

BUSINESS AND PROFESSIONS CODE

BUSINESS AND PROFESSIONS CODE SECTIONS 8500-8514

8500. Unless the text otherwise requires, the general provisions hereinafter set forth govern the construction of this chapter.

8504. "Person" includes an individual, firm, partnership, corporation, Limited Liability Company (LLC), association or other organization or any combination thereof.

8504.1. "Pesticide" includes any of the following:

- (a) Any spray adjuvant
- (b) Any substance, or mixture of substances, which is intended to be used for preventing, destroying, repelling, or mitigating any pest or organism

8505. (a) "Structural pest control" and "pest control" as used in this chapter are synonymous. Except as provided in Section 8555 and elsewhere in this chapter, it is, with respect to household pests and wood destroying pests or organisms, or other pests that may invade households or other structures, including railroad cars, ships, docks, trucks, airplanes, or the contents thereof, the engaging in, offering to engage in, advertising for, soliciting, or the performance of, any of the following:

- (1) Identification of infestations or infections.
 - (2) The making of an inspection or inspections for the purpose of identifying or attempting to identify infestations or infections of household or other structures by those pests or organisms.
 - (3) The making of inspection reports, recommendations, estimates, and bids, whether oral or written, with respect to those infestations or infections.
 - (4) The making of contracts, or the submitting of bids for, or the performance of any work including the making of structural repairs or replacements, or the use of pesticides, or mechanical devices for the purpose of eliminating, exterminating, controlling or preventing infestations or infections of those pests, or organisms.
- (b) "Household pests" are defined for the purpose of this chapter as those pests other than wood destroying pests or organisms, which invade households and other structures, including, but not limited to, rodents, vermin, and insects.

8505.17. *[in part]* (c) Registered structural pest control companies shall prepare and submit to the county agricultural commissioner a monthly report of all pesticides used in that county. The report shall be on a form approved by the Director of Pesticide Regulation and shall contain the name and registration number of each pesticide and the amount used. The report shall be submitted to the commissioner by the 10th day of the month following the month of application and a copy shall be maintained by the licensee for a period of three years after the report submission date. Each pesticide use report or combination of Use reports representing a registered structural pest control company's total county pesticide use for the month shall require a pesticide use stamp or stamp number issued by the board in the denomination fixed by the board in accordance with Section 8674 as the pesticide use report filing fee. The board shall provide for the sale of these stamps and stamp numbers and for the refund of moneys paid for stamps and stamp numbers which are returned to it unused. When a registered structural pest control company performs no pest control during a month in a county in which it has given notice pursuant to Section 15204 of the Food

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and Agricultural Code, the registered company shall submit a use report stating this fact to the commissioner. A pesticide use stamp or stamp number is not required on negative use reports.

(d) All other proceeds from civil penalties collected by the board shall be deposited in the Civil Penalties Account which is hereby created in the fund. These funds shall be available to the board upon appropriation by the Legislature for the purposes of enforcing this chapter.

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 notice in accordance with Chapter 2 (commencing with Section 8200) of Title 2 of Part 6 of Division 4 of the Civil Code, to the owner, his or her agent, or the payer.

(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 8410 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. (a) A Branch 2 or 3 registered company shall not 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 the registered company has completed an inspection.

(b) 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 whose 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 that 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.

(c) A registered company may subcontract, in writing, 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 that work.

(d) 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.

(e) A registered company shall not subcontract structural fumigation work, as permitted in this section, without the written consent of the consumer. The consumer shall 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

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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.

(f) Nothing contained in this section shall permit or authorize a 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 a branch, or by a method, for which it is not registered, except that a Branch 2 or Branch 3 registered company may advertise fumigation or any encompassing treatment described in 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.

(g) Subcontracting of work, as permitted in this section, 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, person, or entity to perform, as permitted by this section.

All home solicitation contracts shall comply with Chapter 2 (commencing with Section 1688) of Title 5 of Part 2 of Division 3 of the Civil Code.