

**SENATE AMENDMENTS TO
HOUSE BILL 2117
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON BUSINESS, TRANSPORTATION AND WORKFORCE DEVELOPMENT

May 29

1 On page 1 of the printed bill, line 6, before the period insert “and section 2, chapter _____,
2 Oregon Laws 2007 (Enrolled Senate Bill 62), section 2, chapter _____, Oregon Laws 2007 (Enrolled
3 Senate Bill 63), and section 2, chapter 111, Oregon Laws 2007 (Enrolled House Bill 2076)”.

4 On page 15, after line 13, insert:

5 “**SECTION 5a. If House Bill 3354 becomes law, section 5 of this 2007 Act (amending ORS**
6 **479.940) is repealed and ORS 479.940, as amended by section 1, chapter _____, Oregon Laws**
7 **2007 (Enrolled House Bill 3354), is amended to read:**

8 “479.940. (1) The licensure provisions of ORS 479.510 to 479.945 do not apply to the following
9 activity on Class II and III systems in one and two family dwellings regulated under the Low-Rise
10 Residential Dwelling Code:

11 “(a) Prewiring of cable television and telephone systems owned by the owner of the residence;

12 “(b) Garage door openers;

13 “(c) Vacuum systems;

14 “(d) Audio and stereo systems;

15 “(e) HVAC;

16 “(f) Landscape sprinkler controls;

17 “(g) Landscape lighting; and

18 “(h) Doorbells.

19 “(2) The provisions of subsection (1) of this section apply only to persons or businesses licensed
20 and in good standing with the Construction Contractors Board.

21 “(3)(a) The licensure provisions of ORS 479.510 to 479.945 do not apply to a **landscape con-**
22 **tracting** business licensed under ORS 671.510 to 671.710 when making installations of landscape ir-
23 rigation control wiring and outdoor landscape lighting involving a Class II or Class III system that
24 does not exceed 30 volts and 750 volt-amperes.

25 “(b) A **landscape contracting** business exempt from licensing under this [section] **subsection**
26 shall issue an identification card to its landscape irrigation control wiring or outdoor landscape
27 lighting installer. The form for the identification card shall be provided by the State Landscape
28 Contractors Board. The identification card shall include the name of the installer, the name and
29 State Landscape Contractors Board identification number of the [landscaping] **landscape contract-**
30 **ing** business and the date of issue of the identification card. The card shall be carried by the in-
31 staller at the job site when performing the allowed electric installations.

32 “(4) The licensure provisions of ORS 479.510 to 479.945 do not apply to limited energy electrical
33 activity involving the installation, maintenance or repair of lottery equipment at retail locations by
34 employees or vendors of the Oregon State Lottery Commission. The exemption provided by this

1 subsection does not authorize work by unlicensed persons on systems of 115 volts or more.

2 “(5) All nonlicensure requirements of ORS 479.510 to 479.945, including permits for and compli-
3 ance with the electrical specialty code, apply to activities conducted under subsections (1) to (4) of
4 this section. If any person or business repeatedly violates the permit or code compliance require-
5 ments, in addition to any other remedy, the Electrical and Elevator Board may suspend, condition
6 or revoke a person’s or business’s right to use this provision.”.

7 On page 20, line 1, before “professional” insert “construction”.

8 In line 2, before “professional” insert “construction”.

9 Delete lines 28 through 45 and insert:

10 “**SECTION 11.** ORS 671.520 is amended to read:

11 “671.520. As used in ORS 671.510 to 671.710, unless the context requires otherwise:

12 “(1) ‘Landscape [*contractor*] **construction professional**’ means [*any person*] **an individual** who
13 for compensation or with the intent to be compensated performs or supervises activities requiring
14 the art, ability, experience, knowledge, science and skill to:

15 “(a) Plan or install lawns, shrubs, vines, trees or nursery stock;

16 “(b) Prepare property on which lawns, shrubs, vines, trees or nursery stock is to be installed;

17 “(c) Construct or repair ornamental water features, drainage systems or irrigation systems; or

18 “(d) Plan or install fences, decks, arbors, patios, landscape edging, driveways, walkways or re-
19 taining walls.

20 “(2) ‘**Landscape contracting business**’ means a business that for compensation or with
21 the intent to be compensated arranges for or submits a bid or otherwise offers or contracts
22 to provide the services of a landscape construction professional.

23 “[2] ‘*Landscape business*’ means a business that for compensation or with the intent to be com-
24 pensated arranges for or submits a bid or otherwise offers or contracts to provide the services of a
25 landscape contractor.]

26 “(3) ‘Licensee’ means a person that is licensed under ORS 671.510 to 671.710 as a landscape
27 [*contractor*] **construction professional** or [*landscaping*] **landscape contracting** business.

28 “(4) ‘Nursery stock’ means nursery stock:

29 “(a) As defined by ORS 571.005 other than stock grown for commercial resale or reforestation;
30 or

31 “(b) As defined by the State Landscape Contractors Board by rule.

32 “(5) ‘Ornamental water features’ means fountains, ponds, waterfalls, man-made streams and other
33 decorative water-related constructions as identified by the board by rule.”.

34 On page 21, delete lines 1 through 6.

35 Delete lines 30 through 45 and insert:

36 “**SECTION 13.** ORS 671.530 is amended to read:

37 “671.530. (1) A person may not operate as a landscape [*contractor*] **construction professional**
38 in this state without a valid landscape [*contractor’s*] **construction professional** license issued pur-
39 suant to ORS 671.560.

40 “(2) A person may not represent in any manner that the person is a landscape [*contractor*]
41 **construction professional** unless the person has a valid landscape [*contractor’s*] **construction**
42 **professional** license issued pursuant to ORS 671.560. The prohibition in this subsection includes,
43 but is not limited to:

44 “(a) Using the title of landscape contractor, **landscape construction professional**, landscape
45 gardener or landscaper or any other title using a form of the word ‘landscape’ **that indicates or**

1 **tends to indicate that the person is a landscape construction professional;** and

2 “(b) Using any [*title,*] sign, card or device that indicates or tends to indicate that the person is
3 a landscape [*contractor*] **construction professional.**

4 “(3) A person may not operate as a [*landscaping*] **landscape contracting** business in this state
5 unless the person has a valid [*landscaping*] **landscape contracting** business license issued pursuant
6 to ORS 671.560.

7 “(4) A person may not advertise or represent in any manner that the person is a [*landscape*]
8 **landscape contracting** business unless the person has a valid [*landscaping*] **landscape contracting**
9 business license issued pursuant to ORS 671.560. The prohibition in this subsection includes, but is
10 not limited to:

11 “(a) Using the title of landscape business, [*or*] landscaping business **or landscape contracting**
12 **business;** and

13 “(b) Using any title, sign, card or device that indicates or tends to indicate that the person is
14 a [*landscaping*] **landscape contracting** business.

15 “(5) A landscape maintenance business may use a form of the word ‘landscape’ in the title of the
16 business only if the title clearly indicates the maintenance nature of the business. For purposes of
17 this subsection, the term ‘landscape gardening’ does not indicate the maintenance nature of a land-
18 scape maintenance business.

19 “(6) A landscape [*contractor is authorized to*] **construction professional may** perform land-
20 scaping work only while in the employ of a [*landscaping*] **landscape contracting** business licensed
21 and bonded as required by ORS 671.510 to 671.710. If the landscape [*contractor*] **construction pro-**
22 **fessional** is the sole proprietor, the [*contractor*] **landscape construction professional** must also
23 obtain a license as a [*landscaping*] **landscape contracting** business.”.

24 On page 22, delete lines 1 through 15.

25 On page 23, line 13, before “professional” insert “construction”.

26 In line 25, before “professional” insert “construction”.

27 In line 28, before “professional” insert “construction”.

28 On page 24, after line 23, insert:

29 “**SECTION 15a. If House Bill 2075 becomes law, section 15 of this 2007 Act (amending ORS**
30 **671.555) is repealed and ORS 671.555, as amended by section 2, chapter _____, Oregon Laws**
31 **2007 (Enrolled House Bill 2075), is amended to read:**

32 “671.555. (1) The State Landscape Contractors Board may investigate the activities of any per-
33 son engaged in the [*landscaping*] **landscape contracting** business to determine compliance with
34 ORS 671.510 to 671.710.

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

38 “(3) Any inspector **or investigator** authorized by the board to determine compliance with ORS
39 671.510 to 671.710 may require any person who is engaged in any activity regulated by ORS 671.510
40 to 671.710 to demonstrate proof of compliance with the licensing requirements of ORS 671.510 to
41 671.710. If a person who is contracting directly with the owner of the property does not demonstrate
42 proof of compliance with the licensing requirements of ORS 671.510 to 671.710, the inspector [*shall*]
43 **or investigator may** give notice of noncompliance to the person. The notice of noncompliance shall
44 be in writing, shall specifically state that the person is not in compliance with the licensing re-
45 quirements of ORS 671.510 to 671.710 and shall provide that unless the person demonstrates proof

1 of compliance within two days of the date of the notice, the inspector **or investigator** may by order
2 stop all work then being done by the person. The notice of noncompliance shall be served upon the
3 person and shall be served upon or delivered to the owner of each property upon which the person
4 is then performing work under contract. If more than one person is the owner of any such property,
5 a copy of the notice need be given to only one of such persons. If after receipt of the notice of
6 noncompliance the person fails within the two-day period specified in the notice to demonstrate
7 proof of compliance with the licensing requirements of ORS 671.510 to 671.710, the inspector [*is*
8 *authorized to*] **or investigator may** order the work stopped by notice in writing served on any
9 persons engaged in the activity. Any person so notified shall stop such work until proof of compli-
10 ance is demonstrated. However, the inspector **or investigator** may not order the work stopped until
11 at least two days after the copies of the notice of noncompliance have been served upon or delivered
12 to the owners.

13 “(4) Notwithstanding subsection (3) of this section, the board may order **landscaping** work
14 stopped immediately if the [*landscaping*] **landscape contracting** business working on a worksite
15 cannot demonstrate that the business has been licensed by the board at any time within the two
16 years immediately preceding work on the worksite.

17 “(5) The board has the power to administer oaths, issue notices and subpoenas in the name of
18 the board, compel the attendance of witnesses and the production of evidence, hold hearings and
19 perform such other acts as are reasonably necessary to carry out its duties under ORS 671.510 to
20 671.710.

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

24 In line 26, before “professional” insert “construction”.

25 In line 33, before “professional” insert “construction”.

26 After line 37, insert:

27 “**SECTION 16a. If House Bill 2076 becomes law, section 16 of this 2007 Act (amending ORS**
28 **671.560) is repealed and ORS 671.560, as amended by section 3, chapter 111, Oregon Laws 2007**
29 **(Enrolled House Bill 2076), is amended to read:**

30 “671.560. (1) Except as provided in ORS 671.590 and section 2, **chapter 111, Oregon Laws 2007**
31 [*of this 2007 Act*], the State Landscape Contractors Board shall issue a landscape [*contractor’s*]
32 **construction professional** license to an applicant who satisfies the requirements of ORS 671.570.

33 “(2) The board shall issue a [*landscaping*] **landscape contracting** business license to an appli-
34 cant who satisfies the requirements of the board.

35 “(3) An applicant for a license under this section shall apply to the board upon a form furnished
36 by the board and give such information as the board considers necessary.

37 “(4)(a) The board may issue a limited or specialty license if the applicant is required to have a
38 landscape [*contractor’s*] **construction professional** license or **landscape contracting** business li-
39 cense but is not qualified or required to be licensed for all phases of landscape [*contracting*] **work**.

40 “(b) The board may adopt rules to limit or restrict the landscape work performed by
41 probationary landscape [*contractors*] **construction professionals**.

42 “(5) A [*landscaping*] **landscape contracting** business that qualifies for the exemption described
43 in ORS 571.045 shall indicate on its license application or license renewal application under this
44 section the reasons the business qualifies for the exemption.”.

45 In line 43, before “professional” insert “construction”.

1 In line 45, before “professionals” insert “construction”.

2 On page 25, after line 13, insert:

3 **“SECTION 17a. If House Bill 2075 becomes law, section 17 of this 2007 Act (amending ORS**
4 **671.565) is repealed and ORS 671.565, as amended by section 3, chapter _____, Oregon Laws**
5 **2007 (Enrolled House Bill 2075), is amended to read:**

6 “671.565. (1) Each person applying for a [landscaping] **landscape contracting** business license
7 must:

8 “(a) Pay to the State Landscape Contractors Board the applicable [landscaping] **landscape**
9 **contracting** business license fee established by the board under ORS 671.650.

10 “(b) Have a landscape [contractor] **construction professional** license or employ at least one
11 person with a landscape [contractor] **construction professional** license to supervise the landscaping
12 operation of the business.

13 “(c) Submit the names of all employees who are licensed [contractors] **landscape construction**
14 **professionals**.

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

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

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

21 “(2) At the time of application for a license, for renewal of a license in active status or for re-
22 turn of a license to active status, the [landscaping] **landscape contracting** business shall provide
23 evidence satisfactory to the board that the public liability, personal injury and property damage in-
24 surance required by subsection (1)(e) of this section is in effect. During a license period, the [land-
25 scaping] **landscape contracting** business shall provide, to the extent required by the board,
26 satisfactory evidence of continued public liability, personal injury and property damage insurance
27 coverage.”.

28 In line 31, before “professional” insert “construction”.

29 On page 26, delete lines 3 through 12 and insert:

30 **“SECTION 19a. If House Bill 2076 becomes law and House Bill 2075 does not become law,**
31 **section 19 of this 2007 Act (amending ORS 671.570) is repealed and ORS 671.570, as amended**
32 **by section 4, chapter 111, Oregon Laws 2007 (Enrolled House Bill 2076), is amended to read:**

33 “671.570. (1) Each person applying for a landscape [contractor’s] **construction professional** li-
34 cense must:

35 “(a) Pay a nonrefundable application fee.

36 “(b) Pay an examination fee.

37 “(c) Pay to the State Landscape Contractors Board the landscape [contractor’s] **construction**
38 **professional** license fee required by ORS 671.650.

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

42 “(A) Have at least 24 months of employment with a landscape contracting business; or

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

45 “(e) Be employed by, or own, a [landscaping] **landscape contracting** business if performing

1 landscaping work.

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

6 “**SECTION 19b. If both House Bill 2075 and House Bill 2076 become law, section 19 of this**
7 **2007 Act (amending ORS 671.570) is repealed and ORS 671.570, as amended by section 4,**
8 **chapter 111, Oregon Laws 2007 (Enrolled House Bill 2076), and section 6, chapter _____,**
9 **Oregon Laws 2007 (Enrolled House Bill 2075), is amended to read:**

10 “671.570. (1) Each person applying for a landscape [contractor] **construction professional** li-
11 cense must:

12 “(a) Pay a nonrefundable application fee.

13 “(b) Pay an examination fee.

14 “(c) Pay to the State Landscape Contractors Board the landscape [contractor] **construction**
15 **professional** license fee required by ORS 671.650.

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

19 “(A) Have at least 24 months of employment with a [landscaping] **landscape contracting** busi-
20 ness; or

21 “(B) Have at least 12 months of employment with a [landscaping] **landscape contracting** busi-
22 ness and one full year of training in an area related to landscaping at an accredited school or col-
23 lege.

24 “(e) Be employed by, or own, a [landscaping] **landscape contracting** business if performing
25 landscaping work.

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

30 “**SECTION 19c.** If House Bill 2076 becomes law and House Bill 2075 does not become law,
31 section 2, chapter 111, Oregon Laws 2007 (Enrolled House Bill 2076), is amended to read:

32 “**Sec. 2.** (1) Notwithstanding ORS 671.570, the State Landscape Contractors Board may issue a
33 probationary landscape [contractor] **construction professional** license to a person who does not
34 meet the training and experience qualifications set forth in ORS 671.570. To obtain a probationary
35 landscape [contractor] **construction professional** license, the person must:

36 “(a) Pay a nonrefundable application fee;

37 “(b) Pay an examination fee;

38 “(c) Pay to the board the landscape [contractor’s] **construction professional** license fee re-
39 quired by ORS 671.650; and

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

42 “(2) Two or more years after receiving a probationary landscape [contractor] **construction**
43 **professional** license, a probationary landscape [contractor] **construction professional** may obtain
44 removal from probationary status and issuance of a landscape [contractor’s] **construction profes-**
45 **sional** license if the probationary landscape [contractor] **construction professional** presents the

1 board with proof that the probationary landscape [contractor] **construction professional** has done
2 any of the following:

3 “(a) Completed at least 24 months of employment with a licensed [landscaping] **landscape con-**
4 **tracting** business under the direct supervision of a landscape [contractor] **construction profes-**
5 **sional**.

6 “(b) Provided supervision described in ORS 671.540 (15) or 671.565 (1)(b) for at least 24 months
7 as the owner or employee of a licensed [landscaping] **landscape contracting** business that, during
8 that period:

9 “(A) Filed and maintained with the board a bond, letter of credit or deposit in the amount of
10 \$15,000; and

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

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

16 “(3) Except as provided in this section and ORS 671.560 and as the board may provide by rule,
17 a probationary landscape [contractor] **construction professional** licensed under this section is for
18 all purposes a landscape [contractor] **construction professional** licensed under ORS 671.560.

19 “**SECTION 19d.** If both House Bill 2075 and House Bill 2076 become law, section 2, chapter 111,
20 Oregon Laws 2007 (Enrolled House Bill 2076), as amended by section 5, chapter _____, Oregon
21 Laws 2007 (Enrolled House Bill 2075), is amended to read:

22 “**Sec. 2.** (1) Notwithstanding ORS 671.570, the State Landscape Contractors Board may issue a
23 probationary landscape [contractor] **construction professional** license to a person who does not
24 meet the training and experience qualifications set forth in ORS 671.570. To obtain a probationary
25 landscape [contractor] **construction professional** license, the person must:

26 “(a) Pay a nonrefundable application fee;

27 “(b) Pay an examination fee;

28 “(c) Pay to the board the landscape [contractor] **construction professional** license fee required
29 by ORS 671.650; and

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

32 “(2) Two or more years after receiving a probationary landscape [contractor] **construction**
33 **professional** license, a probationary landscape [contractor] **construction professional** may obtain
34 removal from probationary status and issuance of a landscape [contractor] **construction profes-**
35 **sional** license if the probationary landscape [contractor] **construction professional** presents the
36 board with proof that the probationary landscape [contractor] **construction professional** has done
37 any of the following:

38 “(a) Completed at least 24 months of employment with a licensed [landscaping] **landscape con-**
39 **tracting** business under the direct supervision of a landscape [contractor] **construction profes-**
40 **sional**.

41 “(b) Provided supervision described in ORS 671.540 (15) or 671.565 (1)(b) for at least 24 months
42 as the owner or employee of a licensed [landscaping] **landscape contracting** business that, during
43 that period:

44 “(A) Filed and maintained with the board a bond, letter of credit or deposit in the amount of
45 \$15,000; and

1 “(B) Performed landscaping work only on landscaping projects where the amount charged by the
2 [landscaping] **landscape contracting** business for work on the project during any 12-month period
3 did not exceed \$15,000.

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

6 “(3) Except as provided in this section and ORS 671.560 and as the board may provide by rule,
7 a probationary landscape [contractor] **construction professional** licensed under this section is for
8 all purposes a landscape [contractor] **construction professional** licensed under ORS 671.560.

9 “**SECTION 20.** ORS 671.574 is amended to read:

10 “671.574. (1) If a landscape [contractor] **construction professional** is not operating as a land-
11 scape [contractor] **construction professional**, the State Landscape Contractors Board may, upon
12 request, place the license of the landscape [contractor] **construction professional** in inactive status.

13 “(2) A landscape [contractor] **construction professional** in inactive status remains subject to
14 board jurisdiction, licensing requirements and fees.

15 “(3) A landscape [contractor] **construction professional** that is in inactive status may not per-
16 form or supervise work as a landscape [contractor] **construction professional**.

17 “(4) A landscape [contractor] **construction professional** license may not be placed or main-
18 tained in inactive status more than once during a licensing period.”.

19 Delete lines 32 through 41 and insert:

20 “**SECTION 22.** ORS 671.580 is amended to read:

21 “671.580. A landscape [contractor’s] **construction professional** license issued pursuant to ORS
22 671.560 is a personal privilege and is not transferable.

23 “**SECTION 23.** ORS 671.590 is amended to read:

24 “671.590. The State Landscape Contractors Board may license without examination any person
25 who is a landscape [contractor] **construction professional** licensed, certified or registered under the
26 laws of another state, territory of the United States, the District of Columbia or another country
27 where the requirements on the date the applicant was licensed, certified or registered were sub-
28 stantially equal to the requirements for licensing of landscape [contractors] **construction profes-**
29 **sionals** in this state on the date of application by the person.”.

30 On page 27, delete lines 4 through 18 and insert:

31 “**SECTION 25.** ORS 671.603 is amended to read:

32 “671.603. (1) A landscape [contractor] **construction professional** or person operating as a
33 [landscaping] **landscape contracting** business shall notify the State Landscape Contractors Board
34 of a change of address for the [contractor] **professional** or business that occurs while the
35 [contractor] **professional** or business is licensed by the board or within one year after a license ex-
36 pires. The landscape [contractor] **construction professional** or [landscaping] **landscape contract-**
37 **ing** business shall ensure that the board receives notice of the change of address no later than the
38 10th day after the change of address occurs.

39 “(2) Initial notice of a contested case or arbitration directed by the board to the last-known
40 address of record for a landscape [contractor] **construction professional** or [landscaping] **landscape**
41 **contracting** business is considered delivered to the [contractor] **professional** or business when de-
42 posited in the United States mail and sent registered, certified or post office receipt secured. Any
43 other communication directed by the board to the last-known address of record for a landscape
44 [contractor] **construction professional** or [landscaping] **landscape contracting** business is consid-
45 ered delivered to the [contractor] **professional** or business when deposited in the United States mail,

1 regular mail.”.

2 On page 28, delete lines 22 through 45 and delete page 29 and insert:

3 “**SECTION 28.** ORS 671.610 is amended to read:

4 “671.610. (1) In addition to any civil penalty assessed under ORS 671.997, the State Landscape
5 Contractors Board may suspend, revoke or refuse to issue or renew the license of a landscape
6 [*contractor*] **construction professional** or [*landscaping*] **landscape contracting** business that does
7 any of the following:

8 “(a) Obtains or attempts to obtain a license under ORS 671.510 to 671.710 by fraud or material
9 misrepresentation.

10 “(b) Makes a material misrepresentation about the quality of any material or service the person
11 provides.

12 “(c) Performs defective work.

13 “(d) Furnishes defective materials.

14 “(e) Makes misleading statements when advertising services or materials.

15 “(f) Violates a provision of ORS 671.510 to 671.710.

16 “(g) Fails to have a replacement bond, letter of credit or deposit on file at the time of a termi-
17 nation, cancellation, reduction or withdrawal of the bond, letter of credit or deposit required by ORS
18 671.690.

19 “(h) Fails to maintain public liability, personal injury and property damage insurance as re-
20 quired by ORS 671.565 throughout a licensing period.

21 “(i) Violates a voluntary compliance agreement entered into under ORS 646.605 to 646.652.

22 “(j) Performs work for which a permit is required under the state building code without ob-
23 taining the required permit, if the work results in the filing of a claim with the board.

24 “(k) Violates a rule or order of the board.

25 “(L) Refuses to comply with a subpoena issued by the board.

26 “(m) Fails to pay in full any amount owed to a claimant under a final order of the board or an
27 arbitration award, or under a judgment rendered in this or any other state.

28 “(n) Does not make payment, including any interest due, for labor or materials contracted for
29 by the person pursuant to a contract for a public improvement within 90 days after the date the
30 person receives payment from a public contracting agency or, if the person is a subcontractor, from
31 the contractor.

32 “(o) Engages in conduct as a landscape [*contractor*] **construction professional** or
33 [*landscaping*] **landscape contracting** business that is dishonest or fraudulent or that the board finds
34 injurious to the welfare of the public.

35 “(p) Fails to comply with the requirements of ORS 652.120.

36 “(q) Is convicted of a crime under ORS 163.115, 163.185, 163.225, 163.235, 163.355, 163.365,
37 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 164.055, 164.075, 164.325
38 or 164.415, provided that the facts supporting the conviction and all intervening circumstances make
39 the determination to suspend, revoke or refuse to issue or renew the license consistent with ORS
40 670.280.

41 “(2) The board may suspend or refuse to renew the license of a landscape [*contractor*] **con-**
42 **struction professional** or [*landscaping*] **landscape contracting** business without prior hearing if,
43 after investigating and setting forth in writing the facts supporting the action, the board determines
44 that continued activity by the landscape [*contractor*] **construction professional** or [*landscaping*]
45 **landscape contracting** business poses an imminent threat of serious harm to the public welfare.

1 Facts sufficient to support a suspension or refusal to renew under this subsection include, but are
2 not limited to:

3 “(a) The lack of a surety bond, letter of credit or deposit required under ORS 671.690;

4 “(b) The lack of public liability, personal injury or property damage insurance required under
5 ORS 671.565;

6 “(c) The hiring of employees while [*registered*] **licensed** as exempt under ORS 671.525;

7 “(d) Conduct as a landscape [*contractor*] **construction professional** or a [*landscaping*] **land-**
8 **scape contracting** business that is dishonest; or

9 “(e) Operation of a [*landscaping*] **landscape contracting** business that does not employ at least
10 one licensed landscape [*contractor*] **construction professional**.

11 “(3) A person whose license is suspended or refused renewal under subsection (2) of this section
12 may request a hearing within 90 days after receiving the notice of the suspension or refusal to re-
13 new. Except as provided in this subsection, the board shall give a contested case hearing requested
14 under this subsection priority over other hearings and schedule the hearing for the earliest practi-
15 cable date. If a citation is issued to the person and the order of suspension or refusal to renew will
16 terminate by its terms if a court renders a final judgment regarding the citation in favor of the
17 person, the person may request that the board hold the requested contested case hearing in abey-
18 ance until after the court has rendered a final judgment.

19 “(4) A person whose license is revoked under this section is not eligible to apply for a license
20 under ORS 671.510 to 671.710 until two years after the effective date of the revocation.

21 “(5) The board may suspend, revoke or refuse to reissue the license of a [*landscaping*] **landscape**
22 **contracting** business, and may impose a civil penalty, all as provided under ORS 671.997 (4), if the
23 board determines, after notice and opportunity for a hearing, that the [*landscaping*] **landscape**
24 **contracting** business was working with other [*landscaping*] **landscape contracting** businesses on
25 the same task and work site where one of the [*landscaping*] **landscape contracting** businesses is
26 [*registered*] **licensed** as an exempt independent contractor under ORS 671.525 (2)(b) and the total
27 number of [*landscaping*] **landscape contracting** businesses working on the task exceeded:

28 “(a) Two sole proprietors;

29 “(b) One partnership;

30 “(c) One corporation; or

31 “(d) One limited liability company.

32 “**SECTION 28a.** If Senate Bill 63 becomes law, section 2, chapter _____, Oregon Laws 2007
33 (Enrolled Senate Bill 63), is amended to read:

34 “**Sec. 2.** An applicant for the issuance or renewal of a landscape [*contractor*] **construction**
35 **professional** license or [*landscaping*] **landscape contracting** business license shall include in the
36 application to the State Landscape Contractors Board notice of any unpaid court judgment, arbi-
37 tration award or administrative agency final order entered or issued in any jurisdiction that requires
38 the applicant to pay damages arising out of the performance of, or a contract for, landscaping work.
39 The board may adopt rules that require an applicant to provide additional information regarding a
40 judgment, arbitration award or agency final order described in this section and the status of any
41 appeal or exceptions.”.

42 On page 30, delete lines 1 through 4.

43 Delete lines 15 through 45 and insert:

44 “**SECTION 30.** ORS 671.614 is amended to read:

45 “671.614. (1) The State Landscape Contractors Board may issue an order placing a

1 [landscaping] **landscape contracting** business, or any landscape [contractor] **construction profes-**
2 **sional** that is employed by the [landscaping] **landscape contracting** business or is a [landscaping]
3 **landscape contracting** business owner or officer as defined in ORS 671.607, on probation if three
4 or more claims are filed against the [landscaping] **landscape contracting** business's bond, letter of
5 credit or deposit within a 12-month period.

6 “(2) The board may place a [landscaping] **landscape contracting** business or landscape [con-
7 tractor] **construction professional** on probation under this section only if the board determines af-
8 ter investigation of the complaints that a significant likelihood exists that continued activity by the
9 [landscaping] **landscape contracting** business or landscape [contractor] **construction professional**
10 without board supervision will result in additional claims against the [landscaping] **landscape con-**
11 **tracting** business.

12 “(3) The board may require as a condition of probation imposed under this section that the
13 landscape [contractor] **construction professional** take a board-approved education course in one or
14 more subjects relating to landscape [contracting] **operations**.

15 “(4) The board may require as a condition of probation imposed under this section that the
16 owner or officer of the [landscaping] **landscape contracting** business take a board-approved edu-
17 cation course in one or more subjects relating to [landscaping] **landscape contracting** business or
18 general business practices.

19 “(5) The board may take action to suspend, revoke or refuse to renew the license of the [land-
20 scaping] **landscape contracting** business or landscape [contractor] **construction professional** if the
21 [contractor or] business **or professional** fails to fulfill the terms of the probation.

22 “**SECTION 31.** ORS 671.615 is amended to read:

23 “671.615. The State Landscape Contractors Board may license a landscape [contractor] **con-**
24 **struction professional** to install backflow assemblies for irrigation systems and ornamental water
25 features. The board, by rule, shall establish qualifications for issuance of a license under this sec-
26 tion. A landscape [contractor] **construction professional** may install a backflow assembly only if the
27 landscape [contractor] **construction professional** is licensed under this section **and is the owner**
28 **of, or employed by, a licensed landscape contracting business.** A landscape [contractor] **con-**
29 **struction professional** installing a backflow assembly may tap into the potable water supply only
30 at a point after the connection between the water system and the customer, as that connection is
31 defined in ORS 448.115.”.

32 On page 31, line 15, before “professional” insert “construction”.

33 In line 29, before “professionals” insert “construction”.

34 In line 30, before “professional” insert “construction”.

35 On page 32, after line 30, insert:

36 “**SECTION 36a.** If Senate Bill 62 becomes law, section 36 of this 2007 Act (amending ORS
37 **671.700**) is repealed and ORS 671.700, as amended by section 6, chapter _____, Oregon Laws
38 **2007 (Enrolled Senate Bill 62)**, is amended to read:

39 “671.700. (1) If a claim is filed with the State Landscape Contractors Board against a licensed
40 [landscaping] **landscape contracting** business for payment from the bond, letter of credit or deposit
41 required of the business under ORS 671.690, the board may resolve the dispute involving the [land-
42 scaping] **landscape contracting** business.

43 “(2) A person having a claim against a [landscaping] **landscape contracting** business shall give
44 the board notice of the claim in writing 90 days before any action on the bond, letter of credit or
45 deposit is commenced.

1 “(3) The board may not accept a claim against a [*landscaping*] **landscape contracting** business
2 for processing if the claim is not filed with the board within one year after the business substantially
3 completed work. The board may not issue an order for the payment of a court judgment or arbi-
4 tration award from the bond, letter of credit or deposit of a [*landscaping*] **landscape contracting**
5 business unless the person has timely filed with the board a claim against the business regarding
6 the same matter that resulted in the judgment or award.”

7 On page 34, after line 26, insert:

8 “**SECTION 37a. If Senate Bill 62 becomes law, section 37 of this 2007 Act (amending ORS**
9 **671.703) is repealed and ORS 671.703, as amended by section 7, chapter _____, Oregon Laws**
10 **2007 (Enrolled Senate Bill 62), is amended to read:**

11 “671.703. (1) Upon acceptance of a claim described in section 2, **chapter _____, Oregon Laws**
12 **2007 (Enrolled Senate Bill 62)** [*of this 2007 Act*], the State Landscape Contractors Board shall ini-
13 tiate an investigation. Upon completion of the investigation, if the board determines that facts exist
14 supporting an order for payment, the board may order the [*landscaping*] **landscape contracting**
15 business to pay the claim. A party to the claim may request a hearing on the order issued by the
16 board.

17 “(2) Subject to subsection (5) of this section, if the resolution of the claim requires a hearing,
18 the board may require that the hearing be conducted as a binding arbitration under rules adopted
19 by the board under subsection (4) of this section.

20 “(3) The board may use arbitration, mediation or other forms of dispute resolution to resolve a
21 landscaping dispute between any parties who agree to follow the rules of the board, including par-
22 ties to a dispute that is not a claim described in section 2, **chapter _____, Oregon Laws 2007**
23 **(Enrolled Senate Bill 62)** [*of this 2007 Act*].

24 “(4) Except as provided in this subsection, rules adopted by the board to regulate arbitration
25 under subsections (2) and (3) of this section must substantially conform with the provisions of ORS
26 36.600, 36.610 to 36.630, 36.635 (2), 36.640, 36.645 (2), 36.650 to 36.680, 36.685 (1) and 36.690 to 36.740.
27 The rules may:

28 “(a) Require that a hearing under ORS 183.413 to 183.470 be conducted for issues for which a
29 petition could be filed under ORS 36.615, 36.620, 36.625 and 36.640;

30 “(b) Limit orders and awards made by the arbitrator as necessary to comply with ORS 671.510
31 to 671.710;

32 “(c) Require that a request that an arbitrator modify or correct an award under ORS 36.690 be
33 submitted in a form specified by the rule;

34 “(d) Require that a petition under ORS 36.705 (2) or 36.710 (1) be filed in a shorter period of time
35 than provided by ORS 36.705 and 36.710; and

36 “(e) Include any other provision necessary to conform the arbitration to ORS 671.510 to 671.710.

37 “(5) A party to a claim that is subject to a board order of binding arbitration under subsection
38 (2) of this section may avoid the arbitration if the party requests to have the claim resolved through
39 a contested case hearing or files a complaint in a court. A party making a request or filing a
40 complaint under this subsection is subject to the following provisions:

41 “(a) If the party requests to have a claim resolved through a contested case hearing, the party
42 must, within the time specified in paragraph (c) of this subsection, deliver the request in writing to
43 the board and to all parties entitled by board rule to receive a copy of the request.

44 “(b) If the party files a complaint in a court, the party must, within the time specified in para-
45 graph (c) of this subsection, deliver a copy of the complaint to the board and to all parties entitled

1 by the board rule to receive a copy of the complaint. If the party filing the complaint is the claim-
2 ant, the claimant must allege all elements of the claim in the complaint. If the complaint is filed
3 by the licensed [*landscaping*] **landscape contracting** business against whom a claim is alleged, the
4 complaint may be a complaint for damages, a complaint for declaratory judgment or other complaint
5 that allows the claimant to file a response alleging the elements of the claim. The claimant has the
6 burden of proving the elements of the claim in any action described in this paragraph.

7 “(c) A party that is subject to paragraph (a) or (b) of this subsection must deliver a request or
8 complaint to the board as described in paragraphs (a) and (b) of this subsection no later than the
9 30th day after the board sends notice that an arbitration hearing has been scheduled. Failure to
10 timely deliver a request or complaint under this paragraph constitutes consent to the binding arbi-
11 tration.

12 “(d) If a party makes a timely request under paragraph (a) of this subsection for a contested case
13 hearing and another party timely files a complaint in compliance with paragraph (b) of this sub-
14 section, the filing of the complaint supersedes the request for a contested case hearing.

15 “(e) A party may not withdraw a request made in compliance with paragraph (a) of this sub-
16 section unless all parties agree to the withdrawal.

17 “(f) The provisions of paragraph (b) of this subsection are in addition to any other requirements
18 imposed by law regarding the filing of a complaint.

19 “(6) An arbitration conducted under subsection (2) or (3) of this section must be held before an
20 administrative law judge acting as arbitrator. The administrative law judge assigned to act as
21 arbitrator of the case on behalf of the board must be from the Office of Administrative Hearings
22 established under ORS 183.605. The assignment of an administrative law judge to act as arbitrator
23 is subject to a request for a different arbitrator under ORS 183.645 or a rule adopted pursuant to
24 ORS 183.645.

25 “(7) If a party to a claim described in section 2, **chapter _____, Oregon Laws 2007 (En-**
26 **rolled Senate Bill 62)**, [*of this 2007 Act*] requests a contested case hearing, the board shall schedule
27 the hearing. If a party files a court action to determine the matter described in the claim, the board
28 shall suspend further processing of the claim until the action is resolved by an appropriate court.

29 “(8) If the matter described in a claim is submitted for determination by a court, the board may
30 require that the claimant provide status reports on the pending action. The board may dismiss or
31 close a claim described in section 2, **chapter _____, Oregon Laws 2007 (Enrolled Senate Bill**
32 **62)**, [*of this 2007 Act*] as established by rule of the board if the claimant fails to submit status re-
33 ports on a pending action.

34 “(9) [*The board shall issue a final order in a form that indicates the maximum amount that is*
35 *payable from the bond, letter of credit or deposit to satisfy an order, arbitration award or judgment.*]
36 **If a final order or arbitration award is issued under this section and** the [*landscaping*] **land-**
37 **scape contracting** business does not pay the claim on or before the 30th day after receiving the
38 [*board*] order, the board shall order the claim paid out of the bond, letter of credit or deposit filed
39 under ORS 671.690.

40 “(10) The board may dismiss or close a claim as established by rule of the board if:

41 “(a) The claimant does not permit the person against whom the claim is filed to be present at
42 any on-site investigation made by the board; or

43 “(b) The board determines that the person against whom the claim is filed is capable of com-
44 plying with recommendations made by the board relative to the claim, but the claimant does not
45 permit the person to comply with the recommendations. The board may dismiss or close a claim

1 under this paragraph only if the person was licensed at the time the work was first performed and
2 is licensed at the time the board makes its recommendations.

3 “(11) The board may suspend processing a claim if the board determines that the nature or
4 complexity of the claim is such that a court is the appropriate forum for the adjudication of the
5 claim.

6 “**SECTION 37b.** If Senate Bill 62 becomes law, section 2, chapter _____, Oregon Laws 2007
7 (Enrolled Senate Bill 62), is amended to read:

8 “**Sec. 2.** A claim against a licensed [*landscaping*] **landscape contracting** business is payable
9 from the bond, letter of credit or deposit required of the [*landscaping*] **landscape contracting**
10 business under ORS 671.690 only if the claim arises from the performance, or a contract for the
11 performance, of work that is subject to ORS 671.510 to 671.710. The claim must be of one or more
12 of the following types:

13 “(1) A claim against the [*landscaping*] **landscape contracting** business by the property owner
14 or the owner’s agent for any of the following:

15 “(a) Negligent work.

16 “(b) Improper work.

17 “(c) Breach of contract.

18 “(2) A claim against the [*landscaping*] **landscape contracting** business by the property owner
19 or the owner’s agent to discharge, or to recoup funds expended in discharging, a lien established
20 under ORS 87.010 to 87.060 or 87.075 to 87.093. The State Landscape Contractors Board may reduce
21 a claim described in this subsection by any amount the claimant owes the [*contractor*] **landscape**
22 **contracting business**. The board shall process claims described in this subsection only if:

23 “(a) The owner paid the [*landscaping*] **landscape contracting** business for work subject to ORS
24 671.510 to 671.710; and

25 “(b) A lien established against the property of the owner under ORS 87.010 to 87.060 or 87.075
26 to 87.093 is filed because the [*landscaping*] **landscape contracting** business failed to pay the person
27 claiming the lien for that person’s contribution toward completion of the improvement.

28 “(3) A claim against a licensed subcontractor by a licensed [*landscaping*] **landscape contracting**
29 business or by a construction contractor licensed under ORS chapter 701, for any of the following:

30 “(a) Negligent work.

31 “(b) Improper work.

32 “(c) Breach of contract.

33 “(4) A claim by a person furnishing labor to a [*landscaping*] **landscape contracting** business.

34 “(5) A claim, as limited by rule of the board, by a person furnishing material or renting or
35 supplying equipment to the [*landscaping*] **landscape contracting** business. The minimum limit set
36 by the board may not be more than \$150.

37 “(6) A claim by a subcontractor against the [*landscaping*] **landscape contracting** business for
38 unpaid labor or materials arising out of a contract.”.

39 After line 38, insert:

40 “**SECTION 38a.** If Senate Bill 62 becomes law, section 38 of this 2007 Act (amending ORS
41 **671.707**) is repealed and ORS **671.707**, as amended by section 8, chapter _____, Oregon Laws
42 **2007 (Enrolled Senate Bill 62)**, is amended to read:

43 “671.707. (1) If a final order of the State Landscape Contractors Board is not paid by the
44 [*landscaping*] **landscape contracting** business, the board shall notify the surety on the business’s
45 bond.

1 “(2) An order of the board that determines a claim under ORS 671.703 that becomes final by
2 operation of law or on appeal and remains unpaid for 20 days after the order becomes final is an
3 order in favor of the claimant against the [*landscaping*] **landscape contracting** business and may
4 be recorded with the county clerk in any county of this state.

5 “(3) Upon receipt, the clerk shall record the order in the County Clerk Lien Record. In addition
6 to any other remedy provided by law, recording an order in the County Clerk Lien Record pursuant
7 to this section has the effect provided for in ORS 205.125 and 205.126, and the order may be enforced
8 as provided in ORS 205.125 and 205.126.”.

9 On page 41, line 42, before “Sections” insert “(1)”.

10 On page 42, line 2, delete “1 to 44” and insert “1 to 19b, 20 to 28, 29 to 37a and 38 to 44”.

11 After line 8, insert:

12 “(2) The amendments to section 2, chapter 111, Oregon Laws 2007 (Enrolled House Bill 2076),
13 by sections 19c and 19d of this 2007 Act do not limit or terminate any right, duty, obligation or
14 disability acquired or incurred before the effective date of this 2007 Act under section 2, chapter
15 111, Oregon Laws 2007 (Enrolled House Bill 2076).

16 “(3) The amendments to section 2, chapter _____, Oregon Laws 2007 (Enrolled Senate Bill 63),
17 by section 28a of this 2007 Act do not limit or terminate any right, duty, obligation or disability
18 acquired or incurred before the effective date of this 2007 Act under section 2, chapter _____,
19 Oregon Laws 2007 (Enrolled Senate Bill 63).

20 “(4) The amendments to section 2, chapter _____, Oregon Laws 2007 (Enrolled Senate Bill 62),
21 by section 37b of this 2007 Act do not limit or terminate any right, duty, obligation or disability
22 acquired or incurred before the effective date of this 2007 Act under section 2, chapter _____,
23 Oregon Laws 2007 (Enrolled Senate Bill 62).”.

24
