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BUILDING & SAFETY DEPARTMENT

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OWNER - BUILDER EXEMPTION FROM CONTRACTORS STATE LICENSE LAW (Extracted from California Business and Professions Code, Section 7044)

The California Business and Professions Code, Division 3, Chapter 9, Article 2 defines the term "contractor" and basically requires that anyone who undertakes to construct buildings, among other things, must be licensed by the State of California for such work. Article 3 of that same chapter provides for several exemptions from that requirement. The following excerpt, taken in January 2006, details the qualifications for and restrictions to owner-builder exemptions from licensing requirements. Always consult the current text of state law for the most accurate, up-to-date information.

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.

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