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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.*)

CHAPTER 3. Architecture [5500 - 5610.7] (*Chapter 3 added by Stats. 1939, Ch. 33.*)

ARTICLE 3. Application of Chapter [5535 - 5538] (*Article 3 added by Stats. 1939, Ch. 33.*)

5535. As used in this chapter, the word "person" includes any individual, firm, partnership, general corporation, professional corporation, or limited liability partnership, as authorized by the Corporations Code.

(*Amended by Stats. 2007, Ch. 275, Sec. 1. Effective January 1, 2008.*)

5535.1. The phrase "responsible control" means that amount of control over the content of all architectural instruments of service during their preparation that is ordinarily exercised by architects applying the required professional standard of care.

(*Amended by Stats. 2007, Ch. 275, Sec. 2. Effective January 1, 2008.*)

5535.2. (a) This chapter does not prevent an architect from forming a business entity or collaborating with persons who are not architects, provided that any architects' professional services that are provided through that entity or collaboration are offered and provided under the responsible control of an architect, or architects, and in accordance with the provisions of this chapter.

(b) (1) A business entity organized as a general corporation may include in its name any or all of the following:

(A) A fictitious name.

(B) The name of one or more licensed architects.

(C) The term "architect," the term "architecture," or a variation of the term "architect" or "architecture."

(2) Nothing in paragraph (1) shall limit a business entity organized as a general corporation from including in its name any other word or name that is not otherwise prohibited by law.

(3) Notwithstanding paragraphs (1) and (2), a business entity organized as a general corporation shall not include in its name the term "professional corporation."

(*Amended by Stats. 2021, Ch. 376, Sec. 2. (AB 830) Effective January 1, 2022.*)

5535.25. As used in this chapter, the terms "business entity" and "collaboration" include employer and employee relationships, joint ventures, partnerships, general corporations, and consulting relationships formed by written agreement in which the architect provides immediate and responsible direction of architectural services. For purposes of this section, "immediate and responsible direction" has the same meaning as that term is defined in Section 151 of Title 16 of the California Code of Regulations.

(*Added by Stats. 2007, Ch. 275, Sec. 4. Effective January 1, 2008.*)

5535.3. This chapter does not prevent a corporation from furnishing or supplying by contract architectural services, as long as any architects' professional services are offered and provided under the responsible control of a licensed architect or architects.

(*Amended by Stats. 2007, Ch. 275, Sec. 5. Effective January 1, 2008.*)

5536. (a) 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 one year, or by both that fine and imprisonment, for any person who is

not licensed to practice architecture under this chapter to practice architecture in this state, to use any term confusingly similar to the word architect, to use the stamp of a licensed architect, as provided in Section 5536.1, or to advertise or put out any sign, card, or other device that might indicate to the public that the person is an architect, is qualified to engage in the practice of architecture, or is an architectural designer.

(b) It is a misdemeanor, punishable as specified in subdivision (a), for any person who is not licensed to practice architecture under this chapter to affix a stamp or seal that bears the legend "State of California" or words or symbols that represent or imply that the person is so licensed by the state to prepare plans, specifications, or instruments of service.

(Amended by Stats. 2019, Ch. 376, Sec. 6. (SB 608) Effective January 1, 2020.)

5536.1. (a) All persons preparing or being in responsible control of plans, specifications, and instruments of service for others shall sign those plans, specifications, and instruments of service and all contracts therefor, and, if licensed under this chapter, shall affix a stamp, which complies with subdivision (b), to those plans, specifications, and instruments of service, as evidence of the person's responsibility for those documents. The failure of any person to comply with this subdivision is a misdemeanor punishable as provided in Section 5536. This section shall not apply to employees of persons licensed under this chapter while acting within the course of their employment.

(b) For the purposes of this chapter, any stamp used by any architect licensed under this chapter shall be of a design authorized by the board, which shall at a minimum bear the licensee's name, their license number, the legend "licensed architect" and the legend "State of California," and which shall provide a means of indicating the renewal date of the license.

(c) The preparation of plans, specifications, or instruments of service for any building, except the buildings described in Section 5537, by any person who is not licensed to practice architecture in this state, is a misdemeanor punishable as provided in Section 5536.

(d) The board may adopt regulations necessary for the implementation of this section.

(Amended by Stats. 2024, Ch. 482, Sec. 4. (SB 1452) Effective January 1, 2025.)

5536.2. Each county or city which requires the issuance of any permit as a condition precedent to the construction, alteration, improvement, or repair of any building or structure shall also require as a condition precedent to the issuance of the permit a signed statement that the person who prepared or was in responsible control of the plans and specifications for the construction, alteration, improvement, or repair of the building or structure is licensed under this chapter to prepare the plans and specifications, or is otherwise licensed in this state to prepare the plans and specifications.

The signature and stamp, as provided for in Section 5536.1, on the plans and specifications by the person who prepared or was in responsible control of the plans and specifications shall constitute compliance with this section.

It is the responsibility of the agency that issues the permit to determine that the person who signed and stamped the plans and specifications or who submitted the signed statement required by this section is licensed under this chapter or is otherwise licensed in this state to prepare the plans and specifications.

This section shall not apply to the issuance of permits where the preparation of plans and specifications for the construction, alteration, improvement, or repair of a building or structure is exempt from this chapter, except that the person preparing the plans and specifications for others shall sign the plans and specifications as provided by Section 5536.1.

(Amended by Stats. 1996, Ch. 184, Sec. 7. Effective January 1, 1997.)

5536.22. (a) An architect shall use a written contract when contracting to provide professional services to a client pursuant to this chapter. That written contract shall be executed by the architect and the client, or the client's representative, prior to the 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 items:

(1) A description of the project for which the client is seeking services.

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

(3) A description of any basis of compensation applicable to the contract and the method of payment agreed upon by both parties.

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

(5) A description of the procedure that the architect and the client will use to accommodate additional services and contract changes, including, but not limited to, changes in the description of the project, in the description of the services, or in the description of the compensation and method of payment.

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

(7) A statement identifying the ownership and use of instruments of service prepared by the architect.

(8) A statement in at least 12-point type that reads: "Architects are licensed and regulated by the California Architects Board located at 2420 Del Paso Road, Suite 105, Sacramento, CA 95834."

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

(1) Professional services rendered by an 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 architect's services are of the same general kind which the architect has previously rendered to and received payment from the same client.

(3) If the client knowingly states in writing after full disclosure of this section that a writing which complies with the requirements of this section is not required.

(4) Professional services rendered by an architect to a professional engineer registered to practice engineering under Chapter 7 (commencing with Section 6700), or to a land surveyor licensed under Chapter 15 (commencing with Section 8700).

(5) Professional services rendered by an architect to a public agency when using that public agency's written contract.

(Amended by Stats. 2019, Ch. 376, Sec. 7. (SB 608) Effective January 1, 2020.)

5536.25. (a) A licensed architect who signs and stamps plans, specifications, reports, or documents shall not be responsible for damage caused by subsequent changes to or uses of those plans, specifications, reports, or documents, where the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved in writing by the licensed architect who originally signed the plans, specifications, reports, or documents, provided that the written authorization or approval was not unreasonably withheld by the architect and the architectural service rendered by the architect who signed and stamped the plans, specifications, reports, or documents was not also a proximate cause of the damage.

(b) The signing and stamping of plans, specifications, reports, or documents which relate to the design of fixed works shall not impose a legal duty or responsibility upon the person signing the plans, specifications, reports, or documents to observe the construction of the fixed works that are the subject of the plans, specifications, reports, or documents. However, this section shall not preclude an architect and a client from entering into a contractual agreement that includes a mutually acceptable arrangement for the provision of construction observation services. This subdivision shall not modify the liability of an architect who undertakes, contractually or otherwise, the provision of construction observation services for rendering those services.

(c) (1) For purposes of this section, "construction observation services" means periodic observation of completed work to determine general compliance with the plans, specifications, reports, or other contract documents. However, "construction observation services" does not mean the superintendence of construction processes, site conditions, operations, equipment, or personnel, or the maintenance of a safe place to work or any safety in, on, or about the site.

(2) For purposes of this subdivision, "periodic observation" means visits by an architect, or their agent, to the site of a work of improvement.

(Amended by Stats. 2024, Ch. 482, Sec. 5. (SB 1452) Effective January 1, 2025.)

5536.26. The use of the words "certify" or "certification" by a licensed architect in the practice of architecture constitutes an expression of professional opinion regarding those facts or findings that are the subject of the certification, and does not constitute a warranty or guarantee, either expressed or implied. Nothing in this section is intended to alter the standard of care ordinarily exercised by a licensed architect.

(Added by Stats. 2001, Ch. 728, Sec. 51. Effective January 1, 2002.)

5536.27. (a) An architect who voluntarily, without compensation or expectation of compensation, provides structural inspection services at the scene of a declared national, state, or local emergency caused by a major earthquake, flood, riot, or fire 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 architect's good faith but negligent inspection of a structure used for human habitation or a structure 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) "Architect" has the meaning given by Section 5500.
- (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.

(Amended by Stats. 1997, Ch. 759, Sec. 44. Effective January 1, 1998.)

5536.3. (a) In the event of damage to residential real property caused by a natural disaster declared by the Governor, if the damage may be covered by one or more policies of insurance, any architect or other person who has prepared plans used for the construction or remodeling of the residential real property shall release a copy of the plans to the homeowner's insurer or the homeowner, or duly authorized agent of the insurer or the homeowner, upon request and verification that the plans will be used solely for the purpose of verifying the fact and amount of damage for insurance purposes.

(b) No homeowner or any other person shall use any copy of plans obtained pursuant to subdivision (a) to rebuild all or any part of the residential real property without the prior written consent of the architect or other person who prepared the plans.

(c) In the event prior written consent is not provided pursuant to subdivision (b), no architect or other person who has prepared plans who releases a copy of plans pursuant to subdivision (a) shall be liable to any person if the plans are subsequently used by the homeowner or any other person to rebuild all or any part of the residential real property.

(d) The architect or other person may charge a reasonable fee to cover the reproduction costs of providing a copy of the plans.

(e) As used in this section, "residential real property" means a single family structure, whether or not owner-occupied.

(Added by Stats. 1992, Ch. 859, Sec. 1. Effective January 1, 1993.)

5536.4. (a) No person may use an architect's instruments of service, as those professional services are described in paragraph (2) of subdivision (b) of Section 5500.1, without the consent of the architect in a written contract, written agreement, or written license specifically authorizing that use.

(b) An architect shall not unreasonably withhold consent to use their instruments of service from a person for whom the architect provided the services. An architect may reasonably withhold consent to use the instruments of service for cause, including, but not limited to, lack of full payment for services provided or failure to fulfill the conditions of a written contract.

(Amended by Stats. 2024, Ch. 482, Sec. 6. (SB 1452) Effective January 1, 2025.)

5536.5. Any person who violates subdivision (a) of Section 5536 in connection with the offer or performance of architectural services for the repair of damage to a residential or nonresidential structure 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 the 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 the fine and imprisonment.

(Amended by Stats. 2011, Ch. 15, Sec. 14. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

5537. (a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:

- (1) Single-family dwellings of woodframe construction not more than two stories and basement in height.
- (2) Multiple dwellings containing no more than four dwelling units of woodframe construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.
- (3) Garages or other structures appurtenant to buildings described under subdivision (a), of woodframe construction not more than two stories and basement in height.
- (4) Agricultural and ranch buildings of woodframe construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.

(b) If any portion of any structure exempted by this section deviates from substantial compliance with conventional framing requirements for woodframe construction found in the most recent edition of Title 24 of the California Code of Regulations or tables

of limitation for woodframe construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by, or under the responsible control of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation. Substantial compliance for purposes of this section is not intended to restrict the ability of the building officials to approve plans pursuant to existing law and is only intended to clarify the intent of Chapter 405 of the Statutes of 1985.

(Amended by Stats. 1996, Ch. 184, Sec. 8. Effective January 1, 1997.)

5537.1. A structural engineer, defined as a registered civil engineer who has been authorized to use the title structural engineer under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a structural engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

(Amended by Stats. 1991, Ch. 566, Sec. 5.)

5537.2. This chapter shall not be construed as authorizing a licensed contractor to perform design services beyond those described in Section 5537 or in Chapter 9 (commencing with Section 7000), unless those services are performed by or under the direct supervision of a person licensed to practice architecture under this chapter, or a professional or civil engineer licensed pursuant to Chapter 7 (commencing with Section 6700) of Division 3, insofar as the professional or civil engineer practices the profession for which he or she is registered under that chapter.

However, this section does not prohibit a licensed contractor from performing any of the services permitted by Chapter 9 (commencing with Section 7000) of Division 3 within the classification for which the license is issued. Those services may include the preparation of shop and field drawings for work which he or she has contracted or offered to perform, and designing systems and facilities which are necessary to the completion of contracting services which he or she has contracted or offered to perform.

However, a licensed contractor may not use the title "architect," unless he or she holds a license as required in this chapter.

(Amended by Stats. 1985, Ch. 1327, Sec. 6.)

5537.4. A professional engineer registered to practice engineering under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a professional engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

(Added by renumbering Section 5537.3 by Stats. 1985, Ch. 1327, Sec. 7.5.)

5537.5. A civil engineer authorized to use that title under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a civil engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

(Added by renumbering Section 5537.4 by Stats. 1985, Ch. 1327, Sec. 8.5.)

5537.6. A landscape architect registered under the provisions of Chapter 3.5 (commencing with Section 5615), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a landscape architect may not use the title "architect," exclusive of the word "landscape," unless he or she holds a license as required in this chapter.

(Added by renumbering Section 5537.5 by Stats. 1985, Ch. 1327, Sec. 9.5.)

5537.7. A land surveyor licensed under the provisions of Chapter 15 (commencing with Section 8700) of Division 3, insofar as he or she practices the profession for which he or she is licensed under Chapter 15 of Division 3, is exempt from the provisions of this chapter, except that a land surveyor may not use the title "architect," unless he or she holds a license as required in this chapter.

(Amended by Stats. 1985, Ch. 1327, Sec. 11.)

5538. This chapter does not prohibit any person from furnishing either alone or with contractors, if required by Chapter 9 (commencing with Section 7000) of Division 3, labor and materials, with or without plans, drawings, specifications, instruments of service, or other data covering such labor and materials to be used for any of the following:

(a) For nonstructural or nonseismic storefronts, interior alterations or additions, fixtures, cabinetwork, furniture, or other appliances or equipment.

(b) For any nonstructural or nonseismic work necessary to provide for their installation.

(c) For any nonstructural or nonseismic alterations or additions to any building necessary to or attendant upon the installation of those storefronts, interior alterations or additions, fixtures, cabinetwork, furniture, appliances, or equipment, provided those

alterations do not change or affect the structural system or safety of the building.

(Amended by Stats. 1990, Ch. 396, Sec. 2.)