

ASSEMBLY BILL

No. 2335

Introduced by Assembly Member Nakanishi

February 21, 2008

An act to repeal Sections 19830, 19831, and 19832 of, and to repeal and add Section 19825 of, the Health and Safety Code, relating to building permits.

LEGISLATIVE COUNSEL'S DIGEST

AB 2335, as introduced, Nakanishi. Building permits.

Existing law, in separate provisions, requires every city or county that necessitates the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition, or repair of any building or structure, at a minimum, to have the owner of the building or structure complete specific forms and declarations that identify the property and any agents or contractors performing the work, if applicable, and declaring the project complies with various laws. Existing law also requires the city or county to provide notice to the owner of the property of the legal implications of construction on the property.

This bill would repeal those separate provisions and create a single provision that combines and modifies the existing forms, declarations, and notice to the property owner and expands the acknowledgments property owners are required to make.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19825 of the Health and Safety Code is
2 repealed.

3 ~~19825. Every city or county that requires the issuance of a~~
4 ~~permit as a condition precedent to the construction, alteration,~~
5 ~~improvement, demolition, or repair of any building or structure~~
6 ~~shall, in addition to any other requirements, require the following~~
7 ~~declarations in substantially the following form upon the issuance~~
8 ~~of any building permit:~~

9
10 BUILDING PROJECT IDENTIFICATION

11 Applicant's Mailing Address	_____
12 -	_____
13 Address of Building	_____
14 -	_____
15 Owner's Name if Known	_____
16 Telephone No.	_____
17 Contractor's Name	_____
18 Contractor's Mailing Address	_____
19 -	_____
20 -	Lic. No. _____
21 Architect or Engineer	_____
22 Architect's or Engineer's Address	_____
23	_____
24	_____
25	Lic. No. _____

26
27 —In addition the city or county may require that there be included,
28 in the building project identification portion of a building permit,
29 the following:

30 —	
31 Assessor's Parcel Number*	_____
32 Permit Date	_____
33 Permit Number	_____
34 Description of Work	_____
35 Building Permit Valuation	_____

36
37 *To be entered by issuing agency. -

38 LICENSED CONTRACTOR'S DECLARATION

BUILDING PROJECT IDENTIFICATION

I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class _____ Lic. No. _____

Date _____ Contractor _____

OWNER-BUILDER DECLARATION

I hereby affirm under penalty of perjury that I am exempt from the Contractors' State License Law for the following reason (Sec. 7031.5, Business and Professions Code: Any city or county that requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for the permit to file a signed statement that he or she is licensed pursuant to the provisions of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he or she is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500).):

I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code: The Contractors' State License Law does not apply to an owner of property who builds or improves thereon, and who does the work himself or herself or through his or her own employees, provided that the improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the owner-builder will have the burden of proving that he or she did not build or improve for the purpose of sale.):

I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractors' State License Law does not apply to an owner of property who builds or improves thereon, and who contracts for the projects with a contractor(s) licensed pursuant to the Contractors' State License Law.):

I am exempt under Sec. _____, B.& P.C. for this reason

BUILDING PROJECT IDENTIFICATION

Date _____ Owner _____

WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

I have and will maintain a certificate of consent to self-insure for workers' compensation, as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

My workers' compensation insurance carrier and policy number are:

- Carrier _____

- Policy Number _____

- -

I certify that, in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that, if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

Date: _____ Applicant: _____

-

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

-

CONSTRUCTION LENDING AGENCY

-

1 I hereby affirm under penalty of perjury that there is a construction lending
2 agency for the performance of the work for which this permit is issued (Sec.
3 3097, Civ. C.):

4 Lender's Name _____

5 Lender's Address _____

6 -

7 I certify that I have read this application and state that the above information
8 is correct. I agree to comply with all city and county
9 ordinances and state laws relating to building construction, and hereby
10 authorize representatives of this county to enter upon the
11 above-mentioned property for inspection purposes:

12 _____

13 Signature of Applicant or Agent _____ Date _____

14

15 SEC. 2. Section 19825 is added to the Health and Safety Code,
16 to read:

17 19825. (a) Every city, county, or city and county, whether
18 general law or chartered, that requires the issuance of a permit as
19 a condition precedent to the construction, alteration, improvement,
20 demolition, or repair of any building or structure, shall, in addition
21 to any other requirements, require the execution of an application,
22 in substantially the same form set forth under this subdivision,
23 commencing with the following Applicant Declaration:

24

APPLICANT DECLARATION

BUILDING PROJECT IDENTIFICATION

27 Applicant's Mailing Address _____

28 _____

29 Address of Building or Structure Subject _____

30 to the Permit _____

31 _____

32 Owner's Name _____

33 Owner's Telephone No. _____

34 Design Professional in Responsible Charge _____

35 Mailing Address of Design Professional _____

36 _____

37 License No. _____

38

39 LICENSED CONTRACTOR'S DECLARATION

1 I hereby affirm under penalty of perjury that I am licensed under provisions
2 of Chapter 9 (commencing with Section 7000) of Division 3 of the Business
3 and Professions Code, and my license is in full force and effect.

4 License Class _____ License No. _____
5 Date _____ Contractor Signature _____
6

7 OWNER-BUILDER DECLARATION

8 I hereby affirm under penalty of perjury that I am exempt from the
9 Contractors' State License Law for the reason indicated below (Section 7031.5,
10 Business and Professions Code: Any city or county that requires a permit to
11 construct, alter, improve, demolish, or repair any structure, prior to its issuance,
12 also requires the applicant for the permit to file a signed statement that he or
13 she is licensed pursuant to the provisions of the Contractors' State License
14 Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business
15 and Professions Code) or that he or she is exempt from licensure and the basis
16 for the alleged exemption. Any violation of Section 7031.5 by any applicant
17 for a permit subjects the applicant to a civil penalty of not more than five
18 hundred dollars (\$500).):

19 () I, as owner of the property, or my employees with wages as their sole
20 compensation, will do the work, and the structure is not intended or offered
21 for sale (Section 7044, Business and Professions Code: The Contractors' State
22 License Law does not apply to an owner of property who, through employees'
23 or personal effort, builds or improves the property, provided that the
24 improvements are not intended or offered for sale. If, however, the building
25 or improvement is sold within one year of completion, the Owner-Builder will
26 have the burden of proving that it was not built or improved for the purpose
27 of sale.).
28

29 I will personally:

30 _____ Provide the labor and materials for the following portions of the
31 construction as an Owner-Worker:

32 _____
33 _____
34 _____

35
36 _____ Act as an Owner-Employer by paying the _____
37 (Number of Individuals Hired)

38 unlicensed individual(s) listed below to provide the direction, coordination,
39 supervision, labor or materials for the following portions of the construction:
40

1 1. Name of Individual: _____ Phone Number: _____

2

3 Portion of work hired to perform: _____

4

5 2. Name of Individual: _____ Phone Number: _____

6

7 Portion of work hired to perform: _____

8

9 3. Name of Individual: _____ Phone Number: _____

10

11 Portion of work hired to perform: _____

12

13 4. Name of Individual: _____ Phone Number: _____

14

15 Portion of work hired to perform: _____

16

17 (If there are not enough spaces above you may provide the required information
18 on the back side of this form.)

19

20 () I, as owner of the property, am exclusively contracting with licensed
21 Contractors to construct the project (Section 7044, Business and Professions
22 Code: The Contractors' State License Law does not apply to an owner of
23 property who builds or improves thereon, and who contracts for the projects
24 with a licensed Contractor pursuant to the Contractors' State License Law.).

25

26 I will personally:
27 _____ Act as an Owner-Contractor by contracting with California
28 _____ *licensed* Contractors to provide the labor or materials for the
29 _____ following portions of the construction:

30 Contractor Name License # Portion of work contracted

31

32 _____

33

34 _____

35

36 () I am exempt from licensure under the Contractors' State License Law for
37 the following reason:

38

39 Date _____

40

1 Owner-Builder Signature _____

2

3 WORKERS' COMPENSATION DECLARATION

4 WARNING: FAILURE TO SECURE WORKERS' COMPENSATION
5 COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER
6 TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED
7 THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF
8 COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706
9 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

10

11 I hereby affirm under penalty of perjury one of the following declarations:
12 ____ I have and will maintain a certificate of consent to self-insure for workers'
13 compensation, issued by the Director of Industrial Relations as provided for
14 by Section 3700 of the Labor Code, for the performance of the work for which
15 this permit is issued.

16 Policy No. _____

17

18 ____ I have and will maintain workers' compensation insurance, as required
19 by Section 3700 of the Labor Code, for the performance of the work for which
20 this permit is issued. My workers' compensation insurance carrier and policy
21 number are:

22 Carrier _____ Policy Number _____

23 Name of Agent _____ Phone # _____

24

25

26 ____ I certify that, in the performance of the work for which this permit is
27 issued, I shall not employ any person in any manner so as to become subject
28 to the workers' compensation laws of California, and agree that, if I should
29 become subject to the workers' compensation provisions of Section 3700 of
30 the Labor Code, I shall forthwith comply with those provisions.

31

32 _____
Signature of Applicant Date

33

34 DECLARATION REGARDING CONSTRUCTION LENDING AGENCY

35

36 I hereby affirm under penalty of perjury that there is a construction lending
37 agency for the performance of the work for which this permit is issued (Section
38 3097, Civil Code).

39 Lender's Name _____

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Lender's Address _____

AUTHORIZATION OF AGENT TO SIGN AS OWNER-BUILDER

I hereby authorize _____ to act as my agent and on my behalf to obtain a building permit for my project. I authorize this agent to fill out and sign the Applicant Declaration and sign where my signature is required on the building permit.

Name of Authorized Agent: _____

Address of Authorized Agent: _____

Phone Number of Authorized Agent: _____

I have read all the Owner-Builder information and personally filled out the above information and certify its accuracy.

Property Owner's Signature: _____ Date: _____

NOTE: A copy of the owner's state-issued identification card, such as a driver's license, is required at the time of permit issuance to verify signature.

I certify that I have read this application and state that the above information is correct. I agree to comply with all city or county ordinances and state laws relating to building construction, and hereby authorize representatives of this city or county to enter upon the above-mentioned property for inspection purposes.

Signature _____ Date: _____

(b) In addition the city or county may require that there be included, in the building project identification portion of a building permit, the following:

Assessor's Parcel

1 Number _____
 2 Permit Date _____ Permit Number _____
 3 Description of Work _____
 4 Building Permit Valuation _____
 5

6 (c) When the applicant who executes the Applicant Declaration
 7 required under subdivision (a) is an Owner-Builder, a Notice to
 8 Property Owner shall be executed by the property owner, in
 9 substantially the same form set forth under this subdivision. The
 10 Notice to Property Owner shall appear on the official letterhead
 11 of the issuer and shall be provided to the applicant by one of the
 12 following methods chosen by the permitting authority: regular
 13 mail, electronic format, or given directly to the applicant at the
 14 time the application for the permit is made. The notice shall be
 15 signed and returned prior to issuance of the permit.

16
 17 NOTICE TO PROPERTY OWNER

18 Dear Property Owner:

19 An application for a building permit has been submitted in your name listing
 20 yourself as the builder of the property improvements specified at
 21 _____.

22 We are providing you with an Owner-Builder Information and Verification
 23 Form to make you aware of your responsibilities and possible risk you may
 24 incur by having this permit issued in your name as the Owner-Builder.

25 We will not issue a building permit until you have read, initialed your
 26 understanding of each provision, signed, and returned this form to us at our
 27 official address indicated.

28
 29 OWNER’S ACKNOWLEDGMENT/VERIFICATION OF INFORMATION
 30

31 DIRECTIONS: Read and initial each statement below to signify you understand
 32 or verify this information.

33
 34 ___ 1. I understand a frequent practice of unlicensed persons is to have the
 35 property owner obtain an “Owner-Builder” building permit which erroneously
 36 implies that the property owner is providing his or her own labor and material
 37 personally. I may be held liable and subject to serious financial risk for any
 38 injuries sustained by an unlicensed person and his or her employees while
 39 working on my property. My homeowner’s insurance may not provide coverage
 40 for such injuries. I will check with my insurance agent.

- 1
2 ____2. I understand building permits are not required to be signed by property
3 owners unless they are *responsible* for the construction and are not hiring a
4 licensed Contractor to assume this responsibility.
5
6 ____3. I understand as an “Owner-Builder” I am the responsible party of record
7 on the permit. I understand if someone else will actually be responsible for
8 performing the construction, I may protect myself from potential financial risk
9 by hiring a licensed Contractor and having the permit filed in his or her name
10 instead of my own.
11
12 ____4. I understand Contractors are required by law to be licensed and bonded
13 in California and to list their license numbers on permits and contracts.
14
15 ____5. I understand if I employ or otherwise engage any persons, other than
16 California licensed Contractors, and the total value of my construction is at
17 least five hundred dollars (\$500), including labor and materials, I may be
18 considered an “employer” under state and federal law.
19
20 ____6. I understand if I am considered an “employer” under state and federal
21 law, I must register with the state and federal government, withhold payroll
22 taxes, provide workers’ compensation disability insurance and contribute to
23 unemployment compensation for each “employee.” I also understand my failure
24 to abide by these laws may subject me to serious financial risk.
25
26 ____7. I understand under California Contractors’ State License Law, an
27 Owner-Builder who builds single-family residential structures cannot legally
28 build them with the intent to offer them for sale, unless *all* work is performed
29 by licensed subcontractors and the number of structures does not exceed four
30 within any calendar year, or all of the work is performed under contract with
31 a licensed general building Contractor.
32
33 ____8. I understand as an Owner-Builder if I sell the property for which this
34 permit is issued, I may be held liable for any financial or personal injuries
35 sustained by any subsequent owner(s) that result from any latent construction
36 defects in the workmanship or materials.
37
38 ____9. I understand I may obtain more information regarding my obligations
39 as an “employer” from the Internal Revenue Service, the United States Small
40 Business Administration, the California Department of Benefit Payments, and

1 the California Division of Industrial Accidents. I also understand I may contact
2 the California Contractors’ State License Board (CSLB) at 1-800-321-CSLB
3 (2752) or www.cslb.ca.gov for more information about licensed contractors.

4
5 ____10. I am aware of and consent to an Owner-Builder building permit applied
6 for in my name as the party legally responsible for proposed construction
7 activity, including legal and financial liability, at the following address:

8 _____
9

10 ____11. I agree that, as the party legally responsible for this proposed
11 construction activity, including legal and financial liability, I will abide by all
12 applicable laws and requirements governing Owner-Contractors or
13 Owner-Employers.

14
15 ____12. I agree to notify the issuer of this form immediately of any additions,
16 deletions, or changes to any of the information I have provided on this form.

17
18 Licensed contractors are regulated by laws designed to protect the public. If
19 you contract with someone who does not have a license, the Contractors’ State
20 License Board may be unable to assist you with any financial loss you may
21 sustain as a result of a complaint. Your only remedy against unlicensed
22 Contractors may be in civil court. It is also important for you to understand
23 that if an unlicensed Contractor or employee of that individual or firm is injured
24 while working on your property, you may be held liable for damages. If you
25 obtain a permit as Owner-Builder and wish to hire Contractors, you will be
26 responsible for verifying whether or not those Contractors are properly licensed
27 and the status of their workers’ compensation insurance coverage.

28
29 Before a building permit can be issued, this form must be completed and signed
30 by the property owner and returned to the agency responsible for issuing the
31 permit.

32
33 Signature of property owner _____ Date: _____
34

35 SEC. 3. Section 19830 of the Health and Safety Code is
36 repealed.

37 ~~19830. Every city or county, whether general law or chartered,~~
38 ~~which requires the issuance of a permit as a condition precedent~~
39 ~~to the construction, alteration, improvement, demolition, or repair~~
40 ~~of any building or structure, shall, in addition to any other~~

1 requirements, prepare and give notice to the owner of the building
2 or structure whenever an application for a building permit is
3 submitted in the owner's name as builder of the improvements.
4 The notice shall be given by mail; or the notice may be given to
5 the applicant at the time the application for the permit is made,
6 provided that the applicant presents identification sufficient to
7 identify himself or herself as the owner. The notice shall be in
8 substantially the following form:

9
10 “OWNER-BUILDER INFORMATION

11 “Dear Property Owner:

12 “An application for a building permit has been submitted in your
13 name listing yourself as the builder of the property improvements
14 specified.

15 “For your protection you should be aware that as 'owner-builder'
16 you are the responsible party of record on the permit. Building
17 permits are not required to be signed by property owners unless
18 they are personally performing their own work. If your work is
19 being performed by someone other than yourself, you may protect
20 yourself from possible liability if that person applies for the proper
21 permit in his or her name.

22 “Contractors are required by law to be licensed and bonded by
23 the State of California and to have a business license from the city
24 or county. They are also required by law to put their license number
25 on all permits for which they apply.

26 “If you plan to do your own work, with the exception of various
27 trades that you plan to subcontract, you should be aware of the
28 following information for your benefit and protection:

29 “If you employ or otherwise engage any persons other than your
30 immediate family, and the work (including materials and other
31 costs) is \$500 or more for the entire project, and the persons are
32 not licensed as contractors or subcontractors, then you may be an
33 employer.

34 “If you are an employer, you must register with the state and
35 federal government as an employer and you are subject to several
36 obligations including state and federal income tax withholding,
37 federal social security taxes, workers' compensation insurance,
38 disability insurance costs, and unemployment compensation
39 contributions.
40

1 ~~“There may be financial risks for you if you do not carry out~~
2 ~~these obligations, and these risks are especially serious with respect~~
3 ~~to workers’ compensation insurance.~~

4 ~~“For more specific information about your obligations under~~
5 ~~federal law, contact the Internal Revenue Service (and, if you wish,~~
6 ~~the U.S. Small Business Administration). For more specific~~
7 ~~information about your obligations under state law, contact the~~
8 ~~Department of Benefit Payments and the Division of Industrial~~
9 ~~Accidents.~~

10 ~~“If the structure is intended for sale, property owners who are~~
11 ~~not licensed contractors are allowed to perform their work~~
12 ~~personally or through their own employees, without a licensed~~
13 ~~contractor or subcontractor, only under limited conditions.~~

14 ~~“A frequent practice of unlicensed persons professing to be~~
15 ~~contractors is to secure an ‘owner-builder’ building permit,~~
16 ~~erroneously implying that the property owner is providing his or~~
17 ~~her own labor and material personally. Building permits are not~~
18 ~~required to be signed by property owners unless they are~~
19 ~~performing their own work personally.~~

20 ~~“Information about licensed contractors may be obtained by~~
21 ~~contacting the Contractors’ State License Board’s automated~~
22 ~~telephone information system at 1-800-321-CSLB (2752) or by~~
23 ~~accessing their Web site at www.CSLB.ca.gov.~~

24 ~~“Please complete and return the enclosed owner-builder~~
25 ~~verification form so that we can confirm that you are aware of~~
26 ~~these matters. The building permit will not be issued until the~~
27 ~~verification is returned.~~

28 ~~Very truly yours,~~
29 ~~“(Name of permitting agency)”.~~

30 ~~SEC. 4. Section 19831 of the Health and Safety Code is~~
31 ~~repealed.~~

32 ~~19831. A city or county, which is required to give notice~~
33 ~~pursuant to Section 19830, shall attach to such notice, and, as a~~
34 ~~condition precedent to issuing a building permit, require the~~
35 ~~completion and require the return of, an owner-builder verification~~
36 ~~in substantially the following form:~~

37 ~~“OWNER-BUILDER VERIFICATION~~

38 ~~“Attention Property Owner:~~

39 ~~“An ‘owner-builder’ building permit has been applied for in~~
40 ~~your name and bearing your signature.~~

1 “Please complete and return this information in the envelope
2 provided at your earliest opportunity to avoid unnecessary delay
3 in processing and issuing your building permit. No building permit
4 will be issued until this verification is received.

5 1. I personally plan to provide the major labor and materials
6 for construction of the proposed property improvement (yes or no)

7 _____.

8 2. I (have/havenot) _____ signed an application for a building
9 permit for the proposed work.

10 3. I have contracted with the following person (firm) to provide
11 the proposed construction:

12 Name _____

13 Address _____ City _____

14 Phone _____ Contractors License No. _____

15 4. I plan to provide portions of the work, but I have hired the
16 following person to coordinate, supervise, and provide the major
17 work:

18 Name _____

19 Address _____ City _____

20 Phone _____ Contractors License No. _____

21 5. I will provide some of the work but I have contracted (hired)
22 the following persons to provide the work indicated:

23	Name	Address	Phone	Type of Work
24	_____	_____	_____	_____
25	_____	_____	_____	_____
26	_____	_____	_____	_____
27	_____	_____	_____	_____
28	_____	_____	_____	_____
29	_____	_____	_____	_____
30	_____	_____	_____	_____
31	_____	_____	_____	_____

32
33 Signed:

34 Property owner _____

35 Date: _____”.

36 —

37 SEC. 5. Section 19832 of the Health and Safety Code is
38 repealed.

39 19832. A city or county, whether general law or chartered,
40 shall transmit the notice required pursuant to Section 19830 and

1 the owner-builder verification required pursuant to Section 19831
2 by mail to the property owner applying for the owner-builder
3 building permit or may provide the notice or the verification in
4 person to the person applying for the building permit only if that
5 applicant presents identification sufficient to identify himself or
6 herself as the property owner. The return of the owner-builder
7 verification shall be a condition precedent to issuance of the
8 building permit.

9 However, no city or county or its employees shall be responsible
10 for determining the truth or accuracy of the declarations in the
11 owner-builder verification, and no monetary liability on the part
12 of, and no cause of action for damages against them, shall arise
13 from their failure to verify the truth or accuracy of the declarations.

O