

Enrolled
House Bill 2075

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for State Landscape Contractors Board)

CHAPTER

AN ACT

Relating to landscaping; creating new provisions; and amending ORS 671.555, 671.565 and 671.570 and section 2, chapter 111, Oregon Laws 2007 (Enrolled House Bill 2076).

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) To aid and advise the State Landscape Contractors Board in the performance of the functions of the board, the board administrator may establish such advisory and technical committees as the administrator considers necessary. These committees may be continuing or temporary. The administrator shall determine the representation, membership, terms and organization of the committees and shall appoint their members. The administrator is an ex officio member of each committee.

(2) Members of the committees are not entitled to compensation, but the board may fix and pay to the committee members from the funds available to the board per diem and actual and necessary travel and other expenses incurred by the committee members in the performance of their official duties.

SECTION 2. ORS 671.555 is amended to read:

671.555. (1) The State Landscape Contractors Board may investigate the activities of any person engaged in the landscaping business to determine compliance with ORS 671.510 to 671.710.

(2) With the approval of the city or county, the board may conduct investigations with city or county inspectors, provided that the city or county is reimbursed by the board for the costs of such investigations.

(3) Any inspector authorized by the board to determine compliance with *[the provisions of]* ORS 671.510 to 671.710 *[is authorized to]* **may** require any person who is engaged in any activity regulated by ORS 671.510 to 671.710 to demonstrate proof of compliance with the *[registration]* **licensing** requirements of ORS 671.510 to 671.710. If a person who is contracting directly with the owner of the property does not demonstrate proof of compliance with the *[license]* **licensing** requirements of ORS 671.510 to 671.710, the inspector shall give notice of noncompliance to the person. The notice of noncompliance shall be in writing, shall specifically state that the person is not in compliance with the *[registration]* **licensing** requirements of ORS 671.510 to 671.710 and shall provide that unless the person demonstrates proof of compliance within two days of the date of the notice, the inspector may by order stop all work then being done by the person. The notice of noncompliance shall be served upon the person and shall be served upon or delivered to the owner of each property upon which the person is then performing work under contract. If more than one person is the owner of any such property, a copy of the notice need be given to only one of such persons. If after receipt of the notice of noncompliance the person fails within the two-day period specified in the

notice to demonstrate proof of compliance with the [registration] **licensing** requirements of ORS 671.510 to 671.710, the inspector is authorized to order the work stopped by notice in writing served on any persons engaged in the activity. Any person so notified shall stop such work until proof of compliance is demonstrated. However, the inspector may not order the work stopped until at least two days after the copies of the notice of noncompliance have been served upon or delivered to the owners.

(4) Notwithstanding subsection (3) of this section, the board may order work stopped immediately if the [landscape contractor] **landscaping business** working on a worksite [has never registered with the board or if the contractor] cannot demonstrate that the [contractor] **business** has been [registered] **licensed by the board** at any time within the two years immediately preceding work on the worksite.

(5) The board has the power to administer oaths, issue notices and subpoenas in the name of the board, compel the attendance of witnesses and the production of evidence, hold hearings and perform such other acts as are reasonably necessary to carry out its duties under ORS 671.510 to 671.710.

(6) If any person fails to comply with a subpoena issued under subsection (5) of this section or refuses to testify on matters on which the person may be lawfully interrogated, the board shall compel obedience in the manner provided in ORS 183.440.

SECTION 3. ORS 671.565 is amended to read:

671.565. (1) Each person applying for a landscaping business license [shall] **must**:

(a) Pay to the State Landscape Contractors Board the applicable landscaping business license fee established by the board under ORS 671.650.

(b) **Have a landscape contractor license or** employ at least one person with a landscape contractor license to supervise the landscaping operation of the business.

(c) Submit the names of all employees who are licensed contractors.

(d) File with the board a form of security acceptable under ORS 671.690.

(e) File with the board a certificate of public liability, personal injury and property damage insurance covering the work of the landscaping business that is subject to ORS 671.510 to 671.710 for an amount not less than \$100,000.

(f) Indicate, as set forth in ORS 670.600, the basis under which the applicant qualifies as an independent contractor.

(2) At the time of application for a license, for renewal of a license in active status or for return of a license to active status, the landscaping business shall provide evidence satisfactory to the board that the public liability, personal injury and property damage insurance required by subsection (1)(e) of this section is in effect. During a license period, the landscaping business shall provide, to the extent required by the board, satisfactory evidence of continued public liability, personal injury and property damage insurance coverage.

SECTION 4. ORS 671.570 is amended to read:

671.570. Each person applying for a landscape [contractor's] **contractor** license [shall] **must**:

(1) Pay to the State Landscape Contractors Board the **license** fee required by ORS 671.650. [and:]

(2) **Pay a nonrefundable application fee.**

[(1)] (3) **Pay an examination fee and** pass an examination, which [shall be offered] **the board shall offer** at least once each six months, [by the board] to determine the fitness of the applicant for licensing. [and have:]

(4)(a) **Have**, within 10 years before the day the application for a license is made, at least:

(A) Twenty-four months of employment with a [landscape contractor] **landscaping business**; or

(B) Twelve months of employment with a [landscape contractor] **landscaping business** and one full year of training in an area related to landscaping at an accredited school or college; or

(b) [Proven] **Prove** to the satisfaction of the board by test and experience that the applicant is qualified.

[(2)] (5) Be employed by a landscaping business if performing landscaping work.

[3] *Pay a nonrefundable examination fee.*]

SECTION 5. Section 2, chapter 111, Oregon Laws 2007 (Enrolled House Bill 2076), is amended to read:

Sec. 2. (1) Notwithstanding ORS 671.570, the State Landscape Contractors Board may issue a probationary landscape contractor license to a person who does not meet the training and experience qualifications set forth in ORS 671.570. To obtain a probationary landscape contractor license, the person must:

- (a) Pay a nonrefundable application fee;
 - (b) Pay an examination fee;
 - (c) Pay to the board the landscape [*contractor's*] **contractor** license fee required by ORS 671.650;
- and

(d) Pass all sections of the examination described in ORS 671.570 within 12 months after first taking the examination.

(2) Two or more years after receiving a probationary landscape contractor license, a probationary landscape contractor may obtain removal from probationary status and issuance of a landscape [*contractor's*] **contractor** license if the probationary landscape contractor presents the board with proof that the probationary landscape contractor has done any of the following:

(a) Completed at least 24 months of employment with a licensed landscaping business under the direct supervision of a landscape contractor.

(b) Provided supervision described in ORS 671.540 (15) or 671.565 (1)(b) for at least 24 months as the owner or employee of a licensed landscaping business that, during that period:

(A) Filed and maintained with the board a bond, letter of credit or deposit in the amount of \$15,000; and

(B) Performed landscaping work only on landscaping projects where the amount charged by the landscaping business for work on the project during any 12-month period did not exceed \$15,000.

(c) Actively operated for at least 24 months as a construction contractor licensed under ORS chapter 701.

(3) Except as provided in this section and ORS 671.560 and as the board may provide by rule, a probationary landscape contractor licensed under this section is for all purposes a landscape contractor licensed under ORS 671.560.

SECTION 6. If House Bill 2076 becomes law, section 4 of this 2007 Act (amending ORS 671.570) is repealed and ORS 671.570, as amended by section 4, chapter 111, Oregon Laws 2007 (Enrolled House Bill 2076), is amended to read:

671.570. (1) Each person applying for a landscape [*contractor's*] **contractor** license must:

(a) Pay a nonrefundable application fee.

(b) Pay an examination fee.

(c) Pay to the State Landscape Contractors Board the landscape [*contractor's*] **contractor** license fee required by ORS 671.650.

(d) Pass an examination, which the board shall offer at least once each six months, to determine the fitness of the applicant for licensing and within 10 years before the day the application for a license is made:

(A) Have at least 24 months of employment with a [*landscape contracting*] **landscaping** business; or

(B) Have at least 12 months of employment with a [*landscape contracting*] **landscaping** business and one full year of training in an area related to landscaping at an accredited school or college.

(e) Be employed by, or own, a landscaping business if performing landscaping work.

(2) Notwithstanding subsection (1) of this section, the board may adopt rules allowing a person who does not meet the education and experience requirements in subsection (1)(d) of this section to substitute other education and experience that demonstrate the fitness of the person for licensing as a landscape contractor.

Passed by House March 5, 2007

Repassed by House May 31, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate May 29, 2007

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President of Senate

Received by Governor:

.....M,....., 2007

Approved:

.....M,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State