

**BUSINESS AND PROFESSIONS CODE  
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## **BUSINESS AND PROFESSIONS CODE SUMMARY OF CHANGES**

Enclosed is the text of Business and Professions Code (BPC), Division 3. "Professions and Vocations Generally" related to the pesticide regulatory program in California.

The following sections of the BPC were amended, adopted, or repealed with effective dates of 7/1/2006 through 1/1/2009

<b>BPC Section</b>	<b>Action</b>	<b>Leg Bill Number</b>	<b>Chapter Number</b>	<b>Statutes of</b>	<b>Effective Date</b>	<b>Reference</b>
					<b>2009</b>	
8514	Amended	SB 1206	46	2008	1/1/2009	Branch 2 & 3 Advertising
8698	Amended	AB 2223	450	2008	1/1/2009	Adds San Diego to Program
					<b>2008</b>	
8505.2	Amended	SB 1047	354	2007	1/1/2008	B1 Supervision
8505.3	Amended	SB 1047	354	2007	1/1/2008	B1 Supervision
8505.4	Amended	SB 1047	354	2007	1/1/2008	B1 Supervision
8505.15	Repealed	SB 1047	354	2007	1/1/2008	2 masks on site
8506.1	Amended	SB 1047	354	2007	1/1/2008	Clean-up language
8507	Amended	SB 1047	354	2007	1/1/2008	FR functions
8509	Amended	SB 1047	354	2007	1/1/2008	Principle office
8510	Amended	SB 1047	354	2007	1/1/2008	Clean-up language
8512	Amended	SB 1047	354	2007	1/1/2008	Clean-up language
8525	Amended	SB 1047	354	2007	1/1/2008	Clean-up language
8551.5	Amended	SB 1047	354	2007	1/1/2008	Clean-up language
8565.5	Amended	SB 1047	354	2007	1/1/2008	SPCB ed course
8591	Amended	SB 1047	354	2007	1/1/2008	Licensees - clarify
8592	Amended	SB 1047	354	2007	1/1/2008	Licensees - clarify
8610	Amended	SB 1047	354	2007	1/1/2008	Limits for QM's
8611	Amended	SB 1047	354	2007	1/1/2008	Display of license
8612	Amended	SB 1047	354	2007	1/1/2008	Display of license
8617	Amended	SB 1047	354	2007	1/1/2008	Stamps - clarify
8698	Amended	AB 126	379	2007	1/1/2008	Fume Enf Program
8698.1	Amended	AB 126	379	2007	1/1/2008	Fume Enf Program
8698.5	Amended	AB 126	379	2007	1/1/2008	Fume Enf Program
8698.6	Amended	AB 126	379	2007	1/1/2008	Fume Enf Program

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**BUSINESS AND PROFESSIONS CODE  
SUMMARY OF CHANGES**

<b>BPC Section</b>	<b>Action</b>	<b>Leg Bill Number</b>	<b>Chapter Number</b>	<b>Statutes of</b>	<b>Effective Date</b>	<b>Reference</b>
					<b>2007</b>	
None						
					<b>2006</b>	
8698	Amended	SB 230	42	2006	7/1/2006	Fume Enf Program
8698.1	Amended	SB 230	42	2006	7/1/2006	Fume Enf Program
8698.5	Amended	SB 230	42	2006	7/1/2006	Fume Enf Program
8698.6	Amended	SB 230	42	2006	7/1/2006	Fume Enf Program

An electronic link to the complete Business and Professions Code is available on the Structural Pest Control Board website: <http://www.pestboard.ca.gov> under the Reference Link “View Laws and Regulations” or “Forms and Publications/Structural Pest Control Act”

If you have any questions please contact the Enforcement Branch Liaison assigned to your county.

**8507.1. (a)** continued

A structural pest control applicator shall not contract for pest control work or perform pest control work in his or her behalf.

**(b)** As used in this chapter, "applicator" refers to "structural pest control applicator."

**8508. Household:** means any structure and its contents which are used for man and his convenience.

**8509. Branch office:** is any fixed place of business in addition to the location of the principal office for which the company registration is issued, where records are kept, mail received, statements rendered, money is collected, or requests are received for service or bids, or information is given pertaining to the practice of pest control, other than governmental offices.

**8510.** For purposes of this chapter, **wood preservative:** means any coating formulated to protect wood surfaces from deterioration caused by insects, fungus, rot, and decay and which contains a wood preservative chemical that is registered with the Department of Pesticide Regulation and the United States Environmental Protection Agency.

**8511. Manufacturer:** is a person engaged in the processing of materials used in the practice of pest control, but who does not himself engage in such practice.

**8512. Employer:** refers to a registered company that employs operators, field representatives, applicators, and other individuals, the latter not being required to be licensed under this chapter, and who work on pest control jobs under the supervision of an operator or field representative.

**8513.**

**(a)** The board shall prescribe a form entitled "Notice to Owner" that shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the rights and responsibilities of an owner of property and a registered pest control company thereunder. Each company registered under this chapter, prior to entering into a contract with an owner for work for which a company registration is required, shall give a copy of this "Notice to Owner" to the owner, his or her agent, or the payer.

**(b)** No company that is required to be registered under this chapter shall require or request a waiver of lien rights from any subcontractor, employee, or supplier.

**(c)** Each company registered under this chapter that acts as a subcontractor for another company registered under this chapter shall, within 20 days of commencement of any work for which a company registration is required, give the preliminary 20-day notice (private work) in accordance with the provisions of Section 3097 of the Civil Code, to the owner, his or her agent, or the payer.

**8513.** continued

**(d)** Each company registered under this chapter that acts as a prime contractor for work for which a company registration is required shall, prior to accepting payment for the work, furnish to the owner, his or her agent, or the payer a full and unconditional release from any claim of mechanics' lien by any subcontractor entitled to enforce a mechanics' lien pursuant to Section 3114 of the Civil Code.

**(e)** Each company registered under this chapter that subcontracts to another company registered under this chapter work for which a company registration is required shall furnish to the subcontractor the name of the owner, his or her agent, or the payer.

**(f)** The provisions of this section shall be applicable only to those registered companies, as defined in Section 8506.1, operating pursuant to a Branch 1 or Branch 3 registration.

**(g)** A violation of the provisions of this section is a ground for disciplinary action.

**8514.** No registered company shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the control of household pests, or wood destroying pests or organisms until an inspection has been made.

Notwithstanding any provision of this chapter, after an inspection has been made a registered company which holds a branch registration for the control of household pests, or wood destroying pests or organisms, but its branch registration restricts the method of eradication or control permitted, may recommend and enter into a contract for the eradication or control of pests within the scope of its branch registration, provided it subcontracts in writing the actual performance of the work to a registered company which holds a branch registration authorizing the particular method to be used.

A registered company may in writing subcontract any pest control work for which it is registered in any branch or branches to a registered company holding a valid branch registration to do such work.

Nothing in this chapter shall be construed to prohibit a registered company or the consumer from subcontracting with a licensed contractor to do any work authorized under Section 8556.

A registered company shall not subcontract structural fumigation work, as permitted in this section, without the written consent of the consumer. The consumer must be informed in advance, in writing, of any proposed work which the registered company intends to subcontract and of the consumer's right to select another person or entity of the consumer's choosing to perform the work. The consumer may authorize the subcontracting of the work as proposed or may contract directly with another registered company licensed to perform the work. Nothing in this paragraph shall be construed to eliminate any otherwise applicable licensure requirements, nor permit a licensed contractor to perform any work beyond that authorized by Section 8556.

Nothing herein contained shall permit or authorize any registered company to perform, attempt to perform, advertise or hold out to the public or to any person that it is authorized, qualified or registered to perform, pest control work in any branch, or by any method, for which it is not registered, except that a Branch 2 or Branch 3 registered company may advertise fumigation or any all encompassing treatment described in

**8514.**, continued

paragraph (8) of subdivision (a) of Section 1991 of Title 16 of the California Code of Regulations if the company complies with the requirements of this section.

Subcontracting of work, as permitted herein, shall not relieve the prime contractor or the subcontractor from responsibility for, or from disciplinary action because of, an act or omission on its part, which would otherwise be a ground for disciplinary action. However, the registered company making the initial proposal including proposed work that the registered company intends to subcontract shall not be subject to disciplinary action or otherwise responsible for an act or omission in the performance of the work that the consumer directly contracts with another registered company to perform, as permitted by this section.

**8514.5.** It is unlawful for any registered company under this chapter when billing for any subcontracted work authorized under Section 8514, to charge, bill, or otherwise solicit payment from the consumer for any structural fumigation work not actually rendered by the registered company or under its direct supervision unless the consumer, prior to authorizing the performance of the work, is provided in writing with the following statement:

"NOTICE: The charge for service that this company subcontracts to another registered company may include the company's charges for arranging and administering such services that are in addition to the direct costs associated with paying the subcontractor. You may accept (company name's) bid or you may contract directly with another registered company licensed to perform the work.

If you choose to contract directly with another registered company, (company name) will not in any way be responsible for any act or omission in the performance of work that you directly contract with another to perform."

**8515.** Nothing in this chapter shall prohibit a company registered hereunder from authorizing an officer, partner, or employee to submit bids, after an inspection by an individual licensed as an operator or field representative under this act, or to sign contracts after negotiation by an individual licensed as an operator or field representative under this act, on behalf of the registered company.

**8516.**

(a) This section, and Section 8519, apply only to wood destroying pests or organisms.

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator. The address of each property inspected or upon which work is completed shall be reported on a form prescribed by the board and shall be filed with the board no later than 10 business days after the commencement of an inspection or upon completed work.

Every property inspected pursuant to this subdivision or Section 8518 shall be assessed a filing fee pursuant to Section 8674.

**8516.**, continued**(b)** continued

Failure of a registered company to report and file with the board the address of any property inspected or work completed pursuant to Section 8518 or this section is grounds for disciplinary action and shall subject the registered company to a fine of not more than two thousand five hundred dollars (\$2,500).

A written inspection report conforming to this section and a form approved by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent within 10 business days of the inspection, except that an inspection report prepared for use by an attorney for litigation purposes is not required to be reported to the board. The report shall be delivered before work is commenced on any property. The registered company shall retain for three years all original inspection reports, field notes, and activity forms.

Reports shall be made available for inspection and reproduction to the executive officer of the board or his or her duly authorized representative during business hours. Original inspection reports or copies thereof shall be submitted to the board upon request within two business days. The following shall be set forth in the report:

- (1) The date of the inspection and the name of the licensed field representative or operator making the inspection.
- (2) The name and address of the person or firm ordering the report.
- (3) The name and address of any person who is a party in interest.
- (4) The address or location of the property.
- (5) A general description of the building or premises inspected.
- (6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions that would ordinarily subject those parts to attack by wood destroying pests or organisms exist.
- (7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.
- (8) One of the following statements, as appropriate, printed in bold type:
  - (A) **The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors' State License Board.**
  - (B) **The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.**
- (9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

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**Article 10. Indemnity Bonds**  
**Sections 8697-8697.5**

**8697.** Each company registered under the provisions of this chapter shall maintain a bond executed by an admitted surety insurer in the amount of four thousand dollars (\$4,000).

**8697.2.** The bonds required by this article shall be in favor of the State of California for the benefit of any person who, after entering into a contract with a registered company, is damaged by fraud or dishonesty of the registered company in the performance of the contract, or any person who is damaged as a result of a violation of this chapter by the registered company.

**8697.3.** If, after a hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, a license or company registration is suspended or revoked upon the grounds set forth in Article 7 (commencing with Section 8620) of this chapter, the registrar shall require the applicant, licensee, or registered company, as a condition to the issuance, reissuance, or restoration of the license or company registration, to file a surety bond in the sum to be determined by the registrar based upon the seriousness of the violation, but which sum shall not be less than one thousand dollars (\$1,000) nor more than eight thousand dollars (\$8,000).

The bond required by this section shall be in addition to the bond required by Section 8697 of this article.

Each applicant, licensee, or registered company required to maintain a bond of the type provided in this section shall post such bond with the registrar for a period of at least two years and during such additional time as there may be unsatisfied claims outstanding against the same.

**8697.4.** Upon failure of a licensee or registered company to maintain in full force and effect any bond required by this article the registrar shall issue an order suspending or revoking the license or company registration, which shall not be reinstated until a new bond is filed.

**8697.5.** Such bonds as are required by this article shall be in addition to any bond which may be maintained pursuant to the provisions of Article 9 (commencing with Section 8690) of this chapter.

**Sections 8698-8698.6**

**8698.** The Director of the Department of Pesticide Regulation shall be designated by the board as its agent for the purposes of carrying out Section 8698.1. The Los Angeles County Agricultural Commissioner, the Orange County Agricultural Commissioner, the Santa Clara County Agricultural Commissioner, or the San Diego County Agricultural Commissioner may each contract with the director to perform increased structural fumigation, inspection, and enforcement activities. These activities shall be funded by the moneys collected pursuant to this chapter.

**8698.1.**

**(a)** If the county has contracted pursuant to Section 8698, any person who performs a structural fumigation in Los Angeles County, Orange County, Santa Clara County, or San Diego County shall pay to the county agricultural commissioner a fee of five dollars (\$5) for each treatment conducted at a specific building or structure.

**(b)** The fees shall be submitted by the 10th day of the month following the month in which the treatment was performed. The fees shall be accompanied by a copy of a monthly pesticide use report showing the addresses, including the department number if applicable, of all structural fumigations. The report shall be in a form required by the director, identify the name and address of the person or company performing the fumigation, and shall include any other information requested by the director.

**8698.2.** The Director of the Department of Pesticide Regulation may adopt regulations to carry out the provisions of this chapter. In adopting regulations the director shall, in consultation with the Structural Pest Control Board, review recommendations from any individual, including any licensed pest control operator regarding matters which pertain to the use of structural fumigation to control pests. The director shall respond within a reasonable period of time to recommendations which the director deems are practicable and in the interest of the structural pest control industry and the public. The response of the director shall be in writing and shall contain statements regarding reasons for acceptance or rejection of a recommendation.

**8698.3.**

**(a)** The Director of the Department of Pesticide Regulation may levy a civil penalty against a person violating this chapter, including any regulation adopted pursuant to this chapter.

**(b)** Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard, including the right to review the director's evidence and a right to present evidence on his or her own behalf.

**(c)** Review of the decision of the director may be sought by the person against whom the penalty was levied, within 30 days of receiving notice of the decision, pursuant to Section 1094.5 of the Code of Civil Procedure.

**8698.3.**, continued

**(d)** After the exhaustion of the review procedure provided in this section, the director, or his or her representative, may file a certified copy of a final decision of the director that directs the payment of a civil penalty and, if applicable, any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the decision or order. No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of judgment pursuant to this section.

**8698.5.** Any funds collected pursuant to this chapter shall be paid to the county and used for the sole purposes of funding enforcement and training activities directly related to the structural fumigation project created pursuant to Section

**8698.** The fees collected under this chapter shall be in addition to, and shall not be used to supplant, any other funds provided to the county agricultural commissioner pursuant to Section 12844 of the Food and Agricultural Code.

**8698.6.** This chapter shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 2011, deletes or extends that date.

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