

AMENDED IN ASSEMBLY APRIL 14, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2335**

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**Introduced by Assembly Member Nakanishi**

February 21, 2008

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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 amended, 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2 repealed.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 SEC. 2. Section 19825 is added to the Health and Safety Code,  
4 to read:

5 19825. (a) Every city, county, or city and county, whether  
6 general law or chartered, that requires the issuance of a permit as  
7 a condition precedent to the construction, alteration, improvement,  
8 demolition, or repair of any building or structure, shall, ~~in addition~~  
9 ~~to any other requirements,~~ require the execution of ~~an a permit~~  
10 application, in substantially the same form set forth under this  
11 subdivision, ~~commencing with the following Applicant~~  
12 ~~Declaration:~~ and require any individual who executes the  
13 Owner-Builder Declaration to present documentation sufficient  
14 to identify the property owner and, as necessary, verify the  
15 signature of the property owner. A city, county, or city and county  
16 may require additional information on the permit application.

17  
18 APPLICANT DECLARATION

19 PERMIT APPLICATION

20 BUILDING PROJECT IDENTIFICATION

21 Applicant's Mailing Address \_\_\_\_\_

22 \_\_\_\_\_

23 ~~Address of Building or Structure Subject~~ \_\_\_\_\_

24 *Property Location or Address*

25 ~~to the Permit~~ \_\_\_\_\_

26 \_\_\_\_\_

27 ~~Owner's Property Owner's Name~~ \_\_\_\_\_

28 ~~Owner's Property Owner's Telephone No.~~ \_\_\_\_\_

29 ~~Design Professional in Responsible Charge~~ \_\_\_\_\_

30 *Licensed Design Professional (Architect or*

31 *Engineer) in charge of the project* \_\_\_\_\_

32 Mailing Address of *Licensed Design*

33 Professional \_\_\_\_\_

34 \_\_\_\_\_

35 License No. \_\_\_\_\_

36 \_\_\_\_\_

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

20 ( ) I, as owner of the property, or my employees with wages as their sole  
21 compensation, will do ( ) *all of or ( ) portions of* the work, and the structure  
22 is not intended or offered for sale (Section 7044, Business and Professions  
23 Code: The Contractors' State License Law does not apply to an owner of  
24 property who, through employees' or personal effort, builds or improves the  
25 property, provided that the improvements are not intended or offered for sale.  
26 If, however, the building or improvement is sold within one year of completion,  
27 the Owner-Builder will have the burden of proving that it was not built or  
28 improved for the purpose of sale.).  
29

30 ~~I will personally:~~

31 ~~\_\_\_\_\_ Provide the labor and materials for the following portions of the~~  
32 ~~construction as an Owner-Worker:~~

33 \_\_\_\_\_  
34 \_\_\_\_\_  
35 \_\_\_\_\_  
36 \_\_\_\_\_

37 ~~\_\_\_\_\_ Act as an Owner-Employer by paying the \_\_\_\_\_~~  
38 ~~(Number of Individuals Hired)~~

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

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:

Contractor Name	License #	Portion of work contracted
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

35

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

38 \_\_\_\_\_

39

1 *By my signature below I acknowledge that, except for my personal residence*  
2 *in which I must have resided for at least one year prior to completion of the*  
3 *improvements covered by this permit, I cannot legally sell a structure that I*  
4 *have built as an owner-builder if it has not been constructed in its entirety by*  
5 *licensed contractors. I understand that a copy of the applicable law, Section*  
6 *7044 of the Business and Professions Code, is available upon request when*  
7 *this application is submitted or at the following Web site:*

8 *<http://www.leginfo.ca.gov/calaw.html>.*

9 Date \_\_\_\_\_

10  
11 ~~Owner-Builder Signature~~ *Signature of Property Owner or Authorized Agent*  
12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_

15 WORKERS' COMPENSATION DECLARATION

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

22  
23 I hereby affirm under penalty of perjury one of the following declarations:

24 \_\_\_\_ I have and will maintain a certificate of consent to self-insure for workers'  
25 compensation, issued by the Director of Industrial Relations as provided for  
26 by Section 3700 of the Labor Code, for the performance of the work for which  
27 this permit is issued.

28 Policy No. \_\_\_\_\_

29  
30 \_\_\_\_ I have and will maintain workers' compensation insurance, as required  
31 by Section 3700 of the Labor Code, for the performance of the work for which  
32 this permit is issued. My workers' compensation insurance carrier and policy  
33 number are:

34 Carrier \_\_\_\_\_ Policy Number \_\_\_\_\_

35 Carrier \_\_\_\_\_ Policy Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

36 Name of Agent \_\_\_\_\_ Phone # \_\_\_\_\_

37  
38  
39 \_\_\_\_ I certify that, in the performance of the work for which this permit is  
40 issued, I shall not employ any person in any manner so as to become subject

1 to the workers' compensation laws of California, and agree that, if I should  
2 become subject to the workers' compensation provisions of Section 3700 of  
3 the Labor Code, I shall forthwith comply with those provisions.

4 \_\_\_\_\_  
5 Signature of Applicant Date

6  
7 DECLARATION REGARDING CONSTRUCTION LENDING AGENCY

8  
9 I hereby affirm under penalty of perjury that there is a construction lending  
10 agency for the performance of the work for which this permit is issued (Section  
11 3097, Civil Code).

12 Lender's Name \_\_\_\_\_

13  
14 Lender's Address \_\_\_\_\_

15  
16 *By my signature below, I certify to each of the following:*  
17 *I am the property owner or authorized to act on the property owner's behalf.*  
18 *I have read this application and the information I have provided is correct.*  
19 *I agree to comply with all applicable city and county ordinances and state*  
20 *laws relating to building construction.*  
21 *I authorize representatives of this city or county to enter the above-identified*  
22 *property for inspection purposes.*  
23 *Signature of Property Owner or Authorized Agent \_\_\_\_\_*  
24 *Date \_\_\_\_\_*

25  
26  
27 *(b) When the Permit Application and the Owner-Builder*  
28 *Declaration have been executed by a person other than the*  
29 *property owner, prior to issuing the permit, the following shall be*  
30 *completed and returned to the agency responsible for issuing the*  
31 *permit:*

32  
33 AUTHORIZATION OF AGENT TO SIGN AS OWNER-BUILDER ACT ON  
34 PROPERTY OWNER'S BEHALF

35  
36 I hereby authorize \_\_\_\_\_ to act as my agent and on  
37 my behalf to obtain a building permit for my project. I authorize this agent to  
38 fill out and sign the Applicant Declaration and sign where my signature is  
39 required on the building permit.

1 *Excluding the completion of the Notice to Property Owner requirements, for*  
 2 *which I understand I am personally responsible, I hereby authorize the*  
 3 *following person(s) to act as my agent(s) to apply for, sign, and file the*  
 4 *documents necessary to obtain an Owner-Builder Permit for my project.*  
 5 *Scope of Construction Project (or Description of Work):*

6 \_\_\_\_\_

7 *Project Location or Address:* \_\_\_\_\_

8 Name of Authorized  
 9 Agent: \_\_\_\_\_

10  
 11 Address of Authorized  
 12 Agent: \_\_\_\_\_

13  
 14 Phone Number of Authorized  
 15 Agent: \_\_\_\_\_

16  
 17

18 *I declare under penalty of perjury that I am the property owner for the address*  
 19 *listed above and I personally filled out the above information and certify its*  
 20 *accuracy.*

21 *Property Owner's Signature* \_\_\_\_\_ *Date* \_\_\_\_\_

22

23 *Note: A copy of the owner's driver's license, form notarization, or other*  
 24 *verification acceptable to the agency is required to be presented when the*  
 25 *permit is issued to verify the property owner's signature.*

26  
 27 ~~I have read all the Owner-Builder information and personally filled out the~~  
 28 ~~above information and certify its accuracy.~~

29 ~~Property Owner's~~  
 30 ~~Signature: \_\_\_\_\_ Date: \_\_\_\_\_~~

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

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

38 ~~Signature \_\_\_\_\_ Date: \_\_\_\_\_~~

39

40

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

- 4
- 5 Assessor's Parcel
- 6 Number \_\_\_\_\_
- 7 Permit Date \_\_\_\_\_ Permit Number \_\_\_\_\_
- 8 Description of Work \_\_\_\_\_
- 9 Building Permit Valuation \_\_\_\_\_

10

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

21 *(c) When any portion of the permit application required*  
22 *pursuant to subdivision (a) is executed by the property owner, a*  
23 *Notice to Property Owner also shall be executed by the property*  
24 *owner in substantially the same form set forth under this section.*  
25 *The Notice to Property Owner shall appear on the official*  
26 *letterhead of the issuer and shall be provided to the applicant by*  
27 *one of the following methods chosen by the permitting authority:*  
28 *regular mail, electronic format, or given directly to the applicant*  
29 *at the time the application for the permit is made. Except as*  
30 *otherwise provided, the Notice to Property Owner pursuant to this*  
31 *section shall be completed and signed by the property owner and*  
32 *returned prior to issuance of the permit. An agent of the owner*  
33 *shall not execute this notice unless the property owner obtains the*  
34 *prior approval of the permitting authority. A permit shall not be*  
35 *issued unless the property owner complies with this section.*

36

37 NOTICE TO PROPERTY OWNER

38 Dear Property Owner:



1 An application for a building permit has been submitted in your name listing  
2 yourself as the builder of the property improvements specified at  
3 \_\_\_\_\_.

4 We are providing you with an Owner-Builder ~~Information and~~  
5 *Acknowledgment and Information* Verification Form to make you aware of  
6 your responsibilities and possible risk you may incur by having this permit  
7 issued in your name as the Owner-Builder.

8 We will not issue a building permit until you have read, initialed your  
9 understanding of each provision, signed, and returned this form to us at our  
10 official address indicated. *An agent of the owner cannot execute this notice*  
11 *unless you, the property owner, obtain the prior approval of the permitting*  
12 *authority.*

13  
14 ~~OWNER'S ACKNOWLEDGMENT/VERIFICATION ACKNOWLEDGMENT~~  
15 *AND VERIFICATION OF INFORMATION*  
16

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

19  
20 \_\_\_ 1. I understand a frequent practice of unlicensed persons is to have the  
21 property owner obtain an "Owner-Builder" building permit ~~which~~ *that*  
22 erroneously implies that the property owner is providing his or her own labor  
23 and material personally. I may be held liable and subject to serious financial  
24 risk for any injuries sustained by an unlicensed person and his or her employees  
25 while working on my property. My homeowner's insurance may not provide  
26 coverage for such injuries. I will check with my insurance agent.

27  
28 \_\_\_ 2. I understand building permits are not required to be signed by property  
29 owners unless they are *responsible* for the construction and are not hiring a  
30 licensed Contractor to assume this responsibility.

31  
32 \_\_\_ 3. I understand as an "Owner-Builder" I am the responsible party of record  
33 on the permit. I understand if someone else will actually be responsible for  
34 performing the construction, I may protect myself from potential financial risk  
35 by hiring a licensed Contractor and having the permit filed in his or her name  
36 instead of my own.

37  
38 \_\_\_ 4. I understand Contractors are required by law to be licensed and bonded  
39 in California and to list their license numbers on permits and contracts.  
40

1 \_\_\_\_5. I understand if I employ or otherwise engage any persons, other than  
2 California licensed Contractors, and the total value of my construction is at  
3 least five hundred dollars (\$500), including labor and materials, I may be  
4 considered an “employer” under state and federal law.

5  
6 \_\_\_\_6. I understand if I am considered an “employer” under state and federal  
7 law, I must register with the state and federal government, withhold payroll  
8 taxes, provide workers’ compensation disability insurance, and contribute to  
9 unemployment compensation for each “employee.” I also understand my failure  
10 to abide by these laws may subject me to serious financial risk.

11  
12 \_\_\_\_7. I understand under California Contractors’ State License Law, an  
13 Owner-Builder who builds single-family residential structures cannot legally  
14 build them with the intent to offer them for sale, unless *all* work is performed  
15 by licensed subcontractors and the number of structures does not exceed four  
16 within any calendar year, or all of the work is performed under contract with  
17 a licensed general building Contractor.

18  
19 \_\_\_\_8. I understand as an Owner-Builder if I sell the property for which this  
20 permit is issued, I may be held liable for any financial or personal injuries  
21 sustained by any subsequent owner(s) that result from any latent construction  
22 defects in the workmanship or materials.

23  
24 \_\_\_\_9. I understand I may obtain more information regarding my obligations  
25 as an “employer” from the Internal Revenue Service, the United States Small  
26 Business Administration, the California Department of Benefit Payments, and  
27 the California Division of Industrial Accidents. I also understand I may contact  
28 the California Contractors’ State License Board (CSLB) at 1-800-321-CSLB  
29 (2752) or [www.cslb.ca.gov](http://www.cslb.ca.gov) for more information about licensed contractors.

30  
31 \_\_\_\_10. I am aware of and consent to an Owner-Builder building permit applied  
32 for in my name as the party legally responsible for proposed construction  
33 activity, including legal and financial liability, at the following address:

34 \_\_\_\_\_

35  
36 \_\_\_\_11. I agree that, as the party legally responsible for this proposed  
37 construction activity, including legal and financial liability, I will abide by all  
38 applicable laws and requirements governing Owner-Contractors or  
39 Owner-Employers.

40

1 \_\_\_\_ 12. I agree to notify the issuer of this form immediately of any additions,  
2 deletions, or changes to any of the information I have provided on this form.

3  
4 Licensed contractors are regulated by laws designed to protect the public. If  
5 you contract with someone who does not have a license, the Contractors' State  
6 License Board may be unable to assist you with any financial loss you may  
7 sustain as a result of a complaint. Your only remedy against unlicensed  
8 Contractors may be in civil court. It is also important for you to understand  
9 that if an unlicensed Contractor or employee of that individual or firm is injured  
10 while working on your property, you may be held liable for damages. If you  
11 obtain a permit as Owner-Builder and wish to hire Contractors, you will be  
12 responsible for verifying whether or not those Contractors are properly licensed  
13 and the status of their workers' compensation insurance coverage.

14  
15 Before a building permit can be issued, this form must be completed and signed  
16 by the property owner and returned to the agency responsible for issuing the  
17 permit.

18 *Note: A copy of the property owner's driver's license, form notarization, or*  
19 *other verification acceptable to the agency is required to be presented when*  
20 *the permit is issued to verify the property owner's signature.*

21  
22 Signature of property owner \_\_\_\_\_ Date: \_\_\_\_\_

23  
24 SEC. 3. Section 19830 of the Health and Safety Code is  
25 repealed.

26 SEC. 4. Section 19831 of the Health and Safety Code is  
27 repealed.

28 SEC. 5. Section 19832 of the Health and Safety Code is  
29 repealed.