

House Bill 2403

Sponsored by Representative SCHAUFLEER (at the request of Contractors Bonding and Insurance Company) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires that Construction Contractors Board send claimant notice of available methods for collecting amounts due under unpaid final order.

A BILL FOR AN ACT

1
2 Relating to claims against construction contractors; amending ORS 701.150.

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

4 **SECTION 1.** ORS 701.150 is amended to read:

5 701.150. (1) If a Construction Contractors Board final order is not paid by the contractor, the
6 board shall:

7 (a) Notify the surety on the bond. The surety may not pay a claim until the surety receives
8 notice from the board that the claim is ready for payment.

9 (b) **Send a notice to the claimant. The notice shall be in substantially the following form:**

NOTICE TO CLAIMANT

11
12
13 **You have obtained a Construction Contractors Board order in your favor against a contrac-**
14 **tor. If the contractor does not pay you within 10 days after the order becomes final, you may**
15 **file the order with any county clerk as a judgment against the contractor. An order filed**
16 **with the county clerk will act as a judgment lien against any real property that the con-**
17 **tractor may own in that county. You may need to file the final order in more than one**
18 **county to obtain a judgment lien against all real property owned by the contractor.**

19
20 **After filing the order with the county clerk, you may enforce it in any manner allowed by**
21 **state law for the enforcement of a judgment, including one or more of the following:**

22 (a) **Garnishing amounts owed by others to the contractor.**

23 (b) **Forcing the sale of the contractor's real property that is subject to the lien.**

24 (c) **Forcing the sale of the contractor's personal property, such as vehicles and equip-**
25 **ment.**

26
27 **A judgment lien will remain valid for 10 years or until paid. You may extend the judgment**
28 **lien for an additional 10 years if you properly renew it before it expires. Your judgment lien**
29 **may take second priority to other liens or security interests that the law places ahead of**
30 **your judgment lien. However, you are strongly encouraged to file the Construction Contrac-**
31 **tors Board final order as a judgment to protect your right to payment and to allow you to**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **try collecting the amount awarded.**

2 _____
 3
 4 (2) If an order of the board that determines a claim under ORS 701.145 becomes final by opera-
 5 tion of law or on appeal and remains unpaid 10 days after the date the order becomes final, the
 6 claimant may file the order with the county clerk in any county of this state.

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

11 (4) Payments from the surety bond of a contractor pursuant to board order and notice are sat-
 12 isfied in the following priority in any 90-day period. A 90-day period begins on the date the first
 13 claim is filed with the board. Subsequent 90-day periods begin on the date the first claim is filed
 14 with the board after the close of the preceding 90-day period. Within a 90-day period:

15 (a) Board orders as a result of claims against a contractor by the owner of a residential or small
 16 commercial structure have payment priority to the full extent of the bond over all other types of
 17 claims.

18 (b) If the claims described in paragraph (a) of this subsection do not exhaust the bond, then
 19 amounts due as a result of all other types of residential or small commercial structure claims filed
 20 within that 90-day period may be satisfied from the bond, except that the total amount paid from
 21 any one bond to nonowner claimants may not exceed \$3,000.

22 (c) If payments involving residential and small commercial structures do not exhaust the bond,
 23 board orders and notice involving large commercial structure claims are satisfied in the following
 24 priority, except that the total amount paid from any one bond to nonowner claimants may not ex-
 25 ceed \$3,000:

26 (A) Labor, including employee benefits.

27 (B) All other claims involving large commercial structures except costs, interest and attorney
 28 fees.

29 (C) Any costs, interest and attorney fees the plaintiff may be entitled to recover.

30 (d) If the total claims filed with the board against a contractor within 90 days after the board
 31 receives notice of the first claim against the contractor exceed the amount of the bond available for
 32 those claims, the bond shall be apportioned as the board determines, subject to the priorities es-
 33 tablished under this section.

34 (e) If the total amounts due as a result of claims filed with the board within 90 days after the
 35 first claim is filed do not exceed the amount of the bond available for those claims, all amounts due
 36 as a result of claims filed within the 90-day period shall have priority over all claims subsequently
 37 filed until the amount of the bond available for the payment of claims is exhausted.

38 (5) Notwithstanding subsection (4) of this section, a bond is not subject to payment for a claim
 39 that is filed more than 14 months after the earlier of:

40 (a) The expiration or cancellation date of the license that was in force when the work that is
 41 the subject of the claim was completed or abandoned; or

42 (b) The date that the surety canceled the bond.

43 (6) The total amount paid from any one bond for costs, interest and attorney fees may not ex-
 44 ceed \$3,000.