

California Business & Professions Code (BPC)

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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).

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

- (a) An owner of property, building or improving structures thereon, or appurtenances thereto, who does the work himself or herself or through his or her own employees with wages as their sole compensation, provided none of the structures, with or without the appurtenances thereto, are intended or offered for sale.
- (b) An owner of property, building or improving structures thereon, or appurtenances thereto, who contracts for such a project with a subcontractor or subcontractors licensed pursuant to this chapter. However, this exemption shall apply to the construction of single-family residential structures only if four or fewer of these structures are intended or offered for sale in a calendar year. This limitation shall not apply if the owner of property contracts with a general contractor for the construction.
- (c) A homeowner improving his or her principal place of residence or appurtenances thereto, provided that all of the following conditions exist:
 - (1) The work is performed prior to sale.
 - (2) The homeowner has actually resided in the residence for the 12 months prior to completion of the work.
 - (3) The homeowner has not availed himself or herself of the exemption in this subdivision on more than two structures more than once during any three-year period.

In all actions brought under this chapter, proof of the sale or offering for sale of any such structure by the owner-builder within one year after completion of same constitutes a rebuttable presumption affecting the burden of proof that such structure was undertaken for purposes of sale. Except as otherwise provided in this section, 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.

In addition to all other remedies, any (1) licensed contractor, or association of contractors, (2) labor organization, (3) consumer affected by the violation, (4) district attorney, or (5) 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 by this section or any other section according to the provisions specified in §7028.3 or §7028.4. The plaintiff in any such action shall not be required to prove irreparable injury and shall be entitled to attorneys' fees and all costs incurred in the prosecution of such action, provided the plaintiff is the prevailing party. The defendant in any such action shall be entitled to attorneys' fees and all costs incurred in the defense against such action, provided the defendant is the prevailing party.

The registrar pursuant to §7090 may take disciplinary action as provided in this chapter against any person whenever the grounds or cause for disciplinary action arose upon any project undertaken by him or her as a licensee licensed pursuant to this chapter.

Any person, firm, or corporation which has violated §7028 by engaging in contracting work as an owner-builder without having a license or an exemption from licensure under this section or any other

section shall not be entitled to become a licensee under this chapter for a period of one year following the violation.

7028.

- (a) It is a misdemeanor for any person to engage in the business or act in the capacity of a contractor within this state without having a license therefore, unless the person is particularly exempted from the provisions of this chapter.
- (b) If a person has been previously convicted of the offense described in this section, unless the provisions of subdivision (c) are applicable, the court shall impose a fine of 20% 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, and, unless the sentence prescribed in subdivision (c) 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.
- (c) A third or subsequent conviction for the offense described in this section is punishable by a fine of not less than four thousand five hundred dollars (\$4,500) nor more than the greater amount of either ten thousand dollars (\$10,000) or 20 percent of the contract price under which the unlicensed person performed contracting work or by imprisonment in a county jail for not more than one year or less than 90 days, or by both that fine and imprisonment. The penalty provided by this subdivision is cumulative to the penalties available under all other laws of this state.
- (d) A person who violates this section is subject to the penalties prescribed in subdivision (c) 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.
- (e) 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 section means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.
- (f) Notwithstanding any other provision of law to the contrary, an indictment for any violation of this section by the unlicensed contractor shall be found or an information or complaint filed within four years from the date of the contract proposal, contract, completion, or abandonment of the work, whichever occurs last.

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 §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 §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.

California Labor Code
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3700. Every employer except the state shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.
- (c) For any county, city, city and county, municipal corporation, public district, public agency, or any political subdivision of the state, including each member of a pooling arrangement under a joint exercise of powers agreement (but not the state itself), by securing from the Director of Industrial Relations a certificate of consent to self-insure against workers' compensation claims, which certificate may be given upon furnishing proof satisfactory to the director of ability to administer workers' compensation claims properly, and to pay workers' compensation claims that may become due to its employees. On or before March 31, 1979, a political subdivision of the state which, on December 31, 1978, was uninsured for its liability to pay compensation, shall file a properly completed and executed application for a certificate of consent to self-insure against workers' compensation claims. The certificate shall be issued and be subject to the provisions of §3702.

3701.

- (a) Each year every private self-insuring employer shall secure incurred liabilities for the payment of compensation and the performance of the obligations of employers imposed under this chapter by renewing the prior year's security deposit or by making a new deposit of security. If a new deposit is made, it shall be posted within 60 days of the filing of the self-insured employer's annual report with the director, but in no event later than May 1.
- (b) The minimum deposit shall be 125 percent of the private self-insurer's estimated future liability for compensation to secure payment of compensation plus 10 percent of the private self-insurer's estimated future liability for compensation to secure payment of all administrative and legal costs relating to or arising from the employer's self-insuring. In no event shall the security deposit for the incurred liabilities for compensation be less than two hundred twenty thousand dollars (\$220,000).
- (c) In determining the amount of the deposit required to secure incurred liabilities for the payment of compensation and the performance of obligations of a self-insured employer imposed under this chapter, the director shall offset estimated future liabilities for the same claims covered by a self-insured plan under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. Sec. 901 et seq.), but in no event shall the offset exceed the estimated future liabilities for the claims under this chapter.
- (d) The director may only accept as security, and the employer shall deposit as security, cash, securities, surety bonds, or irrevocable letters of credit in any combination the director, in his or her discretion, deems adequate security. The current deposit shall include any amounts covered by terminated surety bonds or excess insurance policies, as shall be set forth in regulations adopted by the director pursuant to Section 3702.10.
- (e) Surety bonds, irrevocable letters of credit, and documents showing issuance of any irrevocable letter of credit shall be deposited with, and be in a form approved by, the director, shall be exonerated only according to its terms and, in no event, by the posting of additional security.
- (f) The director may accept as security a joint security deposit that secures an employer's obligation under this chapter and that also secures that employer's obligations under the federal Longshore and Harbor Workers' Compensation Act.
- (g) The liability of the Self-Insurers' Security Fund, with respect to any claims brought under both this chapter and under the federal Longshore and Harbor Workers' Compensation

Act, to pay for shortfalls in a security deposit shall be limited to the amount of claim liability owing the employee under this chapter offset by the amount of any claim liability owing under the Longshore and Harbor Workers' Compensation Act, but in no event shall the liability of the fund exceed the claim liability under this chapter. The employee shall be entitled to pursue recovery under either or both the state and federal programs.

- (h) Securities shall be deposited on behalf of the director by the self-insured employer with the Treasurer. Securities shall be accepted by the Treasurer for deposit and shall be withdrawn only upon written order of the director.
- (i) Cash shall be deposited in a financial institution approved by the director, and in the account assigned to the director. Cash shall be withdrawn only upon written order of the director.
- (j) Upon the sending by the director of a request to renew, request to post, or request to increase or decrease a security deposit, a perfected security interest is created in the private self-insured's assets in favor of the director to the extent of any then unsecured portion of the self-insured's incurred liabilities. That perfected security interest is transferred to any cash or securities thereafter posted by the private self-insured with the director and is released only upon either of the following:
 - (1) The acceptance by the director of a surety bond or irrevocable letter of credit for the full amount of the incurred liabilities for the payment of compensation.
 - (2) The return of cash or securities by the director. The private self-insured employer loses all right, title, and interest in, and any right to control, all assets or obligations posted or left on deposit as security. The director may liquidate the deposit as provided in Section 3701.5 and apply it to the self-insured employer's incurred liabilities either directly or through the Self-Insurers' Security Fund.

3702.

- (a) A certificate of consent to self-insure may be revoked by the director at any time for good cause after a hearing. Good cause includes, among other things, the impairment of the solvency of the employer to the extent that there is a marked reduction of the employer's financial strength, failure to maintain a security deposit as required by §3701, failure to pay assessments of the Self-Insurers' Security Fund, frequent or flagrant violations of state safety and health orders, the failure or inability of the employer to fulfill his or her obligations, or any of the following practices by the employer or his or her agent in charge of the administration of obligations under this division:
 - (1) Habitually and as a matter of practice and custom inducing claimants for compensation to accept less than the compensation due or making it necessary for them to resort to proceedings against the employer to secure compensation due.
 - (2) Where liability for temporary disability indemnity is not in dispute, intentionally failing to pay temporary disability indemnity without good cause in order to influence the amount of permanent disability benefits due.
 - (3) Intentionally refusing to comply with known and legally indisputable compensation obligations.
 - (4) Discharging or administering his or her compensation obligations in a dishonest manner.
 - (5) Discharging or administering his or her compensation obligations in such a manner as to cause injury to the public or those dealing with the employer.
- (b) Where revocation is in part based upon the director's finding of a marked reduction of the employer's financial strength or the failure or inability of the employer to fulfill his or her obligations, or a practice of discharging obligations in a dishonest manner, it is a condition precedent to the employer's challenge or appeal of the revocation that the employer have in effect insurance against liability to pay compensation.
- (c) The director may hold a hearing to determine whether good cause exists to revoke an employer's certificate of consent to self-insure if the employer is cited for a willful, or repeat serious violation of the standard adopted pursuant to §6401.7 and the citation has become final.