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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 9. Contractors [7000 - 7191] (*Chapter 9 added by Stats. 1939, Ch. 37.*)

ARTICLE 3. Exemptions [7040 - 7054.5] (*Article 3 added by Stats. 1939, Ch. 37.*)

7040. (a) This chapter does not apply to an authorized representative of the United States government, the State of California, any federally recognized tribe or participating tribe acting within tribal jurisdiction, or any incorporated town, city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state when the entity or its representative is acting within the scope of the entity's or representative's official capacity.

(b) Nothing in this section authorizes the entity or its authorized representative thereof either to enter into or authorize a contract with an unlicensed contractor for work that is required by this chapter to be performed by a licensed contractor.

(Amended by Stats. 2024, Ch. 485, Sec. 5. (SB 1455) Effective January 1, 2025.)

7041. This chapter does not apply to officers of a court when they are acting within the scope of their office.

(Added by Stats. 1939, Ch. 37.)

7042. This chapter does not apply to public utilities operating under the regulation of the State Railroad Commission on construction, maintenance and development work incidental to their own business.

(Added by Stats. 1939, Ch. 37.)

7042.1. (a) Notwithstanding any other provisions of this chapter, gas, heat, or electrical corporations and their subsidiaries that are regulated as public utilities by the Public Utilities Commission shall not conduct work for which a contractor's license is required, except under any one or more of the following conditions:

(1) The work is performed upon the gas, heat, or electrical corporation's properties.

(2) The work is performed through a contract with a contractor or contractors licensed pursuant to this chapter or the work is performed for low-income citizens pursuant to a program authorized by order of the Public Utilities Commission.

(3) The work is undertaken by the gas, heat, or electrical corporation in furtherance of the generation, transmission, or distribution of electricity, gas, or steam, whether within or without the service area of the corporation, if any work performed within a structure and beyond a customer's utility meter is necessary to protect the public safety or to avoid interruption of service.

(4) The work is otherwise exempt from the provisions of this chapter.

(5) The work is performed to comply with programs or procedures ordered or authorized by the Public Utilities Commission not inconsistent with the objectives expressed in Chapter 984 of the Statutes of 1983.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Gas, heat, or electrical corporation properties" means properties which a gas, heat, or electrical corporation owns or leases, or over which it has been granted an easement for utility purposes, or facilities which a gas, heat, or electrical corporation owns or operates for utility purposes.

(2) "Subsidiaries" means subsidiaries of a gas, heat, or electrical corporation regulated as public utilities by the Public Utilities Commission which carry out activities solely for utility purposes.

(c) It is the intention of the Legislature in enacting this section that public utility regulations be clearly based on the principle that the energy conservation industry should be allowed to develop in a competitive manner, as declared in Chapter 984 of the Statutes of 1983.

(Amended by Stats. 1989, Ch. 29, Sec. 1.)

7042.5. This chapter does not apply to public utilities operating under the regulation of the Public Utilities Commission on construction, maintenance, and development work incidental to their own business, or to those activities of a cable television corporation subject to regulation pursuant to Section 768.5 of the Public Utilities Code, except underground trenching by a cable television corporation within the public streets, other than that necessary solely for the connection of its distribution system to, or within the properties of, subscribers or potential subscribers.

As used in this section, a cable television corporation is a corporation or person that transmits television programs by cable to subscribers for a fee.

(Amended by Stats. 1984, Ch. 945, Sec. 1.)

7043. This chapter does not apply to any construction, repair or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning or other operation of any petroleum or gas well, when performed by an owner or lessee.

(Added by Stats. 1939, Ch. 37.)

7044. (a) This chapter does not apply to any of the following:

(1) An owner who builds or improves a structure on his or her property, provided that both of the following conditions are met:

(A) None of the improvements are intended or offered for sale.

(B) The property owner personally performs all of the work or any work not performed by the owner is performed by the owner's employees with wages as their sole compensation.

(2) An owner who builds or improves a structure on his or her property, provided that both of the following conditions are met:

(A) The owner directly contracts with licensees who are duly licensed to contract for the work of the respective trades involved in completing the project.

(B) For projects involving single-family residential structures, no more than four of these structures are intended or offered for sale in a calendar year. This subparagraph shall not apply if the owner contracts with a general contractor for the construction.

(3) A homeowner improving his or her principal place of residence or appurtenances thereto, provided that all of the following conditions exist:

(A) The work is performed prior to sale.

(B) The homeowner has actually resided in the residence for the 12 months prior to completion of the work.

(C) The homeowner has not availed himself or herself of the exemption in this paragraph on more than two structures more than once during any three-year period.

(4) A nonprofit corporation providing assistance to an owner-builder, as defined in subdivision (a) of Section 50692 of the Health and Safety Code, who is participating in a mutual self-help housing program, as defined in Section 50078 of the Health and Safety Code.

(b) In all actions brought under this chapter, both of the following shall apply:

(1) Except as provided in paragraph (2), proof of the sale or offering for sale of a structure by or for the owner-builder within one year after completion of the structure constitutes a rebuttable presumption affecting the burden of proof that the structure was undertaken for purposes of sale.

(2) Proof of the sale or offering for sale of five or more structures by the owner-builder within one year after completion constitutes a conclusive presumption that the structures were undertaken for purposes of sale.

(Amended by Stats. 2016, Ch. 714, Sec. 1. (SB 944) Effective January 1, 2017.)

7044.01. In addition to all other remedies, any licensed contractor or association of contractors, labor organization, consumer affected by the violation, district attorney, or the Attorney General shall be entitled to seek injunctive relief prohibiting any violation of this chapter by an owner-builder who is neither licensed nor exempted from licensure under this chapter. The plaintiff in that action shall not be required to prove irreparable injury and shall be entitled to attorney's fees and all costs incurred in the prosecution of the action, provided the plaintiff is the prevailing party. The defendant in that action shall be entitled to attorney's fees and all costs incurred in the defense against the action, provided the defendant is the prevailing party.

(Added by Stats. 2009, Ch. 307, Sec. 71. (SB 821) Effective January 1, 2010.)

7044.1. This chapter does not apply to a real estate licensee acting within the course and scope of his or her license pursuant to the Real Estate Law (Part 1 (commencing with Section 10000) of Division 4). However, nothing in this section shall authorize a real estate licensee or a property manager to act in the capacity of a contractor unless licensed by the board.

(Added by Stats. 1994, Ch. 361, Sec. 1. Effective January 1, 1995.)

7044.2. This chapter does not apply to an admitted surety insurer whenever that surety insurer engages a contractor to undertake the completion of a contract on which a performance or completion bond was issued by the surety insurer, provided all actual construction work is performed by duly licensed contractors.

(Amended by Stats. 1997, Ch. 17, Sec. 7. Effective January 1, 1998.)

7045. This chapter does not apply to the sale or installation of any finished products, materials, or articles of merchandise that do not become a fixed part of the structure, nor shall it apply to a material supplier or manufacturer furnishing finished products, materials, or articles of merchandise who does not install or contract for the installation of those items. The term "finished products" shall not include installed carpets or mobilehomes or mobilehome accessory structures, as defined in Section 7026.2.

This chapter shall apply to the installation of home improvement goods, as defined in Section 7151.

(Amended by Stats. 1993, Ch. 589, Sec. 11. Effective January 1, 1994.)

7046. This chapter does not apply to any construction, alteration, improvement, or repair of personal property. The term "personal property" shall not include mobilehomes or mobilehome accessory structures as defined in Section 7026.2.

(Amended by Stats. 1991, Ch. 1160, Sec. 24.)

7048. (a) This chapter does not apply to a work or operation on one undertaking or project by one or more contracts, if the aggregate contract price for labor, materials, and all other items, is less than one thousand dollars (\$1,000) that work or operation being considered of casual, minor, or inconsequential nature, and the work or operation does not require a building permit.

(b) This section does not apply in a case wherein the work of construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than one thousand dollars (\$1,000) for the purpose of evasion of this chapter or otherwise.

(c) This section does not apply to a person who does either of the following:

(1) Advertises or puts out a sign or card or other device that might indicate to the public that the person is a contractor or that the person is qualified to engage in the business of a contractor.

(2) Employs another person to perform, or assist in performing, the work or operation.

(Amended by Stats. 2024, Ch. 240, Sec. 2. (AB 2622) Effective January 1, 2025.)

7049. This chapter does not apply to any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, or to farming, dairying, agriculture, viticulture, horticulture, or stock or poultry raising, or clearing or other work upon the land in rural districts for fire prevention purposes, except when performed by a licensee under this chapter.

The provisions of this chapter do apply to the business of drilling digging, boring, or otherwise constructing, deepening, repairing, reperforming, or abandoning water wells.

(Amended by Stats. 1959, Ch. 1691.)

7051. This chapter does not apply to a licensed architect or a registered civil or professional engineer acting solely in his or her professional capacity or to a licensed structural pest control operator acting within the scope of his or her license or a licensee operating within the scope of the Geologist and Geophysicist Act.

(Amended by Stats. 1994, Ch. 26, Sec. 206. Effective March 30, 1994.)

7052. This chapter does not apply to any person who only furnishes materials or supplies without fabricating them into, or consuming them in the performance of, the work of the contractor.

(Added by Stats. 1949, Ch. 90.)

7053. Except as provided in Article 10 (commencing with Section 7150), this chapter does not apply to any person who engages in the activities herein regulated as an employee who receives wages as his or her sole compensation, does not customarily engage in an independently established business, and does not have the right to control or discretion as to the manner of performance so as to determine the final results of the work performed.

(Amended by Stats. 1982, Ch. 1427, Sec. 2.)

7054. This chapter does not apply to any person who performs work in the installation, maintenance, monitoring, selling, alteration, or servicing of alarm systems, as defined in Section 7590.1, and who holds an alarm company operator's license issued pursuant to Chapter 11.6 (commencing with Section 7590).

(Amended by Stats. 2018, Ch. 406, Sec. 2. (SB 904) Effective January 1, 2019.)

7054.5. The licensing provisions of this chapter do not apply to any person registered under Chapter 20 (commencing with Section 9800) if that person's activities consist only of installing satellite antenna systems on residential structures or property.

(Added by Stats. 1987, Ch. 422, Sec. 1.)