

**SENATE AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2654
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON BUSINESS, TRANSPORTATION AND WORKFORCE DEVELOPMENT

June 8

1 On page 1 of the printed A-engrossed bill, line 2, delete “and amending ORS 701.105” and insert
2 “amending ORS 87.018, 87.030, 87.093, 701.005, 701.055, 701.075, 701.077, 701.078, 701.085, 701.102,
3 701.105, 701.135 and 701.605; and repealing ORS 701.590 and sections 5 and 6, chapter 114, Oregon
4 Laws 2007 (Enrolled House Bill 2109)”.

5 Delete lines 4 through 28 and delete page 2 and insert:
6

7 **“CONTINUING EDUCATION**
8

9 **“SECTION 1. Sections 2 and 3 of this 2007 Act are added to and made a part of ORS**
10 **chapter 701.**

11 **“SECTION 2. (1) The Construction Contractors Board shall adopt rules establishing a**
12 **continuing education system for all persons licensed by the board. The rules adopted by the**
13 **board shall include, but need not be limited to, rules establishing the required number of**
14 **hours and course content for continuing education. The board may establish reasonable fees**
15 **for courses and instruction provided by the board, or for approving the course content and**
16 **instruction for continuing education provided by other sources.**

17 **“(2) The continuing education required for a contractor may include training in con-**
18 **struction means and methods, compliance with the state building code and business prac-**
19 **tices.**

20 **“(3) A person may not renew a license issued by the board unless the person certifies to**
21 **the board at the time of license renewal that the licensee has completed the amount and type**
22 **of continuing education required by the board.**

23 **“(4) Subsections (1) to (3) of this section do not apply to a licensed developer.**

24 **“SECTION 3. (1) The Construction Contractors Board shall adopt rules establishing the**
25 **date by which a licensee must first complete continuing education under section 2 of this**
26 **2007 Act for persons that:**

27 **“(a) Are licensed by the board prior to the effective date of this 2007 Act; and**

28 **“(b) Do not complete training described in ORS 701.072 prior to January 1, 2010.**

29 **“(2) The date established by the board under subsection (1) of this section may not be**
30 **earlier than January 1, 2010, or later than January 1, 2014.**

31 **“WRITTEN CONTRACTS**
32

33 **“SECTION 4. Section 5 of this 2007 Act is added to and made a part of ORS 87.001 to**
34

1 87.060.

2 “**SECTION 5.** An original contractor may not claim a lien arising from the improvement
3 of real property if a written contract for the work is required by section 7 of this 2007 Act
4 and the contractor does not have a written contract.

5 “**SECTION 6.** Sections 7 and 8 of this 2007 Act are added to and made a part of ORS
6 chapter 701.

7 “**SECTION 7.** (1) A contractor may not perform work subject to this section for an owner
8 of a residential structure or zero-lot-line dwelling without a written contract if the aggregate
9 contract price exceeds \$2,000. If the price of a contract was initially less than \$2,000, but
10 during the course of performance the contract exceeds that amount, the contractor shall
11 mail or otherwise deliver a written contract to the owner not later than five days after the
12 contractor knows or should reasonably know that the contract price will exceed \$2,000.
13 Failure to have a written contract will not void the contract.

14 “(2) The Construction Contractors Board shall adopt rules that require a contractor to
15 use standard contractual terms in a construction contract for which subsection (1) of this
16 section requires a written contract. The standard contractual terms shall be clear, use words
17 of common understanding and shall include but need not be limited to:

18 “(a) A statement that the contractor is licensed by the board;

19 “(b) The name, license number, address and telephone number of the contractor as
20 shown on board records on the date the contract is entered into;

21 “(c) An acknowledgment of a written offer of a warranty, if an offer is required by sec-
22 tion 11 of this 2007 Act, and indication of the acceptance or rejection of the offered warranty;

23 “(d) For a residential structure contract, a summary of the notices required under ORS
24 87.093 or under rules adopted under sections 13 (2) and 14 of this 2007 Act on the contractor’s
25 bid proposal;

26 “(e) Acknowledgment of the receipt of the maintenance information required by the
27 board under section 13 of this 2007 Act; and

28 “(f) An explanation of the property owner’s rights under the contract, including, but not
29 limited to, the ability to file a claim with the board and the existence of any mediation or
30 arbitration provision in the contract, set forth in a conspicuous manner as defined by the
31 board by rule.

32 “**SECTION 8.** (1) A property owner who enters into an initial written contract for the
33 construction, improvement or repair of a residential structure or zero-lot-line dwelling may
34 cancel the contract by delivery of a written notice of cancellation anytime prior to 12 mid-
35 night at the end of the next business day. The notice of cancellation may be delivered in any
36 written form or by any means that can readily be converted to written form, including, but
37 not limited to, facsimile, electronic mail and regular mail. The notice must state the inten-
38 tion of the property owner to cancel the contract.

39 “(2) Subsection (1) of this section does not allow a property owner to cancel a contract:

40 “(a) If both parties agree that work is to begin before the cancellation period has expired;

41 “(b) After a contractor substantially begins the residential construction, improvement
42 or repair; or

43 “(c) When an initial contract is being modified after expiration of the initial cancellation
44 period.

45 “**SECTION 9.** ORS 87.030 is amended to read:

1 "87.030. (1) Every improvement except an improvement made by a person other than the land-
2 owner in drilling or boring for oil or gas, constructed upon lands with the knowledge of the owner
3 shall be deemed constructed at the instance of the owner, and the interest owned shall be subject
4 to any lien perfected pursuant to the provisions of ORS 87.001 to 87.060 and 87.075 to 87.093, unless
5 the owner shall, within three days after the owner obtains knowledge of the construction, give no-
6 tice that the owner will not be responsible for the same by posting a notice in writing to that effect
7 in some conspicuous place upon the land or the improvement situated thereon.

8 "(2) Subsection (1) of this section does not apply to a lien prohibited under section 5 of
9 this 2007 Act.

10
11 "WARRANTY
12

13 "SECTION 10. Section 11 of this 2007 Act is added to and made a part of ORS chapter 701.

14 "SECTION 11. (1) A licensee that enters into a contract to construct a new residential
15 structure or zero-lot-line dwelling shall make a written offer to the first purchaser or owner
16 of the structure or dwelling of a warranty against defects in materials and workmanship for
17 the structure or dwelling. The first purchaser or owner of the structure or dwelling may
18 accept or refuse the offer of a warranty by the contractor. If a contractor makes the written
19 offer of a warranty before the contractor and owner both sign a written construction con-
20 tract and the owner refuses the offered warranty, the contractor may withdraw the offer to
21 construct the structure or dwelling.

22 "(2) Subsection (1) of this section does not apply to a residential structure that is a
23 manufactured dwelling as defined in ORS 446.003.

24
25 "REQUIRED DELIVERIES
26

27 "SECTION 12. Sections 13 and 14 of this 2007 Act are added to and made a part of ORS
28 chapter 701.

29 "SECTION 13. (1) A contractor that constructs a new residential structure or zero-lot-
30 line dwelling shall provide a recommended maintenance schedule to the first purchaser or
31 owner of the structure or dwelling.

32 "(2) The Construction Contractors Board shall adopt rules specifying the minimum in-
33 formation that a contractor shall provide to a first purchaser or owner under subsection (1)
34 of this section. The minimum information shall include, but need not be limited to, the fol-
35 lowing:

36 "(a) Definitions and descriptions of moisture intrusion and water damage.

37 "(b) An explanation of how moisture intrusion and water damage can occur.

38 "(c) A description and recommended schedule for maintenance to prevent moisture in-
39 trusion.

40 "(d) Advice on how to recognize the signs of water damage.

41 "(e) Appropriate steps to take when water damage is discovered.

42 "(3) The board shall make the information developed under this section available without
43 charge to contractors that construct new residential structures or zero-lot-line dwellings.

44 "SECTION 14. (1) The Construction Contractors Board shall adopt by rule a consumer
45 notice form designed to inform a property owner of the actions the property owner should

1 **take to protect the owner in a residential repair, remodel or construction project. The form**
2 **shall briefly describe and identify additional sources of information regarding:**

3 **“(a) Contractor licensing standards;**

4 **“(b) Contractor bond and insurance requirements;**

5 **“(c) The requirement to offer a warranty under section 11 of this 2007 Act; and**

6 **“(d) Other information specified by the board.**

7 **“(2) The board shall adopt by rule a notice of procedure form that briefly describes and**
8 **identifies additional sources of information regarding the procedure described under ORS**
9 **701.560 to 701.595 and other information specified by the board.**

10 **“(3) The consumer notice form and notice of procedure form adopted by the board shall**
11 **include signature lines for the contractor and the property owner.**

12 **“(4) The board shall adopt rules specifying the time and manner for a contractor to de-**
13 **liver a consumer notice form and notice of procedure form to a property owner.**

14 **“(5) The board may adopt rules that require a contractor to maintain evidence of delivery**
15 **of the consumer notice form and notice of procedure form and that specify the retention**
16 **period for and the form of that evidence.**

17 **“SECTION 15.** ORS 87.018 is amended to read:

18 **“87.018. Except as provided in ORS 87.093,** all notices required under ORS 87.001 to 87.060 and
19 87.075 to 87.093 shall be in writing and delivered in person or delivered by registered or certified
20 mail. *[except for the ‘Information Notice to Owner’ described in ORS 87.093 which may also be proved*
21 *by a United States Postal Service certificate of mailing.]*

22 **“SECTION 16.** ORS 87.093 is amended to read:

23 **“87.093. (1) The Construction Contractors Board shall adopt by rule a form entitled ‘Information**
24 **Notice to Owner’ which shall describe, in nontechnical language and in a clear and coherent manner**
25 **using words in their common and everyday meanings, the pertinent provisions of the Construction**
26 **Lien Law of this state and the rights and responsibilities of an owner of property and an original**
27 **contractor under that law. The ‘Information Notice to Owner’ shall include signature lines for**
28 **the contractor and the property owner.** The rights and responsibilities described in the form shall
29 include, but not be limited to:

30 **“(a) Methods by which an owner may avoid multiple payments for the same materials and labor;**

31 **“(b) The right to file a claim against a licensed contractor with the [Construction Contractors]**
32 **board and, when appropriate, to be reimbursed from the contractor’s bond filed under ORS chapter**
33 **701; and**

34 **“(c) The right to receive, upon written request therefor, a statement of the reasonable value of**
35 **materials, equipment, services or labor provided from the persons providing the materials, equip-**
36 **ment, services or labor at the request of an original contractor and who have also provided notices**
37 **of right to a lien.**

38 **“(2)(a) Each original contractor shall [provide] deliver a copy of the ‘Information Notice to**
39 **Owner’ adopted by the [Construction Contractors] board under this section to:**

40 **“(A) The first purchaser of residential property constructed by the contractor and sold before**
41 **or within the 75-day period immediately following the completion of construction; and**

42 **“(B) The owner or an agent of the owner, other than an original contractor, at the time of**
43 **signing a written residential construction or improvement contract with the owner.**

44 **“(b) When the residential construction or improvement contract is an oral contract, the original**
45 **contractor shall mail or otherwise deliver the ‘Information Notice to Owner’ not later than five days**

1 after the contract is made.

2 “(3) **The contractor shall deliver the ‘Information Notice to Owner’ personally, by regis-**
3 **tered or certified mail or by first class mail with certificate of mailing.**

4 “[3] (4) This section applies only to a residential construction or improvement contract for
5 which the aggregate contract price exceeds \$1,000. If the price of a home improvement contract was
6 initially less than \$1,000, but during the course of the performance of the contract exceeds that
7 amount, the original contractor shall mail or otherwise deliver the ‘Information Notice to Owner’
8 not later than five days after the contractor knows or should reasonably know that the contract
9 price will exceed \$1,000.

10 “[4] (5) An ‘Information Notice to Owner’ need not be sent when the owner is a contractor
11 licensed with the [*Construction Contractors*] board under ORS chapter 701.

12 “[5] (6) Notwithstanding ORS 87.010 **and 87.030**, if an original contractor does not [*provide*]
13 **deliver** an owner or agent with an ‘Information Notice to Owner’ as required under subsections (2)
14 [*and (3)*] **to (4)** of this section, the original contractor may not claim any lien created under ORS
15 87.010 upon any improvement, lot or parcel of land of the owner for labor, services or materials
16 supplied under the residential construction or improvement contract for which the **original con-**
17 **tractor failed to deliver the required ‘Information Notice to Owner’ [*was not provided*].**

18 “[6] (7) If an original contractor does not [*provide an owner or agent with*] **deliver** an ‘Infor-

19 mation Notice to Owner’ **to an owner or agent** as required under subsection (2) of this section, the
20 [*Construction Contractors*] board may suspend the license of the original contractor for any period
21 of time that the board considers appropriate or impose a civil penalty of not more than \$5,000 upon
22 the original contractor as provided in ORS 701.992.

23 “[7] (8) As used in this section:

24 “(a) ‘Residential construction or improvement’ means the original construction of residential
25 property and constructing, repairing, remodeling or altering residential property and includes, but
26 is not limited to, the construction, repair, replacement or improvement of driveways, swimming
27 pools, terraces, patios, fences, porches, garages, basements and other structures or land adjacent to
28 a residential dwelling.

29 “(b) ‘Residential construction or improvement contract’ means an agreement, oral or written,
30 between an original contractor and an owner for the performance of a home improvement and in-
31 cludes all labor, services and materials furnished and performed thereunder.

32 “**SECTION 17.** ORS 701.055 is amended to read:

33 “701.055. (1) A person may not undertake, offer to undertake or submit a bid to do work as a
34 contractor unless that person has a current, valid license issued by the Construction Contractors
35 Board. A partnership, corporation or joint venture may not undertake, offer to undertake or submit
36 a bid to do work as a contractor unless that partnership, corporation or joint venture is licensed
37 under this chapter. A partnership or joint venture is licensed for the purpose of offering to under-
38 take work as a contractor on a structure if any of the partners or joint venturers whose name ap-
39 pears in the business name of the partnership or joint venture is licensed under this chapter.

40 “(2) A licensed partnership or corporation shall notify the board immediately upon any change
41 in licensed partners or corporate officers. If a partnership no longer has a licensed partner, the
42 partnership may not conduct activities that require a license under this chapter.

43 “(3) A city, county or the State of Oregon may not issue a building permit to any person re-
44 quired to be licensed under this chapter that does not have a current, valid license. A county, city
45 or state agency that requires the issuance of a permit as a condition precedent to construction, al-

1 teration, improvement, demolition, movement or repair of any building or structure or the
2 appurtenances to the structure shall, as a condition for issuing the permit, require that the applicant
3 for a permit file a written statement, subscribed by the applicant. The statement must affirm that
4 the applicant is licensed under this chapter, give the license number and state that the license is
5 in full force and effect, or, if the applicant is exempt from licensing under this chapter, list the basis
6 for the exemption. The city, county or state agency shall list the contractor's license number on the
7 permit obtained by that contractor.

8 “(4) If the applicant for a building permit is exempt from licensure under ORS 701.010 (6), the
9 city, county or state shall supply the applicant with an Information Notice to Property Owners
10 About Construction Responsibilities. The city, county or state may not issue a building permit for
11 a residential structure to the applicant until the applicant signs a statement in substantially the
12 following form:

13 “ _____

14
15 (a) I have read and understand the Information Notice to Property Owners About Construction
16 Responsibilities; and

17 (b) I own, reside in or will reside in the completed dwelling. My general contractor is
18 _____, Construction Contractors Board license no. _____, license expiration date
19 _____. I will instruct my general contractor that all subcontractors who work on this
20 dwelling must be licensed with the Construction Contractors Board; or

21 (c) I am performing work on property I own, a residence that I reside in or a residence that I
22 will reside in.

23 (d) I will be my own general contractor and, if I hire subcontractors, I will hire only subcon-
24 tractors licensed with the Construction Contractors Board.

25 (e) If I change my mind and do hire a general contractor, I will contract with a general con-
26 tractor who is licensed with the Construction Contractors Board and I will immediately notify the
27 office issuing this building permit of the name of the general contractor _____.

28 “ _____

29
30 “(5) The board shall adopt by rule a form entitled ‘Information Notice to Property Owners About
31 Construction Responsibilities’ that shall describe, in nontechnical language and in a clear and co-
32 herent manner using words in their common and everyday meaning, the responsibilities property
33 owners are undertaking by acting as their own general contractor and the problems that could de-
34 velop. The responsibilities described in the form shall include, but not be limited to:

35 “(a) Compliance with state and federal laws regarding Social Security tax, income tax and un-
36 employment tax.

37 “(b) Workers’ compensation insurance on workers.

38 “(c) Liability and property damage insurance.

39 “(6) The board shall develop and furnish to city, county and state building permit offices, at no
40 cost to the offices, the Information Notice to Property Owners About Construction Responsibilities
41 and the statement to be signed by the permit applicant.

42 “(7) A city or county that requires a business license for engaging in a business subject to
43 regulation under this chapter shall require that the licensee or applicant for issuance or renewal
44 of the business license file, or have on file, with the city or county, a signed statement that the
45 licensee or applicant is licensed under this chapter.

1 “(8) It is prima facie evidence of doing business as a contractor if a person for that person’s own
2 use performs, employs others to perform, or for compensation and with the intent to sell the struc-
3 ture, arranges to have performed any work described in ORS 701.005 (3) if within any 36-month pe-
4 riod that person offers for sale two or more newly built structures on which that work was
5 performed.

6 “(9) Licensure under this chapter is prima facie evidence that the licensee conducts a separate,
7 independent business.

8 “(10) The provisions of this chapter are exclusive and a city, county or other political subdivi-
9 sion may not require or issue any registrations, licenses or surety bonds, nor charge any fee for the
10 regulatory or surety registration of any contractor licensed with the board. This subsection does
11 not limit or abridge the authority of any city or county to:

12 “(a) License and levy and collect a general and nondiscriminatory license fee levied upon all
13 businesses or upon business conducted by any firm within the city or county;

14 “(b) Require a contractor to pay a fee, post a bond or require insurance when the city, county
15 or political subdivision is contracting for the service of the contractor; or

16 “(c) Regulate a contractor that is not required to be licensed under this chapter.

17 “(11)(a) A contractor shall maintain a list that includes the following information about all
18 subcontractors or other contractors performing work on a project for that contractor:

19 “(A) Names and addresses.

20 “(B) License numbers.

21 “(b) The contractor must deliver the list referred to in paragraph (a) of this subsection to the
22 board within 72 hours after a board request made during reasonable working hours.

23 “(12) A contractor may not hire any subcontractor or other contractor to perform work unless
24 the subcontractor or contractor is licensed under this chapter or exempt from licensure under ORS
25 701.010.

26 “[13] *A consumer notification form designed to specifically inform a property owner what the*
27 *property owner should do to protect themselves in a residential repair, remodel or construction project*
28 *shall be prepared by the board and provided at no cost to all licensed contractors. The contractor shall*
29 *deliver the form to the property owner when the contractor submits a bid or proposal for work on a*
30 *residential structure. The form shall include an explanation of the meaning of licensure, including a*
31 *statement that licensure is not an endorsement of a contractor’s work, and an explanation of the bond*
32 *and insurance levels required of contractors for the benefit of property owners. The form must not be*
33 *larger than one side of a sheet of paper that is 8-1/2 inches by 11 inches. The contractor may reproduce*
34 *the form on the contractor’s bid proposal.]*

35 “[14] *A contractor may not perform work subject to this section for an owner of a residential*
36 *structure without a written contract if the aggregate contract price exceeds \$2,000. If the price of a*
37 *contract was initially less than \$2,000, but during the course of performance the contract exceeds that*
38 *amount, the contractor shall mail or otherwise deliver a written contract to the owner not later than*
39 *five days after the contractor knows or should reasonably know that the contract price will exceed*
40 *\$2,000. Failure to have a written contract will not void the contract.]*

41 “[15] (13) Except as provided in ORS 671.540, a contractor that is not licensed under ORS
42 671.560 shall hire a person licensed under ORS 671.560 to perform landscaping work.

43 “**SECTION 18. ORS 701.590 is repealed.**

44
45 “INSURANCE

1 “**SECTION 19.** ORS 701.105 is amended to read:

2 “701.105. (1) Except as provided in subsection (2) of this section, a contractor who possesses a
3 license as required under this chapter shall have in effect public liability, personal injury and
4 property damage insurance covering the work of the contractor that is subject to this chapter, **in-**
5 **cluding the covering of liability for products and completed operations according to the terms**
6 **of the policy and subject to applicable policy exclusions**, for an amount not less than:

7 “(a) \$500,000 for a general contractor or licensed developer.

8 “(b) \$300,000 for a residential-only specialty contractor.

9 “(c) \$500,000 for all other specialty contractors.

10 “(d) \$100,000 for a limited contractor.

11 “(e) \$300,000 for an inspector.

12 “(2) The Construction Contractors Board by rule, in consultation with the Department of Con-
13 sumer and Business Services, may allow a general or specialty contractor that is a residential-only
14 contractor to provide an alternative form of security approved by the board instead of procuring a
15 public liability, personal injury and property damage insurance policy. The board may approve an
16 alternative form of security if the board determines that the alternative form of security provides
17 protection to the public equivalent to the protection provided by an insurance policy in the amounts
18 otherwise applicable to the residential-only contractor under subsection (1) of this section. A
19 board-approved alternative form of security may consist of a combination of financial resources.

20 “(3) A residential-only contractor who provides a board-approved alternative form of security
21 under subsection (2) of this section is considered for purposes of this chapter to have obtained in-
22 surance described in subsection (1) of this section. This subsection does not subject to regulation
23 as an insurer a person who issues all or part of an alternative form of security, unless the alterna-
24 tive form of security otherwise qualifies as an insurance product.

25 “(4) The contractor shall provide satisfactory evidence to the board at the time of licensure and
26 renewal that the insurance policy or board-approved alternative form of security required by this
27 section has been procured and is in effect.

28 “**SECTION 20.** ORS 701.105, as amended by section 2, chapter 766, Oregon Laws 2003, is
29 amended to read:

30 “701.105. (1) A contractor who possesses a license as required under this chapter shall have in
31 effect public liability, personal injury and property damage insurance covering the work of the
32 contractor that is subject to this chapter, **including the covering of liability for products and**
33 **completed operations according to the terms of the policy and subject to applicable policy**
34 **exclusions**, for an amount not less than:

35 “(a) \$500,000 for a general contractor or licensed developer.

36 “(b) \$300,000 for a residential-only specialty contractor.

37 “(c) \$500,000 for all other specialty contractors.

38 “(d) \$100,000 for a limited contractor.

39 “(e) \$300,000 for an inspector.

40 “(2) The contractor shall provide satisfactory evidence to the Construction Contractors Board
41 at the time of licensure and renewal that the insurance required by subsection (1) of this section
42 has been procured and is in effect.

43 “**SECTION 21. The amendments to ORS 701.105 by sections 19 and 20 of this 2007 Act**
44 **apply to coverage provided under insurance policies issued or renewed on or after the effec-**
45 **tive date of this 2007 Act.**

1 "BONDING

2
3 "SECTION 22. ORS 701.085 is amended to read:

4 "701.085. (1) An applicant for issuance or renewal of a contractor license shall file with the
5 Construction Contractors Board a surety bond with one or more corporate sureties authorized to
6 do business in this state in the amount set forth in subsections (2) to (5) of this section. The surety
7 bond must provide that the applicant, with regard to work subject to this chapter, will pay claims
8 ordered paid by the board under ORS 701.145 or 701.146. Bonds filed under this subsection shall
9 remain in effect for at least one year or until depleted by claims paid under ORS 701.150, unless the
10 surety sooner cancels the bond. At the discretion of the surety the bond may be continued for an
11 additional period by continuation certificate. Except as provided in subsection (6) of this section, the
12 aggregate liability of the surety under the bond for claims against the bond may not exceed the
13 penal sum of the bond no matter how many years the bond is in force. Except as provided in sub-
14 section (6) of this section, an extension by continuation certificate, reinstatement, reissue or renewal
15 of the bond may not increase the liability of the surety.

16 "(2) A general contractor or licensed developer shall obtain a surety bond in the amount of
17 [~~\$15,000~~] **\$20,000**.

18 "(3) A specialty contractor shall obtain a surety bond in the amount of [~~\$10,000~~] **\$15,000**.

19 "(4) An inspector shall obtain a surety bond in the amount of [~~\$10,000~~] **\$15,000**.

20 "(5) The board may reduce the amount of the surety bond required by this section to [~~\$5,000~~]
21 **\$10,000** for a contractor upon a showing that the contractor does not perform work as a contractor
22 exceeding \$40,000 in gross annual volume and does not enter into contracts that exceed \$5,000. The
23 board shall designate the contractor as a limited contractor.

24 "(6) The board, by rule, may require a licensee to obtain a new surety bond if, pursuant to a
25 board order for payment of a claim described in ORS 701.140, the surety pays a claim out of the
26 bond of the licensee. The new surety bond must be in the amount set forth in subsections (2) to (5)
27 of this section unless a higher amount is required by a board condition or rule described in sub-
28 section (7) or (8) of this section. The board may allow a licensee to obtain, instead of a new bond,
29 a certification that the surety remains liable for the full penal sum of the bond, notwithstanding
30 payment by the surety on the claim.

31 "(7) If the amount the licensee must pay against the bond under this section exceeds the amount
32 of the bond, the board shall suspend the contractor's license until the amount owed is paid. The
33 board, as a condition of ending the suspension, may require a contractor requesting reinstatement
34 of a license to file a bond of an amount up to five times as much as the amount required ordinarily
35 of a licensee under this section.

36 "(8) The board by rule may establish conditions for applicants or persons licensed under this
37 chapter under which the applicant or licensee must file a bond of an amount up to five times as
38 much as the amount required ordinarily of an applicant or licensee under this section. The board
39 may reduce the amount of bond it would otherwise require if the contractor demonstrates satisfac-
40 tory completion of approved elective classes on dispute resolution and prevention, basic accounting
41 and record keeping or such other classes as the board may prescribe.

42 "(9) The bond required under this section is for the exclusive purpose of payment of final orders
43 and arbitration awards of the board in accordance with this chapter.

44 "(10) Upon determination under ORS 701.145 or 701.146 of a claim against a contractor who
45 holds a bond required under this section, the board shall notify the surety on the bond of the final

1 order in a manner determined by the board by rule. The notification shall include a list of all claims
2 upon which a final order has been issued.

3 “(11) A suit or action may not be commenced against a surety on a bond required under this
4 section until 30 days after the date that the surety is notified by the board under ORS 701.150 that
5 payment is due on the claim.

6 “(12) In any action against a surety on a bond under this section that is based on the failure
7 of the surety to pay a claim or on the denial of a claim by the surety, the court may award:

8 “(a) Costs;

9 “(b) Reasonable attorney fees to the prevailing party as part of the costs; and

10 “(c) Twice the amount of any damages that the board ordered the surety to pay on the claim,
11 if the surety arbitrarily and capriciously refused to pay upon order of the board.

12
13 **“OWNERSHIP/MANAGEMENT**

14
15 **“SECTION 23.** ORS 701.005 is amended to read:

16 “701.005. As used in this chapter:

17 “(1) ‘Board’ means the Construction Contractors Board.

18 “(2) ‘Construction debt’ means an amount owed under:

19 “(a) [A *final*] **An order or arbitration award issued by the board that has become final by**
20 **operation of law; [or]**

21 “(b) A judgment or civil penalty **that has become final by operation of law** arising from con-
22 struction activities within the United States; **or**

23 “(c) **A judgment or civil penalty that has become final by operation of law arising from**
24 **a failure to comply with ORS 656.017.**

25 “(3) ‘Contractor’ means a person who, for compensation or with the intent to sell, arranges or
26 undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from,
27 improve, inspect, move, wreck or demolish, for another, any building, highway, road, railroad, exca-
28 vation or other structure, project, development or improvement attached to real estate or to do any
29 part thereof. ‘Contractor’ includes general contractors, residential-only contractors and specialty
30 contractors as defined in this section.

31 “(4) ‘General contractor’ means a contractor whose business operations require the use of more
32 than two unrelated building trades or crafts that the contractor supervises or performs in whole or
33 part, whenever the sum of all contracts on any single property, including materials and labor, ex-
34 ceeds an amount established by rule by the board. ‘General contractor’ does not include specialty
35 contractors or limited contractors, as described in ORS 701.085.

36 “(5) ‘Home inspector’ means a person who, for a fee, inspects and provides written reports on
37 the overall physical condition of a residential structure and the appurtenances thereto. ‘Home in-
38 spector’ does not include persons certified under ORS chapter 455 to inspect new, repaired or al-
39 tered structures for compliance with the state building code.

40 “(6) ‘Inspector’ means a contractor registered with the board who inspects or otherwise provides
41 services to a property owner or other contractor but does not substantively add to or subtract from
42 a structure. ‘Inspector’ includes but is not limited to a home inspector certified under ORS 701.350,
43 a lead-based paint inspector licensed under ORS 701.515 and a cross connection inspector and
44 backflow assembly tester certified under ORS 448.279. ‘Inspector’ does not include city or county
45 inspectors acting under ORS 701.225 or an inspector as defined in ORS 455.715.

1 “(7) ‘Large commercial structure’ means a structure that is not a residential structure or small
2 commercial structure.

3 “(8) ‘Licensed developer’ means a contractor who owns property or an interest in property and
4 arranges for construction work, if the contractor:

5 “(a) Engages in the business of arranging for construction work and performing other activities
6 associated with the improvement of real property, with the intent to sell the property;

7 “(b) Acts in association with one or more licensed general contractors and the general con-
8 tractor or combination of general contractors have sole responsibility for overseeing all phases of
9 construction activity on the property; and

10 “(c) Does not perform any construction work on the property.

11 “(9) ‘Officer’ means any of the following persons:

12 “(a) A president, vice president, secretary, treasurer or director of a corporation.

13 “(b) A general partner in a limited partnership.

14 “(c) A manager in a manager-managed limited liability company.

15 “(d) A member of a member-managed limited liability company.

16 “(e) A trustee.

17 “(f) A person defined as an officer under board rules. The definition of officer adopted by board
18 rule may include persons not listed in this subsection who may exercise substantial control over a
19 business.

20 “(10) ‘Residential-only contractor’ means a general contractor or specialty contractor who per-
21 forms work exclusively in connection with residential structures and small commercial structures,
22 and the appurtenances thereto. ‘Residential-only contractor’ includes, but is not limited to:

23 “(a) A person who purchases or owns property and constructs or for compensation arranges for
24 the construction of one or more residential structures or small commercial structures with the in-
25 tent of selling the structures;

26 “(b) A school district, as defined in ORS 332.002, that permits students to construct a residential
27 structure or small commercial structure as an educational experience to learn building techniques
28 and sells the completed structure;

29 “(c) A community college district, as defined in ORS 341.005, that permits students to construct
30 a residential structure or small commercial structure as an educational experience to learn building
31 techniques and sells the completed structure; or

32 “(d) Any person except a landscape contractor, nurseryman, gardener or person engaged in the
33 commercial harvest of forest products who is engaged as an independent contractor to remove trees,
34 prune trees, remove tree limbs or stumps or to engage in tree or limb guying.

35 “(11) ‘Residential structure’ means a residence, including a site-built home, modular home con-
36 structed off-site, floating home as defined in ORS 830.700, condominium unit, manufactured dwelling
37 or duplex, or a multiunit residential building consisting of four units or less that is not part of a
38 multistructure complex of buildings.

39 “(12) ‘Responsible managing individual’ means an individual who:

40 “(a)(A) Is an owner described in ORS 701.077; or

41 “(B) Is an employee of a business, designated by the owner, who exercises management
42 or supervisory authority over the construction activities of the business; and

43 “(b)(A) Has successfully completed the training and testing required for licensing under
44 ORS 701.072 within a period identified by the board by rule;

45 “(B) Has demonstrated experience required by the board by rule; or

1 **“(C) Has complied with the licensing requirements of ORS 446.395.**

2 “[(12)] (13) ‘Small commercial structure’ means a nonresidential structure that has a ground
3 area of 4,000 square feet or less, including exterior walls, and a height of not more than 20 feet from
4 the top surface of the lowest flooring to the highest interior overhead finish of the structure.

5 “[(13)] (14) ‘Specialty contractor’ means a contractor who performs work on a structure, project,
6 development or improvement and whose operations as such do not fall within the definition of
7 ‘general contractor.’ ‘Specialty contractor’ includes a person who performs work regulated under
8 ORS chapter 446.

9 **“(15) ‘Zero-lot-line dwelling’ means a single-family dwelling unit constructed in a group
10 of attached units in which:**

11 **“(a) Each attached unit extends from foundation to roof with open space on two sides;
12 and**

13 **“(b) Each dwelling unit is separated by a property line.**

14 **“SECTION 23a.** If House Bill 2111 becomes law, ORS 701.005, as amended by section 23 of this
15 2007 Act, is amended to read:

16 “701.005. As used in this chapter:

17 “(1) ‘Board’ means the Construction Contractors Board.

18 “(2) ‘Construction debt’ means an amount owed under:

19 “(a) An order or arbitration award issued by the board that has become final by operation of
20 law;

21 “(b) A judgment or civil penalty that has become final by operation of law arising from con-
22 struction activities within the United States; or

23 “(c) A judgment or civil penalty that has become final by operation of law arising from a failure
24 to comply with ORS 656.017.

25 “(3) ‘Contractor’ means a person who, for compensation or with the intent to sell, arranges or
26 undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from,
27 improve, inspect, move, wreck or demolish, for another, any building, highway, road, railroad, exca-
28 vation or other structure, project, development or improvement attached to real estate or to do any
29 part thereof. ‘Contractor’ includes general contractors, residential-only contractors and specialty
30 contractors as defined in this section.

31 “(4) ‘General contractor’ means a contractor whose business operations require the use of more
32 than two unrelated building trades or crafts that the contractor supervises or performs in whole or
33 part, whenever the sum of all contracts on any single property, including materials and labor, ex-
34 ceeds an amount established by rule by the board. ‘General contractor’ does not include specialty
35 contractors or limited contractors, as described in ORS 701.085.

36 “(5) ‘Home inspector’ means a person who, for a fee, inspects and provides written reports on
37 the overall physical condition of a residential structure and the appurtenances thereto. ‘Home in-
38 spector’ does not include persons certified under ORS chapter 455 to inspect new, repaired or al-
39 tered structures for compliance with the state building code.

40 “(6) ‘Inspector’ means a contractor registered with the board who inspects or otherwise provides
41 services to a property owner or other contractor but does not substantively add to or subtract from
42 a structure. ‘Inspector’ includes but is not limited to a home inspector certified under ORS 701.350,
43 a lead-based paint inspector licensed under ORS 701.515 and a cross connection inspector and
44 backflow assembly tester certified under ORS 448.279. ‘Inspector’ does not include city or county
45 inspectors acting under ORS 701.225 or an inspector as defined in ORS 455.715.

1 “(7) ‘Large commercial structure’ means a structure that is not a residential structure or small
2 commercial structure.

3 “(8) ‘Licensed developer’ means a contractor who owns property or an interest in property and
4 arranges for construction work, if the contractor:

5 “(a) Engages in the business of arranging for construction work and performing other activities
6 associated with the improvement of real property, with the intent to sell the property;

7 “(b) Acts in association with one or more licensed general contractors and the general con-
8 tractor or combination of general contractors have sole responsibility for overseeing all phases of
9 construction activity on the property; and

10 “(c) Does not perform any construction work on the property.

11 “(9) ‘Officer’ means any of the following persons:

12 “(a) A president, vice president, secretary, treasurer or director of a corporation.

13 “(b) A general partner in a limited partnership.

14 “(c) A manager in a manager-managed limited liability company.

15 “(d) A member of a member-managed limited liability company.

16 “(e) A trustee.

17 “(f) A person defined as an officer under board rules. The definition of officer adopted by board
18 rule may include persons not listed in this subsection who may exercise substantial control over a
19 business.

20 “(10) ‘Residential-only contractor’ means a general contractor or specialty contractor who per-
21 forms work exclusively in connection with residential structures and small commercial structures,
22 and the appurtenances thereto. ‘Residential-only contractor’ includes, but is not limited to:

23 “(a) A person who purchases or owns property and constructs or for compensation arranges for
24 the construction of one or more residential structures or small commercial structures with the in-
25 tent of selling the structures;

26 “(b) A school district, as defined in ORS 332.002, that permits students to construct a residential
27 structure or small commercial structure as an educational experience to learn building techniques
28 and sells the completed structure;

29 “(c) A community college district, as defined in ORS 341.005, that permits students to construct
30 a residential structure or small commercial structure as an educational experience to learn building
31 techniques and sells the completed structure; or

32 “(d) Any person except a landscape contractor, nurseryman, gardener or person engaged in the
33 commercial harvest of forest products who is engaged as an independent contractor to remove trees,
34 prune trees, remove tree limbs or stumps or to engage in tree or limb guying.

35 “(11) ‘Residential structure’ means a residence, including a site-built home, modular home con-
36 structed off-site, floating home as defined in ORS 830.700, condominium unit, manufactured dwelling
37 or duplex, or a multiunit residential building consisting of four units or less that is not part of a
38 multistructure complex of buildings.

39 “(12) ‘Responsible managing individual’ means an individual who:

40 “(a)[(A)] Is an owner described in ORS 701.077 **or an employee of the business**; [or]

41 “[*(B)*] **(b)** [*Is an employee of a business, designated by the owner, who*] Exercises management or
42 supervisory authority, **as defined by the board by rule**, over the construction activities of the
43 business; and

44 “[*(b)*] **(c)**(A) Has successfully completed the training and testing required for licensing under
45 ORS 701.072 within a period identified by the board by rule;

1 “(B) Has demonstrated experience required by the board by rule; or
2 “(C) Has complied with the licensing requirements of ORS 446.395.
3 “(13) ‘Small commercial structure’ means a nonresidential structure that has a ground area of
4 4,000 square feet or less, including exterior walls, and a height of not more than 20 feet from the
5 top surface of the lowest flooring to the highest interior overhead finish of the structure.
6 “(14) ‘Specialty contractor’ means a contractor who performs work on a structure, project, de-
7 velopment or improvement and whose operations as such do not fall within the definition of ‘general
8 contractor.’ ‘Specialty contractor’ includes a person who performs work regulated under ORS chap-
9 ter 446.
10 “(15) ‘Zero-lot-line dwelling’ means a single-family dwelling unit constructed in a group of at-
11 tached units in which:
12 “(a) Each attached unit extends from foundation to roof with open space on two sides; and
13 “(b) Each dwelling unit is separated by a property line.
14 “**SECTION 24.** ORS 701.075 is amended to read:
15 “701.075. (1) An applicant for a construction contractor license must submit the application on
16 a form prescribed by the Construction Contractors Board. The application shall include, but not be
17 limited to, the following information [*regarding the applicant*]:
18 “(a) Classification of the license being sought.
19 “(b) A list of construction debts involving the applicant, or an owner or officer of the applicant,
20 if the order, award, penalty or judgment that establishes the debt was issued within the preceding
21 five years.
22 “(c) **For each person described in paragraphs (h) and (i) of this subsection, a Social Secu-**
23 **urity number.**
24 “(d) Workers’ compensation insurance account number, if the applicant is required to have
25 workers’ compensation insurance.
26 “(e) Unemployment insurance account number, if the applicant is required to have unemploy-
27 ment insurance.
28 “(f) State withholding tax account number, if the applicant is required to withhold state income
29 tax.
30 “(g) Federal employer identification number, if the applicant is required to have a federal em-
31 ployer identification number.
32 “(h) The name and address of:
33 “(A) Each partner, if the applicant is a partnership, limited liability partnership or foreign lim-
34 ited liability partnership.
35 “(B) The general partner, if the applicant is a limited partnership.
36 “(C) Each joint venturer, if the applicant is a joint venture.
37 “(D) The owner, if the applicant is a sole proprietorship.
38 “(E) The officers, if the applicant is a corporation.
39 “(F) The manager and each member, if the applicant is a manager-managed limited liability
40 company.
41 “(G) Each member, if the applicant is a member-managed limited liability company.
42 “**(H) The responsible managing individual designated by the applicant.**
43 “(i) The name and address of the following if the applicant is a partnership, limited liability
44 partnership, foreign limited liability partnership, joint venture, manager-managed limited liability
45 company or member-managed limited liability company:

1 “(A) Each partner in a partnership, limited liability partnership or foreign limited liability
2 partnership that is a partner, joint venturer or member of the applicant.

3 “(B) Each general partner in a limited partnership that is a partner, joint venturer or member
4 of the applicant.

5 “(C) Each joint venturer in a joint venture that is a partner, joint venturer or member of the
6 applicant.

7 “(D) The manager and each member of a manager-managed limited liability company that is a
8 partner, joint venturer or member of the applicant.

9 “(E) Each member of a member-managed limited liability company that is a partner, joint
10 venturer or member of the applicant.

11 “(F) Each officer of a corporation that is a partner, joint venturer or member of the applicant.

12 “(G) The general partner in a limited partnership that is a partner, joint venturer or member
13 of the applicant.

14 “(H) Each individual who has a controlling ownership interest in, or management authority over,
15 the applicant and who meets criteria adopted by the board by rule.

16 “(j) For each person described in paragraphs (h) and (i) of this subsection, information
17 as required by board rule regarding the following if related to construction activities:

18 “(A) A final judgment against the person by a court in any state entered within five years
19 preceding the application date that requires the person to pay money to another person or
20 to a public body if the judgment remains unsatisfied on the application date.

21 “(B) A final order against the person by an administrative agency in any state issued
22 within five years preceding the application date that requires the person to pay money to
23 another person or to a public body if the order remains unsatisfied on the application date.

24 “(C) A court action against the person in any state pending on the application date that
25 alleges the person owes money to another person or to a public body.

26 “(D) An action by an administrative agency in any state pending on the application date
27 that seeks an order that the person pay money to another person or to a public body.

28 “(E) A conviction for a crime listed in ORS 701.135 (1)(h) entered within five years pre-
29 ceding the application date.

30 “(F) An indictment for a crime listed in ORS 701.135 (1)(h) filed within five years pre-
31 ceding the application date.

32 “[j] (k) The basis on which the applicant meets the standards for independent contractor status
33 under ORS 670.600.

34 “(2) The application described in subsection (1) of this section must be accompanied by proof
35 satisfactory to the board that the applicant:

36 “(a) Is in compliance with ORS 701.078.

37 “(b) Has the legal capacity to enter into contracts.

38 “(3) Subsection (2)(a) of this section does not apply to a licensed developer.

39 “(4) An applicant shall conform to the information provided by the applicant on the application
40 and to the terms of the application.

41 “**SECTION 25.** ORS 701.077 is amended to read:

42 “701.077. (1) As used in ORS [701.078 and] 701.102 and 701.135, ‘owner’ means:

43 “(a) A sole proprietor of, partner in or holder of a controlling interest in a business; or

44 “(b) A person defined as an owner by Construction Contractors Board rule.

45 “(2) The board shall adopt rules defining an owner for purposes of subsection (1) of this section.

1 The rules may not define an owner in a manner that includes an investor who has no right to
2 manage a business, including but not limited to:

3 “(a) A person who is solely a minority shareholder in a corporation;

4 “(b) A member of a manager-managed limited liability company; or

5 “(c) A limited partner in a limited partnership who does not participate in the control of the
6 business of the limited partnership.

7 “**SECTION 26.** ORS 701.078 is amended to read:

8 “701.078. [(1) As used in this section, ‘responsible managing individual’ means an individual
9 who:]

10 “[*(a)(A) Is an owner; or*]

11 “[*(B) Is an employee of a business, designated by the owner, who exercises management or super-
12 visory authority over the construction activities of the business; and*]

13 “[*(b)(A) Has successfully completed the training and testing required for licensing under ORS
14 701.072 within a period identified by the Construction Contractors Board by rule;*]

15 “[*(B) Has demonstrated experience required by the board by rule; or*]

16 “[*(C) Has complied with the licensing requirements of ORS 446.395.*]

17 “[*(2)*] (1) A business licensed under this chapter must at all times have at least one responsible
18 managing individual.

19 “[*(3)*] (2) Subsection [(2)] (1) of this section does not apply to a licensed developer.

20 “**SECTION 27.** ORS 701.102 is amended to read:

21 “701.102. (1) As used in this section, ‘construction contractor license’ means a license issued
22 within the United States to engage in the business of construction contracting.

23 “(2) The Construction Contractors Board may **revoke**, suspend or refuse to issue a license re-
24 quired under this chapter to a business if:

25 “(a) The business owes a construction debt or has had a construction contractor license revoked
26 or suspended;

27 “(b) An owner, [*or*] officer **or responsible managing individual** of the business owes a con-
28 struction debt or has had a construction contractor license revoked or suspended; [*or*]

29 “(c) An owner, [*or*] officer **or responsible managing individual** of the business was an owner,
30 [*or*] officer **or responsible managing individual** of another business at the time the other business
31 incurred a construction debt that is owing or at the time of an event that resulted in the revocation
32 or suspension of the other business’s construction contractor license[.]; **or**

33 “(d) **The board determines that an owner, officer or responsible managing individual of
34 the business is not fit for licensure, based upon information submitted under ORS 701.075
35 or discovered by a board investigation under ORS 701.225.**

36 “(3) The board may place a contractor on probation if a total of three or more claims are filed
37 with the board within a 12-month period against the contractor or a former licensed construction
38 contracting business in which the contractor held at least a 10 percent ownership interest, measured
39 as determined by board rule. A contractor may not be placed on probation unless the board deter-
40 mines after investigation that it is likely that the contractor has caused harm to the claimants. The
41 board may require a contractor that is placed on probation to develop a corrective action plan, to
42 attend specific classes and to resolve outstanding claims. The board may require a contractor that
43 is placed on probation to take training and pass a test, both as described in ORS 701.072. The board
44 shall take action to terminate the contractor’s license if the contractor is unwilling or unable to
45 comply with the conditions of probation.

1 "SANCTIONS

2
3 "SECTION 28. ORS 701.135 is amended to read:

4 "701.135. (1) The Construction Contractors Board may revoke, suspend or refuse to issue or re-
5 issue a license and the board may assess a civil penalty as provided in ORS 701.992 if the board
6 determines after notice and opportunity for hearing:

7 "(a) That the licensee or applicant has violated a provision of ORS 701.055 (1) to (3) or (11)
8 to (13) or 701.078 or section 7, 11 or 13 of this 2007 Act or a rule adopted under section 14 (4)
9 of this 2007 Act.

10 "(b) That the licensee has violated a rule or order of the board.

11 "(c) That the licensee has knowingly assisted an unlicensed person to act in violation of this
12 chapter.

13 "(d) That a lien was filed on a structure under ORS 87.010 to 87.060 and 87.075 to 87.093 because
14 the licensee or applicant wrongfully failed to perform a contractual duty to pay money to the person
15 claiming the lien.

16 "(e) That the licensee has knowingly provided false information to the board.

17 "(f) That the licensee has worked without a construction permit where a permit is required and
18 the work resulted in a claim being filed with the board. For purposes of this paragraph, 'con-
19 struction permit' includes a building permit, electrical permit, mechanical permit or plumbing per-
20 mit.

21 "(g) That the number of licensed contractors working together on the same task on the same job
22 site, where one of the contractors is licensed as exempt under ORS 701.035 (2)(b), exceeded the fol-
23 lowing:

24 "(A) Two sole proprietors;

25 "(B) One partnership;

26 "(C) One corporation; or

27 "(D) One limited liability company.

28 "(h) Consistent with the provisions of ORS 670.280, that the licensee or applicant, or an owner
29 or officer of the licensee or applicant has been convicted of one of the following crimes in this
30 state or an equivalent crime in another state:

31 "(A) Murder;

32 "(B) Assault in the first degree;

33 "(C) Kidnapping;

34 "(D) Rape, sodomy or unlawful sexual penetration;

35 "(E) Sexual abuse;

36 "(F) Arson in the first degree;

37 "(G) Robbery in the first degree;

38 "(H) Theft in the first degree; or

39 "(I) Theft by extortion.

40 "(i) That the licensee or applicant has not, within 90 days after the date when payment was
41 received from the public contracting agency, or contractor in the case of a subcontractor, made
42 payment to any person for supplying labor or materials contracted for with a public contract for a
43 public improvement plus the amount of interest due.

44 "(j) That the licensee or applicant has repeatedly reported bad faith or false claims of nonpay-
45 ment against contractors or subcontractors.

1 “(k) That the licensee or applicant has engaged in conduct as a contractor that is dishonest or
2 fraudulent and that the board finds injurious to the welfare of the public.

3 “(2) **The board may revoke, suspend or refuse to issue or reissue a license if the board**
4 **determines after notice and opportunity for hearing that an applicant or licensee is unfit for**
5 **licensure based upon information submitted under ORS 701.075 or discovered by a board in-**
6 **vestigation under ORS 701.225.**

7 “(3) **The board may assess a civil penalty as provided in ORS 701.992 if the board deter-**
8 **mines after notice and opportunity for hearing that any person has violated ORS 701.055 (1).**

9 “[2)(a)] (4)(a) The administrator of the board, in accordance with administrative rules adopted
10 by the board and after setting forth specific reasons for the findings, may suspend or refuse to renew
11 a license without hearing in any case where the administrator finds a serious danger to the public
12 welfare, including but not limited to:

13 “(A) Lack of a surety bond required by ORS 701.085;

14 “(B) Lack of liability insurance required by ORS 701.105;

15 “(C) Hiring employees while licensed as exempt under ORS 701.035; [or]

16 “(D) Conduct as a construction contractor that is dishonest or fraudulent[.]; or

17 “(E) **Failure to pay a construction debt.**

18 “(b) If the licensee or applicant demands a hearing within 90 days after the date of notice to the
19 licensee or applicant of the suspension or refusal to renew, then a hearing must be granted to the
20 licensee or applicant as soon as practicable after the demand, and the administrator shall issue, [*an*
21 *order*] pursuant to the hearing as required by ORS chapter 183, **an order** confirming, altering or
22 revoking the administrator’s earlier order. Notwithstanding ORS 670.325, a hearing need not be held
23 where the order of suspension or refusal to renew is accompanied by or is pursuant to a citation for
24 violation that is subject to judicial determination in any court of this state, and the order by its
25 terms will terminate in case of final judgment in favor of the licensee or applicant.

26 “(5)(a) **In addition to all other remedies, if the board has reason to believe that a person**
27 **is engaging in an act, practice or transaction that violates this chapter or a board rule, the**
28 **board may issue an order directing the person to cease the act or to take corrective action.**

29 “(b) **The board shall mail a copy of an order issued under this subsection to the person**
30 **by first class mail with certificate of mailing. The board shall include with the order a notice**
31 **informing the person of the right to request a hearing concerning the order. The notice shall**
32 **inform the person that any hearing request must be received by the board no later than 21**
33 **days after the date the order was mailed by the board.**

34 “(c) **If the board receives a timely request for a hearing concerning an order issued under**
35 **this subsection, the board shall schedule the hearing no later than 30 days after receiving**
36 **the request. The board shall mail written notice of the hearing to the person by first class**
37 **mail with certificate of mailing no later than seven days before the scheduled hearing date.**

38 “(d) **An order described in this subsection becomes final if the person does not file a**
39 **timely request for a hearing concerning the order or fails to appear at the requested hearing**
40 **as scheduled.**

41 “(e) **The issuance of a board order under this subsection is subject to ORS 183.413 to**
42 **183.497.**

43 “[3)] (6) In addition to all other remedies, if it appears to the board that a person has engaged
44 in, or is engaging in, any act, practice or transaction that violates the provisions of this chapter,
45 the board may direct the Attorney General or the district attorney of the county in which the act,

1 practice or transaction occurs, to apply to the court for an injunction restraining the person from
2 violating the provisions of this chapter. An injunction may not issue for failure to maintain the list
3 provided for in ORS 701.055 (11) unless the court determines that the failure is intentional.

4 “[4] (7) A certified copy of the record of conviction shall be conclusive evidence of a conviction
5 under subsection (1)(h) of this section.

6 “[5] (8) If the board suspends or revokes the license of an individual contractor or contractor
7 business for a violation of subsection (1)(g) of this section, the board may not restore or reissue the
8 license unless the individual contractor or a responsible managing individual, *as defined in ORS*
9 *701.078,* for the contractor business has successfully completed the training and testing described
10 in ORS 701.072.

11 **“SECTION 28a. If House Bill 2109 becomes law, sections 5 and 6, chapter 114, Oregon**
12 **Laws 2007 (Enrolled House Bill 2109), are repealed.**

13 **“SECTION 28b. If House Bill 2109 becomes law, section 28 of this 2007 Act (amending ORS**
14 **701.135) is repealed and ORS 701.135, as amended by section 10, chapter 114, Oregon Laws 2007**
15 **(Enrolled House Bill 2109), is amended to read:**

16 “701.135. (1) The Construction Contractors Board may revoke, suspend or refuse to issue or re-
17 issue a license and the board may assess a civil penalty as provided in ORS 701.992 if the board
18 determines after notice and opportunity for hearing:

19 “(a) That the licensee or applicant has violated **a provision of ORS 701.055 or 701.078 or section**
20 **2 (1), 4[, 5, 6] or 7 [of this 2007 Act], chapter 114, Oregon Laws 2007 (Enrolled House Bill 2109),**
21 **or section 7, 11 or 13 of this 2007 Act or a rule adopted under section 14 (4) of this 2007**
22 **Act.**

23 “(b) That the licensee has violated a rule or order of the board.

24 “(c) That the licensee has knowingly assisted an unlicensed person to act in violation of this
25 chapter.

26 “(d) That a lien was filed on a structure under ORS 87.010 to 87.060 and 87.075 to 87.093 because
27 the licensee or applicant wrongfully failed to perform a contractual duty to pay money to the person
28 claiming the lien.

29 “(e) That the licensee has knowingly provided false information to the board.

30 “(f) That the licensee has worked without a construction permit where a permit is required and
31 the work resulted in a claim being filed with the board. For purposes of this paragraph, ‘con-
32 struction permit’ includes a building permit, electrical permit, mechanical permit or plumbing per-
33 mit.

34 “(g) That the number of licensed contractors working together on the same task on the same job
35 site, where one of the contractors is licensed as exempt under ORS 701.035 (2)(b), exceeded the fol-
36 lowing:

37 “(A) Two sole proprietors;

38 “(B) One partnership;

39 “(C) One corporation; or

40 “(D) One limited liability company.

41 “(h) Consistent with the provisions of ORS 670.280, that the licensee or applicant, **or an owner**
42 **or officer of the licensee or applicant** has been convicted of one of the following crimes **in this**
43 **state or an equivalent crime in another state:**

44 “(A) Murder;

45 “(B) Assault in the first degree;

1 “(C) Kidnapping;
2 “(D) Rape, sodomy or unlawful sexual penetration;
3 “(E) Sexual abuse;
4 “(F) Arson in the first degree;
5 “(G) Robbery in the first degree;
6 “(H) Theft in the first degree; or
7 “(I) Theft by extortion.
8 “(i) That the licensee or applicant has not, within 90 days after the date when payment was
9 received from the public contracting agency, or contractor in the case of a subcontractor, made
10 payment to any person for supplying labor or materials contracted for with a public contract for a
11 public improvement plus the amount of interest due.
12 “(j) That the licensee or applicant has repeatedly reported bad faith or false claims of nonpay-
13 ment against contractors or subcontractors.
14 “(k) That the licensee or applicant has engaged in conduct as a contractor that is dishonest or
15 fraudulent and that the board finds injurious to the welfare of the public.
16 “(2) **The board may revoke, suspend or refuse to issue or reissue a license if the board**
17 **determines after notice and opportunity for hearing that an applicant or licensee is unfit for**
18 **licensure based upon information submitted under ORS 701.075 or discovered by a board in-**
19 **vestigation under ORS 701.225.**
20 “(3) **The board may assess a civil penalty as provided in ORS 701.992 if the board deter-**
21 **mines after notice and opportunity for hearing that any person has violated ORS 701.055 (1).**
22 “[2)(a)] (4)(a) The administrator of the board, in accordance with administrative rules adopted
23 by the board and after setting forth specific reasons for the findings, may suspend or refuse to renew
24 a license without hearing in any case where the administrator finds a serious danger to the public
25 welfare, including but not limited to:
26 “(A) Lack of a surety bond required by ORS 701.085;
27 “(B) Lack of liability insurance required by ORS 701.105;
28 “(C) Hiring employees while licensed as exempt under ORS 701.035; [or]
29 “(D) Conduct as a construction contractor that is dishonest or fraudulent[.]; or
30 “(E) **Failure to pay a construction debt.**
31 “(b) If the licensee or applicant demands a hearing within 90 days after the date of notice to the
32 licensee or applicant of the suspension or refusal to renew, then a hearing must be granted to the
33 licensee or applicant as soon as practicable after the demand, and the administrator shall issue, [an
34 order] pursuant to the hearing as required by ORS chapter 183, **an order** confirming, altering or
35 revoking the administrator’s earlier order. Notwithstanding ORS 670.325, a hearing need not be held
36 where the order of suspension or refusal to renew is accompanied by or is pursuant to a citation for
37 violation that is subject to judicial determination in any court of this state, and the order by its
38 terms will terminate in case of final judgment in favor of the licensee or applicant.
39 “(5)(a) **In addition to all other remedies, if the board has reason to believe that a person**
40 **is engaging in an act, practice or transaction that violates this chapter or a board rule, the**
41 **board may issue an order directing the person to cease the act or to take corrective action.**
42 “(b) **The board shall mail a copy of an order issued under this subsection to the person**
43 **by first class mail with certificate of mailing. The board shall include with the order a notice**
44 **informing the person of the right to request a hearing concerning the order. The notice shall**
45 **inform the person that any hearing request must be received by the board no later than 21**

1 days after the date the order was mailed by the board.

2 “(c) If the board receives a timely request for a hearing concerning an order issued under
3 this subsection, the board shall schedule the hearing no later than 30 days after receiving
4 the request. The board shall mail written notice of the hearing to the person by first class
5 mail with certificate of mailing no later than seven days before the scheduled hearing date.

6 “(d) An order described in this subsection becomes final if the person does not file a
7 timely request for a hearing concerning the order or fails to appear at the requested hearing
8 as scheduled.

9 “(e) The issuance of a board order under this subsection is subject to ORS 183.413 to
10 183.497.

11 “[3] (6) In addition to all other remedies, if it appears to the board that a person has engaged
12 in, or is engaging in, any act, practice or transaction that violates the provisions of this chapter,
13 the board may direct the Attorney General or the district attorney of the county in which the act,
14 practice or transaction occurs, to apply to the court for an injunction restraining the person from
15 violating the provisions of this chapter. An injunction may not issue for failure to maintain the list
16 provided for in section 4 [of this 2007 Act], **chapter 114, Oregon Laws 2007 (Enrolled House Bill**
17 **2109)**, unless the court determines that the failure is intentional.

18 “[4] (7) A certified copy of the record of conviction shall be conclusive evidence of a conviction
19 under subsection (1)(h) of this section.

20 “[5] (8) If the board suspends or revokes the license of an individual contractor or contractor
21 business for a violation of subsection (1)(g) of this section, the board may not restore or reissue the
22 license unless the individual contractor or a responsible managing individual[, as defined in ORS
23 701.078,] for the contractor business has successfully completed the training and testing described
24 in ORS 701.072.

25 “**SECTION 29.** ORS 701.605 is amended to read:

26 “701.605. (1) To facilitate the handling of warranty work or remediation of defects to a new
27 commercial or residential structure **or a zero-lot-line dwelling**, a contractor who builds the struc-
28 ture may present for recording in the deed records of the county in which the new structure is built
29 a written warranty agreement that:

30 “(a) Is signed by the contractor and the original owner of the new structure;

31 “(b) Sets forth any express warranties furnished by the contractor; and

32 “(c) Contains the names of the contractor and the original property owner, the title of the doc-
33 ument, a legal description of the property and acknowledgment of the signatures of the parties in
34 the same manner as the parties to a deed are acknowledged.

35 “(2) The warranties set forth in the recorded warranty agreement:

36 “(a) Benefit and burden subsequent owners of the structure.

37 “(b) Cease to affect title to the property 10 years after the date the instrument is recorded.

38
39 **“APPLICABILITY**

40
41 “**SECTION 30.** (1) **Section 11 of this 2007 Act and the amendments to ORS 701.605 by**
42 **section 29 of this 2007 Act apply to new residential structures and zero-lot-line dwellings for**
43 **which the contractor enters into a written construction contract on or after July 1, 2008.**

44 “(2) **Section 13 of this 2007 Act applies to new residential structures and zero-lot-line**
45 **dwellings for which the contractor completes construction on or after July 1, 2008.**

