

## CALIFORNIA GENERAL CONTRACTORS - MULTIPLE TRADES September 2015

Other than carpentry or framing, can general contractors (Class B) perform contracts for projects that involve less than two unrelated building trades?

The law governing the classifications are set forth in California Business & Professions Code Sections 7008 and 7056-7059 and is regulated by the California's Contractors State License Board (CSLB), which issues licenses for three classifications. For those who haven't taken the licensing test in recent times, they are:

- "**Class A**" general engineering contractor – whose principal business is in connection with **fixed works** requiring specialized engineering knowledge and skill;
- "**Class B**" general building contractor – whose principal business is in connection with any structure built, or to be built, **requiring in its construction the use of at least two unrelated building trades or crafts.**; and
- "**Class C**" specialty contractor (which includes an extensive number of subcategories) – whose principal business is in connection with **specialized trades** requiring use of the contractor's art, experience, science and/or skill to construct and complete projects under their classification.

There are differing opinions and interpretations of the rule regarding "Class B" general building contractors and their ability to take "multi-trade" contracts. The Business and Professions Code Section on point states in relevant part – and emphasis added:

7057. (a) Except as provided in this section, a general building contractor is a contractor whose principal contracting business is in connection with any structure built, being built, or to be built, for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind, requiring in its construction the use of at least two unrelated building trades or crafts, or to do or superintend the whole or any part thereof.

(b) A general building contractor may take a prime contract or a subcontract for a framing or carpentry project. However, a general building contractor shall not take a prime contract for any project involving trades other than framing or carpentry unless the prime contract requires at least two unrelated building trades or crafts other than framing or carpentry, or unless the general building contractor holds the appropriate license classification or subcontracts with an appropriately licensed contractor to perform the work. **A general building contractor shall not take a subcontract involving trades other than framing or carpentry, unless the subcontract requires at least two unrelated trades or crafts other than framing or carpentry, or unless the general building contractor holds the appropriate license classification.** The general building contractor shall not count framing or carpentry in calculating the two unrelated trades necessary in order for the general building contractor to be able to take a prime contract or subcontract for a project involving other trades.

Historically, the CSLB has interpreted § 7057 (which was first enacted well back in the day in 1947) as a Class B licensed contractor may only take a contract for any project involving trades other than framing or carpentry unless the prime contract requires at least two other unrelated building trades or crafts and a licensed individual performing two or fewer trades must possess a valid specialty license a “Class C” license, as discussed below. The CSLB does not limit the “B” to self-performing as many trades as he or she may choose (with some specific exceptions such as fire protection or well drilling) and contractors may also take a general building contract and sub-contract 100% of the job as long as they use properly licensed sub-contractors for each trade or craft.

In 1996, a general contractor that took contracts involving less than two unrelated trades and subcontracted out 100% of the job to properly licensed sub-contractors took its case to the California Court of Appeals in *Home Depot, U.S.A., Inc. v Contractors State Licensing Board*.

The Court looked at the CSLB’s regulation prohibiting a licensed general building contractor from taking a contract or subcontract unless the contract involves at least three unrelated building trades or crafts or the contractor holds the required specialty license and concluded that it is invalid in some circumstances. The Court looked at the legislative intent of § 7057, which was not to protect specialty building trades, but “enacted for the safety and protection of the public against imposition by persons inexperienced in contracting work, and for the prevention of fraudulent acts by contractors...”

The Court examined § 7057 for the definition of a Class B general building contractor and interpreted the statute: “Contrary to the Board’s position, this statutory definition does not limit a general building contractor’s operation solely to contracts involving more than two unrelated building trades or crafts. .... The language of § 7057 allowed a general building contractor to accept contracts that require the use of two or fewer building trades or crafts and still be acting within this license classification so long as the contractor’s *principal contracting business* is in connection with structures that require the use of two or more unrelated building trades or crafts in their construction.”

The Court noted that nothing in the language of § 7057 required a general building contractor to absolutely limit his or her contracting work to projects involving more than two unrelated building trades or crafts and concluded that the CSLB’s interpretation of § 7057 as regulated in its rule 834(b) is invalid. However, probably as a result of the *Home Depot* case, the legislature revised Business and Professions Code § 7057 shortly after, in 1997. Under the current version of Section 7057 (see above) there are different rules for taking a **prime contract** versus taking a **subcontract**.

The statute now provides that a General Contractor may enter into a **prime contract** for two or fewer unrelated building trades or crafts as long as: (1) the contractor holds the appropriate specialty license, **or** (2) the contractor subcontracts with an appropriately licensed contractor to perform the work. However, a General Contractor shall not take a **subcontract** involving trades other than framing or carpentry unless (1) the subcontract requires at least two

unrelated trades or crafts (not including framing or carpentry), **or** (2) unless the General Contractor also holds the appropriate specialty license classification.

How does this judicial ruling and statute affect the general contractor?

The CSLB will allow a general contractor to take a prime contract that involves two or fewer specialty trades (not including carpentry and framing) as long as the general contractor **subcontracts with an appropriately licensed specialty contractor** to perform the work. However, as a general contractor you can only take a subcontract if it requires at least two unrelated trades or crafts or is limited to framing or carpentry.

A “quick” rule of thumb, if a job requires three or more trades or crafts, not including framing or carpentry, a general building contractor is allowed to contract for such project whether it is a prime or sub- contract. If there are less than three trades or crafts involved, it depends on whether you are entering into a prime or sub- contract and you should check the current rules.

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