stump removal, or engages in tree or limb cabling or guying. The term contractor does not include a person performing the activities of a nursery person who in the normal course of routine work performs incidental pruning of trees, or guying of planted trees and their limbs. The term contractor does not include a gardener who in the normal course of routine work performs incidental pruning of trees measuring less than 15 feet in height after planting.

(5) Any person engaged in the business of drilling, digging, boring, or otherwise constructing, deepening, repairing, re-perforating, or abandoning any water well, cathodic protection well, or monitoring well.

(b) The term "contractor" or "consultant" does not include a common interest development manager, as defined in Section 11501, and a common interest development manager is not required to have a contractor's license when performing management services, as defined in subdivision (d) of Section 11500.

7026.2. (a) For the purposes of this chapter, "contractor" includes any person engaged in the business of the construction, installation, alteration, repair, or preparation for moving of a mobilehome or mobilehome accessory buildings and structures upon a site for the purpose of occupancy as a dwelling.

(b) "Contractor" does not include the manufacturer of the mobilehome or mobilehome accessory building or structure if it is constructed at a place other than the site upon which it is installed for the purpose of occupancy as a dwelling, and does not include the manufacturer when the manufacturer is solely performing work in compliance with the manufacturer's warranty. "Contractor" includes the manufacturer if the manufacturer is engaged in onsite construction, alteration, or repair of a mobilehome or mobilehome accessory buildings and structures pursuant to specialized plans, specifications, or models, or any work other than in compliance with the manufacturer's warranty.

(c) "Contractor" does not include a seller of a manufactured home or mobilehome who holds a retail manufactured home or mobilehome dealer's license under Chapter 7 (commencing with Section 18045) of Part 2 of Division 13 of the Health and Safety Code, if the installation of the manufactured home or mobilehome is to be performed by a licensed contractor and the seller certifies that fact in writing to the buyer prior to the performance of the installation. The certification shall include the name, business address, and contractor's license number of the licensed contractor by whom the installation will be performed.

(d) For the purposes of this chapter, the following terms have the following meanings:

(1) "Mobilehome" means a vehicle defined in Section 18008 of the Health and Safety Code.

(2) "Mobilehome accessory building or structure" means a building or structure defined in Section 18008.5 of the Health and Safety Code.

(3) "Manufactured home" means a structure defined in Section 18007 of the Health and Safety Code.

7026.3. For the purpose of this chapter, "contractor" includes any person who installs or contracts for the installation of carpet wherein the carpet is attached to the structure by any conventional method as determined by custom and usage in the trade; except that a seller of installed carpet who holds a retail furniture dealer's license under Chapter 3 (commencing with Section 19000) of Division 8 shall not be required to have a contractor's license if the installation of the carpet is performed by a licensed contractor and the seller so certifies in writing to the buyer prior to the performance of the installation, which certification shall include the name, business address, and contractor's license number of the licensed contractor by whom the installation will be performed.

7026.11. Notwithstanding any other provision of law, the permissible scope of work for the General Manufactured Housing Contractor (C-47) license classification set forth in Section 832.47

of Division 8 of Title 16 of the California Code of Regulations shall include manufactured homes, as defined in Section 18007 of the Health and Safety Code, mobilehomes, as defined in Section 18008 of the Health and Safety Code, and multifamily manufactured homes, as defined in Section 18008.7 of the Health and Safety Code.

7026.12. Except as provided in Section 7026.13, the installation of a fire protection system, excluding an electrical alarm system, shall be performed only by either of the following:

(a) A contractor holding a fire protection contractor classification, as defined in the regulations of the board.

(b) An owner-builder of an owner-occupied, single-family dwelling, if not more than two single-family dwellings on the same parcel are constructed within one year, plans are submitted to, and approved by, the city, county, or city and county authority, and the city, county, or city and county authority inspects and approves the installation.

7026.13. (a) A residential fire protection system, excluding an electrical alarm system, for a one- or two-family dwelling may be installed by a contractor holding a fire protection contractor classification or a plumbing contractor classification, as defined in the regulations of the board. A "one- or two-family dwelling" is a residential group R-3 occupancy, as defined in Section 310.1 of Part 2 of Title 24 of the California Building Code.

(b) It is the intent of the Legislature that this section apply to the installation of fire protection system components within a one- or two-family dwelling and outside the dwelling up to the utility meter for the property.

(c) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

7027. Any person who advertises or puts out any sign or card or other device that would indicate to the public that he or she is a contractor, or who causes his or her name or business name to be included in a classified advertisement or directory under a classification for construction or work of improvement covered by this chapter is subject to the provisions of this chapter regardless of whether his or her operations as a builder are otherwise exempted.

7027.1. (a) It is a misdemeanor for any person to advertise for construction or work of improvement covered by this chapter unless that person holds a valid license under this chapter in the classification so advertised, except that a licensed building or engineering contractor may advertise as a general contractor.

(b) "Advertise," as used in this section, includes, but not by way

of limitation, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper, magazine, or by airwave or any electronic transmission, or in any directory under a listing for construction or work of improvement covered by this chapter, with or without any limiting qualifications.

(c) A violation of this section is punishable by a fine of not less than seven hundred dollars (\$700) and not more than one thousand dollars (\$1,000), which fine shall be in addition to any other punishment imposed for a violation of this section.

(d) If upon investigation, the registrar has probable cause to believe that an unlicensed individual is in violation of this section, the registrar may issue a citation pursuant to Section 7028.7 or 7099.10.

7027.2. Notwithstanding any other provision of this chapter, a person who is not licensed pursuant to this chapter may advertise for construction work or a work of improvement covered by this chapter only if the aggregate contract price for labor, material, and all other items on a project or undertaking is less than five hundred dollars (\$500), and he or she states in the advertisement that he or she is not licensed under this chapter.

7027.3. Any person, licensed or unlicensed, who willfully and intentionally uses, with intent to defraud, a contractor's license number that does not correspond to the number on a currently valid contractor's license held by that person, is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in state prison, or in county jail for not more than one year, or by both that fine and imprisonment. The penalty provided by this section is cumulative to the penalties available under all other laws of this state. If, upon investigation, the registrar has probable cause to believe that an unlicensed individual is in violation of this section, the registrar may issue a citation pursuant to Section 7028.7.

7027.4. (a) It is a cause for discipline for any contractor to advertise that he or she is "insured" or has insurance without identifying in the advertisement the type of insurance, including, for example, "commercial general liability insurance" or "workers' compensation insurance" that is carried by the contractor. The contractor may abbreviate the title of the type of insurance.

(b) It is cause for discipline for a contractor to advertise that he or she is "bonded" if the reference is to a contractor's license bond required pursuant to Section 7071.6 or to a disciplinary bond required pursuant to Section 7071.8.

(c) "Advertise," as used in this section, includes, but is not limited to, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building or structure or business vehicle or in any newspaper,

magazine, or by airwave or any electronic transmission, or in any directory under a listing for construction or work of improvement covered by this chapter, for the direct or indirect purpose of performing or offering to perform services that require a contractor's license.

7027.5. (a) A landscape contractor working within the classification for which the license is issued may design systems or facilities for work to be performed and supervised by that contractor.

(b) Notwithstanding any other provision of this chapter, a landscape contractor working within the classification for which the license is issued may enter into a prime contract for the construction of any of the following:

(1) A swimming pool, spa, or hot tub, provided that the improvements are included within the landscape project that the landscape contractor is supervising and the construction of any swimming pool, spa, or hot tub is subcontracted to a single licensed contractor holding a Swimming Pool (C-53) classification, as set forth in Section 832.53 of Title 16 of the California Code of Regulations, or performed by the landscape contractor if the landscape contractor also holds a Swimming Pool (C-53) classification. The contractor constructing the swimming pool, spa, or hot tub may subcontract with other appropriately licensed contractors for the completion of individual components of the construction.

(2) An outdoor cooking center, provided that the improvements are included within a residential landscape project that the contractor is supervising. For purposes of this subdivision, "outdoor cooking center" means an unenclosed area within a landscape that is used for the cooking or preparation of food or beverages.

(3) An outdoor fireplace, provided that it is included within a residential landscape project that the contractor is supervising and is not attached to a dwelling.

(4) A rainwater capture system, as defined in Section 10573 of the Water Code, used exclusively for landscape irrigation or as a water supply for a fountain, pond, or similar decorative water feature in a landscaping project.

(c) (1) Work performed in connection with a landscape project specified in paragraph (2), (3), or (4) of subdivision (b) that is outside of the field and scope of activities authorized to be performed under the Landscape Contractor (C-27) classification, as set forth in Section 832.27 of Title 16 of the California Code of Regulations, may only be performed by a landscape contractor if the landscape contractor also either holds an appropriate specialty license classification to perform the work or is licensed as a General Building contractor. If the landscape contractor neither holds an appropriate specialty license classification to perform the work nor is licensed as a General Building contractor, the work shall be performed by a Specialty contractor holding the appropriate license classification or by a General Building contractor performing work in accordance with the requirements of subdivision (b) of Section 7057.

(2) Notwithstanding paragraph (1), a landscape contractor performing work under the Landscape Contractor (C-27) classification,

as set forth in Section 832.27 of Title 16 of the California Code of Regulations, may design and install all exterior components of a rainwater capture system, as defined in Section 10573 of the Water Code, that are not a part of, or attached to, a structure.

(d) A violation of this section shall be cause for disciplinary action.

(e) Nothing in this section authorizes a landscape contractor to engage in or perform activities that require a license pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700)).

7028. (a) Unless exempted from this chapter, it is a misdemeanor for a person to engage in the business of, or act in the capacity of, a contractor within this state under either of the following conditions:

(1) The person is not licensed in accordance with this chapter.

(2) The person performs acts covered by this chapter under a license that is under suspension for failure to pay a civil penalty or to comply with an order of correction, pursuant to Section 7090.1, or for failure to resolve all outstanding final liabilities, pursuant to Section 7145.5.

(b) A first conviction for the offense described in this section is punishable by a fine not exceeding five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

(c) If a person has been previously convicted of the offense described in this section, unless the provisions of subdivision (d) are applicable, the court shall impose a fine of 20 percent of the contract price, or 20 percent of the aggregate payments made to, or at the direction of, the unlicensed person, or five thousand dollars (\$5,000), whichever is greater, and, unless the sentence prescribed in subdivision (d) is imposed, the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or a fine. If the court imposes only a fine or a jail sentence of less than 90 days for second or subsequent convictions under this section, the court shall state the reasons for its sentencing choice on the record.

(d) A third or subsequent conviction for the offense described in this section is punishable by a fine of not less than five thousand dollars (\$5,000) nor more than the greater amount of ten thousand dollars (\$10,000) or 20 percent of the contract price, or 20 percent of the aggregate payments made to, or at the direction of, the unlicensed person, and by imprisonment in a county jail for not more than one year or less than 90 days. The penalty provided by this subdivision is cumulative to the penalties available under all other laws of this state.

(e) A person who violates this section is subject to the penalties prescribed in subdivision (d) if the person was named on a license that was previously revoked and, either in fact or under law, was held responsible for any act or omission resulting in the revocation.

(f) If the unlicensed person engaging in the business of or acting in the capacity of a contractor has agreed to furnish materials and labor on an hourly basis, "the contract price" for the purposes of

this section means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(g) Notwithstanding any other law, an indictment for any violation of this section by an unlicensed person shall be found, or information or a complaint shall be filed, within four years from the date of the contract proposal, contract, completion, or abandonment of the work, whichever occurs last.

(h) For any conviction under this section, a person who utilized the services of the unlicensed person is a victim of crime and is eligible, pursuant to subdivision (f) of Section 1202.4 of the Penal Code, for restitution for economic losses, regardless of whether he or she had knowledge that the person was unlicensed.

(i) The changes made to this section by the act adding this subdivision are declaratory of existing law.

7028.1. It is a misdemeanor for any contractor, whether licensed or unlicensed, to perform or engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code, without certification pursuant to Section 7058.5 of this code, or to perform or engage in a removal or remedial action, as defined in subdivision (d) of Section 7058.7, or, unless otherwise exempted by this chapter, to bid for the installation or removal of, or to install or remove, an underground storage tank, without certification pursuant to Section 7058.7. A contractor in violation of this section is subject to one of the following penalties:

(a) Conviction of a first offense is punishable by a fine of not less than one thousand dollars (\$1,000) or more than three thousand dollars (\$3,000), and by possible revocation or suspension of any contractor's license.

(b) Conviction of a subsequent offense requires a fine of not less than three thousand dollars (\$3,000) or more than five thousand dollars (\$5,000), or imprisonment in the county jail not exceeding one year, or both the fine and imprisonment, and a mandatory action to suspend or revoke any contractor's license.

7028.2. A criminal complaint pursuant to this chapter may be brought by the Attorney General or by the district attorney or prosecuting attorney of any city, in any county in the state with jurisdiction over the contractor or employer, by reason of the contractor's or employer's act, or failure to act, within that jurisdiction. Any penalty assessed by the court shall be paid to the office of the prosecutor bringing the complaint.

7028.3. In addition to all other remedies, when it appears to the registrar, either upon complaint or otherwise, that a licensee has engaged in, or is engaging in, any act, practice, or transaction which constitutes a violation of this chapter whereby another person may be substantially injured, or that any person, who does not hold a state contractor's license in any classification, has engaged in, or is engaging in, any act, practice, or transaction which constitutes

a violation of this chapter, whether or not there is substantial injury, the registrar may, either through the Attorney General or through the district attorney of the county in which the act, practice, or transaction is alleged to have been committed, apply to the superior court of that county or any other county in which such person maintains a place of business or resides, for an injunction restraining such person from acting in the capacity of a contractor without a license in violation of this chapter, or from acting in violation of this chapter when another person may be substantially injured, and, upon a proper showing, a temporary restraining order, a preliminary injunction, or a permanent injunction shall be granted.

7028.4. In addition to the remedies set forth in Section 7028.3, on proper showing by (1) a licensed contractor, or an association of contractors, (2) a consumer affected by the violation, (3) a district attorney, or (4) the Attorney General, of a continuing violation of this chapter by a person who does not hold a state contractor's license in any classification, an injunction shall issue by a court specified in Section 7028.3 at the request of any such party, prohibiting such violation. The plaintiff in any such action shall not be required to prove irreparable injury.

7028.5. It is unlawful for a person who is or has been a partner, officer, director, manager, responsible managing employee, responsible managing member, responsible managing manager, or responsible managing officer of, or an individual who is listed in the personnel of record of, a licensed partnership, corporation, limited liability company, firm, association or other organization to individually engage in the business or individually act in the capacity of a contractor within this state without having a license in good standing to so engage or act.

7028.6. The Registrar of Contractors is hereby empowered to issue citations containing orders of abatement and civil penalties against persons acting in the capacity of or engaging in the business of a contractor within this state without having a license in good standing to so act or engage.

7028.7. (a) If upon inspection or investigation, either upon complaint or otherwise, the registrar has probable cause to believe that a person is acting in the capacity of or engaging in the business of a contractor or salesperson within this state without having a license or registration in good standing to so act or engage, and the person is not otherwise exempted from this chapter, the registrar shall issue a citation to that person.

(b) Within 72 hours of receiving notice that a public entity is intending to award, or has awarded, a contract to an unlicensed contractor, the registrar shall give written notice to the public

entity that a citation may be issued if a contract is awarded to an unlicensed contractor. If after receiving the written notice from the registrar that the public entity has awarded or awards the contract to an unlicensed contractor, the registrar may issue a citation to the responsible officer or employee of the public entity as specified in Section 7028.15.

(c) Each citation shall be in writing and shall describe with particularity the basis of the citation. Notwithstanding Sections 125.9 and 148, each citation shall contain an order of abatement and an assessment of a civil penalty in an amount not less than two hundred dollars (\$200) nor more than fifteen thousand dollars (\$15,000).

(d) With the approval of the Contractors' State License Board, the registrar shall prescribe procedures for the issuance of a citation under this section. The board shall adopt regulations covering the assessment of a civil penalty that shall give due consideration to the gravity of the violation, and any history of previous violations.

(e) The sanctions authorized under this section shall be separate from, and in addition to, all other remedies either civil or criminal.

7028.8. Service of a citation issued under Section 7028.7 may be made by certified mail at the last known business address or residence address of the person cited.

7028.9. A citation under Section 7028.7 shall be issued by the registrar within four years after the act or omission that is the basis for the citation or within 18 months after the date of the filing of the complaint with the registrar, whichever is later.

7028.10. Any person served with a citation under Section 7028.7 may appeal to the registrar within 15 working days after service of the citation with respect to violations alleged, scope of the order of abatement, or amount of civil penalty assessed.

7028.11. If within 15 working days after service of the citation, the person cited fails to notify the registrar that he or she intends to appeal the citation, the citation shall be deemed a final order of the registrar and not subject to review by any court or agency. The 15-day period may be extended by the registrar for good cause.

7028.12. If the person cited under Section 7028.7 timely notifies the registrar that he or she intends to contest the citation, the registrar shall afford an opportunity for a hearing. The registrar shall thereafter issue a decision, based on findings of fact,

affirming, modifying, or vacating the citation or directing other appropriate relief. The proceedings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the registrar shall have all the powers granted therein.

7028.13. (a) After the exhaustion of the review procedures provided for in Sections 7028.10 to 7028.12, inclusive, the registrar may apply to the appropriate superior court for a judgment in the amount of the civil penalty and an order compelling the cited person to comply with the order of abatement. The application, which shall include a certified copy of the final order of the registrar, shall constitute a sufficient showing to warrant the issuance of the judgment and order. If the cited person did not appeal the citation, a certified copy of the citation and proof of service, and a certification that the person cited is not or was not a licensed contractor or applicant for a license at the time of issuance of the citation, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

(b) Notwithstanding any other provision of law, the registrar may delegate the collection of the civil penalty for any citation issued to any person or entity legally authorized to engage in collections. Costs of collection shall be borne by the person cited. The registrar shall not delegate the authority to enforce the order of abatement.

(c) Notwithstanding any other provision of law, the registrar shall have the authority to assign the rights to the civil penalty, or a portion thereof, for adequate consideration. The assignee and the registrar shall have all the rights afforded under the ordinary laws of assignment of rights and delegation of duties. The registrar shall not assign the order of abatement. The assignee may apply to the appropriate superior court for a judgment based upon the assigned rights upon the same evidentiary showing as set forth in subdivision (a).

(d) Notwithstanding any other provision of law, including subdivisions (a) and (b) of Section 340 of the Code of Civil Procedure, the registrar or his or her designee or assignee shall have four years from the date of the final order to collect civil penalties except that the registrar or his or her designee or assignee shall have 10 years from the date of the judgment to enforce civil penalties on citations that have been converted to judgments through the process described in subdivisions (a) and (c).

7028.14. Notwithstanding any other provision of the law, the registrar may waive part of the civil penalty if the person against whom the civil penalty is assessed satisfactorily completes all the requirements for, and is issued, a contractor's license. Any outstanding injury to the public shall be satisfactorily settled prior to issuance of the license.

7028.15. (a) It is a misdemeanor for any person to submit a bid to

a public agency in order to engage in the business or act in the capacity of a contractor within this state without having a license therefor, except in any of the following cases:

(1) The person is particularly exempted from this chapter.

(2) The bid is submitted on a state project governed by Section 10164 of the Public Contract Code or on any local agency project governed by Section 20103.5 of the Public Contract Code.

(b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars (\$4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.

In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(c) This section shall not apply to a joint venture license, as required by Section 7029.1. However, at the time of making a bid as a joint venture, each person submitting the bid shall be subject to this section with respect to his or her individual licensure.

(d) This section shall not affect the right or ability of a licensed architect, land surveyor, or registered professional engineer to form joint ventures with licensed contractors to render services within the scope of their respective practices.

(e) Unless one of the foregoing exceptions applies, a bid submitted to a public agency by a contractor who is not licensed in accordance with this chapter shall be considered nonresponsive and shall be rejected by the public agency. Unless one of the foregoing exceptions applies, a local public agency shall, before awarding a contract or issuing a purchase order, verify that the contractor was properly licensed when the contractor submitted the bid.

Notwithstanding any other provision of law, unless one of the foregoing exceptions applies, the registrar may issue a citation to any public officer or employee of a public entity who knowingly awards a contract or issues a purchase order to a contractor who is not licensed pursuant to this chapter. The amount of civil penalties, appeal, and finality of such citations shall be subject to Sections 7028.7 to 7028.13, inclusive. Any contract awarded to, or any purchase order issued to, a contractor who is not licensed pursuant to this chapter is void.

(f) Any compliance or noncompliance with subdivision (e) of this section, as added by Chapter 863 of the Statutes of 1989, shall not invalidate any contract or bid awarded by a public agency during which time that subdivision was in effect.

(g) A public employee or officer shall not be subject to a citation pursuant to this section if the public employee, officer, or employing agency made an inquiry to the board for the purposes of verifying the license status of any person or contractor and the board failed to respond to the inquiry within three business days. For purposes of this section, a telephone response by the board shall be deemed sufficient.

7028.16. A person who engages in the business or acts in the capacity of a contractor, without having a license therefor, in connection with the offer or performance of repairs to a residential or nonresidential structure for damage caused by a natural disaster for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States, shall be punished by a fine up to ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months, or for two or three years, or by both that fine and imprisonment, or by a fine up to one thousand dollars (\$1,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment. In addition, a person who utilized the services of the unlicensed contractor is a victim of crime regardless of whether that person had knowledge that the contractor was unlicensed.

7028.17. (a) The failure of an unlicensed individual to comply with a citation after it is final is a misdemeanor.

(b) Notwithstanding Section 1462.5 or 1463 of the Penal Code or any other provision of law, any fine collected upon conviction in a criminal action brought under this section shall be distributed as follows:

(1) If the action is brought by a district attorney, any fine collected shall be paid to the treasurer of the county in which the judgment was entered to be designated for use by the district attorney.

(2) If the action is brought by a city attorney or city prosecutor, any fine collected shall be paid to the treasurer of the city in which the judgment was entered, to be designated for use by the city attorney.

7029. A joint venture license is a license issued to any combination of individuals, corporations, limited liability companies, partnerships, or other joint ventures, each of which holds a current, active license in good standing. A joint venture license may be issued in any classification in which at least one of the entities is licensed. An active joint venture license shall be automatically suspended by operation of law during any period in which any member of the entity does not hold a current, active license in good standing.

7029.1. (a) Except as provided in this section, it is unlawful for any two or more licensees, each of whom has been issued a license to act separately in the capacity of a contractor within this state, to be awarded a contract jointly or otherwise act as a contractor without first having secured a joint venture license in accordance with the provisions of this chapter.

(b) Prior to obtaining a joint venture license, contractors licensed in accordance with this chapter may jointly bid for the performance of work covered by this section. If a combination of licensees submit a bid for the performance of work for which a joint

venture license is required, a failure to obtain that license shall not prevent the imposition of any penalty specified by law for the failure of a contractor who submits a bid to enter into a contract pursuant to the bid.

(c) A violation of this section constitutes a cause for disciplinary action.

7029.5. Every C-36 plumbing contractor, C-45 sign contractor, and C-57 well-drilling contractor licensed under this chapter shall have displayed on each side of each motor vehicle used in his or her business, for which a commercial vehicle registration fee has been paid pursuant to Article 3 (commencing with Section 9400) of Chapter 6 of Division 3 of the Vehicle Code, his or her name, permanent business address, and contractor's license number, all in letters and numerals not less than 1 1/2 inches high.

The identification requirements of this section shall also apply to any drill rig used for the drilling of water wells.

Failure to comply with this section constitutes a cause for disciplinary action.

7029.6. Except for contractors identified in Section 7029.5, every contractor licensed under this chapter shall have displayed, in or on each motor vehicle used in his or her construction business, for which a commercial vehicle registration fee has been paid pursuant to Article 3 (commencing with Section 9400) of Chapter 6 of Division 3 of the Vehicle Code, his or her business name and contractors' license number in a clearly visible location in print type of at least 72-point font or three-quarters of an inch in height and width.

7030. (a) Except for contractors writing home improvement contracts pursuant to Section 7151.2 and contractors writing service and repair contracts pursuant to Section 7159.10, every person licensed pursuant to this chapter shall include the following statement in at least 10-point type on all written contracts with respect to which the person is a prime contractor:

"Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, CA 95826."

(b) Every person licensed pursuant to this chapter shall include the following statement in at least 12-point type in all home improvement contracts written pursuant to Section 7151.2 and service and repair contracts written pursuant to Section 7159.10:

"Information about the Contractors' State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees.

For more information:

Visit CSLB's Internet Web site at www.cslb.ca.gov

Call CSLB at 800-321-CSLB (2752)

Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

(c) Failure to comply with the notice requirements set forth in subdivision (a) or (b) of this section is cause for disciplinary action.

7030.1. (a) A contractor, who has his or her license suspended or revoked two or more times within an eight-year period, shall disclose either in capital letters in 10-point roman boldface type or in contrasting red print in at least 8-point roman boldface type, in a document provided prior to entering into a contract to perform work on residential property with four or fewer units, any disciplinary license suspension, or license revocation during the last eight years resulting from any violation of this chapter by the contractor, whether or not the suspension or revocation was stayed.

(b) The disclosure notice required by this section may be provided in a bid, estimate, or other document prior to entering into a contract.

(c) A violation of this section is subject to the following penalties:

(1) A penalty of one thousand dollars (\$1,000) shall be assessed for the first violation.

(2) A penalty of two thousand five hundred dollars (\$2,500) shall be assessed for the second violation.

(3) A penalty of five thousand dollars (\$5,000) shall be assessed for a third violation in addition to a one-year suspension of license by operation of law.

(4) A fourth violation shall result in the revocation of license in accordance with this chapter.

7030.5. Every person licensed pursuant to this chapter shall include his license number in: (a) all construction contracts; (b) subcontracts and calls for bid; and (c) all forms of advertising, as prescribed by the registrar of contractors, used by such a person.

7031. (a) Except as provided in subdivision (e), no person engaged in the business or acting in the capacity of a contractor, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract where a license is required by this chapter without alleging that he or she was a duly licensed contractor at all times during the performance of that act or contract, regardless of the merits of the cause of action brought by the person, except that this prohibition shall not apply to contractors who are each individually licensed under this chapter but who fail to comply with Section 7029.

(b) Except as provided in subdivision (e), a person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract.

(c) A security interest taken to secure any payment for the performance of any act or contract for which a license is required by this chapter is unenforceable if the person performing the act or contract was not a duly licensed contractor at all times during the performance of the act or contract.

(d) If licensure or proper licensure is controverted, then proof of licensure pursuant to this section shall be made by production of a verified certificate of licensure from the Contractors' State License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action. Nothing in this subdivision shall require any person or entity controverting licensure or proper licensure to produce a verified certificate. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure shall be on the licensee.

(e) The judicial doctrine of substantial compliance shall not apply under this section where the person who engaged in the business or acted in the capacity of a contractor has never been a duly licensed contractor in this state. However, notwithstanding subdivision (b) of Section 143, the court may determine that there has been substantial compliance with licensure requirements under this section if it is shown at an evidentiary hearing that the person who engaged in the business or acted in the capacity of a contractor (1) had been duly licensed as a contractor in this state prior to the performance of the act or contract, (2) acted reasonably and in good faith to maintain proper licensure, (3) did not know or reasonably should not have known that he or she was not duly licensed when performance of the act or contract commenced, and (4) acted promptly and in good faith to reinstate his or her license upon learning it was invalid.

(f) The exceptions to the prohibition against the application of the judicial doctrine of substantial compliance found in subdivision (e) shall apply to all contracts entered into on or after January 1, 1992, and to all actions or arbitrations arising therefrom, except that the amendments to subdivisions (e) and (f) enacted during the

1994 portion of the 1993-94 Regular Session of the Legislature shall not apply to either of the following:

(1) Any legal action or arbitration commenced prior to January 1, 1995, regardless of the date on which the parties entered into the contract.

(2) Any legal action or arbitration commenced on or after January 1, 1995, if the legal action or arbitration was commenced prior to January 1, 1995, and was subsequently dismissed.

7031.5. Each county or city which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition or repair of any building or structure shall also require that each applicant for such a permit file as a condition precedent to the issuance of a permit a statement which he has prepared and signed stating that the applicant is licensed under the provisions of this chapter, giving the number of the license and stating that it is in full force and effect, or, if the applicant is exempt from the provisions of this chapter, the basis for the alleged exemption.

Any violation of this section by any applicant for a permit shall be subject to a civil penalty of not more than five hundred dollars (\$500).

7032. Nothing in this chapter shall limit the power of a city or county to regulate the quality and character of installations made by contractors through a system of permits and inspections which are designed to secure compliance with and aid in the enforcement of applicable state and local building laws, or to enforce other local laws necessary for the protection of the public health and safety. Nothing in this chapter shall limit the power of a city or county to adopt any system of permits requiring submission to and approval by the city or county of plans and specifications for an installation prior to the commencement of construction of the installation.

Cities or counties may direct complaints to the registrar against licensees based upon determinations by city or county enforcement officers of violations by such licensees of codes the enforcement of which is the responsibility of the complaining city or county. Such complaints shall to the extent determined to be necessary by the registrar be given priority in processing over other complaints.

Nothing contained in this section shall be construed as authorizing a city or county to enact regulations relating to the qualifications necessary to engage in the business of contracting.

7033. Every city or city and county which requires the issuance of a business license as a condition precedent to engaging, within the city or city and county, in a business which is subject to regulation under this chapter, shall require that each licensee and each applicant for issuance or renewal of such license shall file, or have on file, with such city or city and county, a signed statement that such licensee or applicant is licensed under the provisions of this chapter and stating that the license is in full force and effect, or,

if such licensee or applicant is exempt from the provisions of this chapter, he shall furnish proof of the facts which entitle him to such exemption.

7034. (a) No contractor that is required to be licensed under this chapter shall insert in any contract, or be a party, with a subcontractor that is licensed under this chapter to any contract which contains a provision, clause, covenant, or agreement which is void or unenforceable under Section 2782 of the Civil Code.

(b) No contractor that is required to be licensed under this chapter shall require a waiver of lien rights from any subcontractor, employee, or supplier in violation of Section 8122 of the Civil Code.

FOOD AND AGRICULTURAL CODE

SECTION 6721-6728

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fac&group=06001-07000&file=6721-6728>

6721. It is unlawful, for any person, except a person who is expressly exempt pursuant to Section 6742 or 6743, to sell any nursery stock unless such person holds a valid license which is issued pursuant to this chapter.

6722. Except as provided in Section 6761, the director, upon receipt of the total license fee which is established pursuant to Section 6723, shall issue a license to sell nursery stock for the appropriate period as established pursuant to Section 6724 to any person that sells or seeks to sell plants, as defined in Section 5007, for planting, propagation, or ornamentation. Plants for ornamentation shall include cut flowers and cut greens. The applicant shall further satisfy the director of his character and good faith in seeking to carry on the business of selling nursery stock.

6723. (a) The secretary shall establish the minimum license fee at an amount not to exceed one hundred eighty dollars (\$180).

(b) The secretary may fix the minimum license fee at an amount that is less than one hundred eighty dollars (\$180) and may adjust the license fee if, after investigation and due notice, the secretary finds that the cost of administering this division and Chapter 5 (commencing with Section 53301) of Division 18, which relate to nursery stock, can be defrayed from revenues derived from the license fee in combination with those sums as provided by Sections 435 and 5822.

(c) Both of the following amounts shall be added as an additional license fee to the license fee established pursuant to subdivisions (a) and (b):

(1) An equal sum for each branch salesyard, store, or sales

location that is owned and operated by the applicant in the state.

(2) (A) An acreage fee in an amount to be established by the secretary for land used in the production, storage, or sale of all nursery stock, except as provided in subparagraph (B), in excess of one acre, which the secretary determines is necessary to carry out this part and any portion of this code that relates to nursery stock. The total acreage fee shall not be less than twenty-five dollars (\$25) nor more than nine hundred dollars (\$900) for each licensee. The acreage fee shall be calculated using as a basis the total of the acreage at all locations where nursery stock is produced, stored, or sold.

(B) Subparagraph (A) does not apply to those licensees whose gross income from the production of cut flowers and cut ornamentals is 75 percent or greater of the gross income of their nursery.

(d) As to all the fees, the secretary may require payment of prorated amounts when necessary in the issuance of new licenses for branch salesyards, stores, or sales locations to persons already licensed pursuant to the licensing periods established in Section 6724.

6724. There shall be four licensing periods as follows: January through December, April through March, July through June, and October through September. The fees for the renewal of the license for the foregoing periods shall be paid by the 1st day of the first month of the licensee's license period. If the renewal license fee is not paid prior to the 11th day of the first month of the licensee's license period, for the 12-month period ensuing, the license to sell nursery stock is forfeited.

6725. Any person whose license to sell nursery stock has been forfeited shall not be issued a renewal license except upon written application to the department.

6726. Except as otherwise provided in Section 6727, the application for renewal of a license shall be accompanied by the following sums:

(a) If no part of the minimum license fee has been paid, a sum which is equal to the minimum license fee and a restoration fee in an amount that is equal to the minimum license fee.

(b) If a part of the minimum license fee has been paid, an amount which is a sum equal to any portion of the minimum license fee which is unpaid on the 11th day of the first month of the licensee's license period and a restoration fee in an amount which is equal to the unpaid portion of the minimum license fee.

6727. No restoration fee is required of any person whose application for renewal of a license is accompanied by his signed statement that prior to the date of his application and payment of the minimum license fee he has not sold any nursery stock during any part of the license period for which he applies for renewal of the license. The director also may accept, at his discretion, the

licensee's affidavit that the minimum license fee was not paid within the time limits specified in Section 6724 for reasons beyond the licensee's control.

6728. The director shall not refund more than one-half of the minimum license fee to any person who applies for a license to sell nursery stock and who later decides not to engage in the sale of nursery stock. No portion of the minimum license fee shall be refunded to any person who is denied a license pursuant to Section 6761.
