

# A-Engrossed House Bill 2656

Ordered by the House May 3  
Including House Amendments dated May 3

Sponsored by COMMITTEE ON CONSUMER PROTECTION

## 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.

Establishes certification system for building envelope specialists [*and building envelope installers*]. [*Makes working as building envelope specialist or building envelope installer without appropriate certification subject to civil penalty not to exceed \$5,000. Makes unauthorized or fraudulent use of certification number subject to criminal penalty of up to one year's imprisonment, \$6,250 fine, or both.*]

[*Prohibits occupancy or use of constructed, reconstructed, altered or repaired structure without certificate of occupancy. Imposes conditions for issuance of certificate of occupancy.*]

Prohibits construction contractor from [*undertaking, offering to undertake or bidding on*] **performing** building envelope work unless contractor [*is or*] employs **or otherwise obtains services of** certified building envelope specialist [*and certified building envelope installer*].

Requires Construction Contractors Board to adopt continuing education standards for persons licensed [*or certified*] by board. **Allows board to impose sanctions or civil penalties for violations regarding building envelope specialists.**

**Allows landscaping business licensed by State Landscape Contractors Board to attach deck to structure without obtaining license as construction contractor if certain conditions are met.**

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to construction; creating new provisions; amending ORS 671.520, 671.525, 671.690, 671.703,  
3 701.005, 701.010, 701.055, 701.135 and 701.235; and declaring an emergency.

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

5 **SECTION 1. Sections 2 to 9 of this 2007 Act are added to and made a part of ORS chapter**  
6 **701.**

7 **SECTION 2. (1) As used in this section:**

8 (a) **"Appropriate building envelope specialist" means a building envelope specialist who**  
9 **has received education and training from a building envelope specialist training provider in**  
10 **the type of building envelope work for which the specialist is designated under subsection (3)**  
11 **of this section and who possesses a current certificate of completion from the training pro-**  
12 **vider for that type of work.**

13 (b) **"Manufactured dwelling" has the meaning given that term in ORS 446.003.**

14 (2) **A contractor may not perform building envelope work on a structure unless the**  
15 **contractor employs or otherwise obtains the services of at least one appropriate building**  
16 **envelope specialist.**

17 (3) **A contractor shall designate at least one appropriate building envelope specialist for**  
18 **each type of building envelope work the contractor is performing on the structure. A desig-**  
19 **nated building envelope specialist shall substantially observe the building envelope work for**

**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 which the specialist is designated.

2 (4) A designated building envelope specialist shall review each type of building envelope  
3 work performed on the structure by the contractor for the purpose of completing a quality  
4 assurance checklist.

5 (5) The contractor shall provide the jurisdiction that administers and enforces the  
6 building inspection program for the structure with a completed quality assurance checklist  
7 for the building envelope work performed on the structure by the contractor. For each type  
8 of building envelope work performed on the structure by the contractor, the quality assur-  
9 ance checklist must provide the name and signature of an appropriate building envelope  
10 specialist designated by the contractor to review the work.

11 (6) For purposes of this section, the physical attachment of a deck to a structure that  
12 is subject to the state building code is building envelope work.

13 (7) This section does not apply to:

14 (a) The manufacturing of a manufactured dwelling; or

15 (b) The performance of building envelope work by or on behalf of the manufacturer dur-  
16 ing installation of a manufactured dwelling or during or after the siting of a manufactured  
17 dwelling.

18 **SECTION 3.** (1) The Construction Contractors Board shall adopt rules that:

19 (a) Identify work that is within the scope of the exterior finish, the roofing and the sid-  
20 ing, window and door types of building envelope specialist work;

21 (b) Subject to section 6 of this 2007 Act, establish education, training and continuing ed-  
22 ucation standards for persons performing each type of building envelope specialist work;

23 (c) Establish criteria and processes for the approval of building envelope specialist  
24 training providers;

25 (d) Establish a standardized form, format and content for certificates of completion is-  
26 sued by approved building envelope specialist training providers;

27 (e) Establish the form and content of a quality assurance checklist for use as provided  
28 under section 2 of this 2007 Act;

29 (f) Set fees for any building envelope specialist training program offered by the board;

30 (g) Require a building envelope specialist designated as described in section 2 of this 2007  
31 Act to carry evidence of a current and appropriate certificate of completion;

32 (h) Regulate the training-related business practices and activities of building envelope  
33 specialist training providers; and

34 (i) Set fees as necessary to defray the costs of administering and enforcing this section  
35 and section 2 of this 2007 Act.

36 (2) The board may adopt rules to require approved building envelope specialist training  
37 providers to provide the board with information the board deems useful regarding persons  
38 who successfully complete building envelope specialist training offered by the provider.

39 **SECTION 4.** The Construction Contractors Board shall appoint an advisory committee  
40 to assist the board in developing rules under section 3 of this 2007 Act. The advisory com-  
41 mittee members shall include, but need not be limited to:

42 (1) A member of the board;

43 (2) A person representing the Department of Consumer and Business Services;

44 (3) A person representing residential construction contractors;

45 (4) A person representing commercial construction contractors;

1 (5) A person representing residential remodeling contractors;

2 (6) A person representing subcontractors;

3 (7) A person with experience in training programs for the building trades;

4 (8) A person representing a municipality administering a building inspection program  
5 under ORS 455.148 or 455.150; and

6 (9) A person who provides training as part of a building trade course of study prescribed  
7 under ORS 660.157.

8 **SECTION 5.** Section 4 of this 2007 Act is repealed January 2, 2010.

9 **SECTION 6.** (1) A contractor may not employ or contract for a person to perform work  
10 as a building envelope specialist unless the person has successfully completed the building  
11 envelope specialist training required by the Construction Contractors Board for that type of  
12 building envelope specialist work and possesses a current certificate of completion.

13 (2) To qualify as a building envelope specialist for exterior finish work, a person must  
14 complete training approved by the board and receive a certificate of completion regarding the  
15 installation, alteration and repair of lath, plaster, stucco, cement, brick, masonry, exterior  
16 insulation finish systems and other exterior building envelope materials regulated under the  
17 state building code.

18 (3) To qualify as a building envelope specialist for roofing work, a person must complete  
19 training approved by the board and receive a certificate of completion regarding the instal-  
20 lation, alteration and repair of asphalt, pitch, tar, felt, flax, shakes, shingles, aluminum, tile,  
21 slate, urethane and other roofing building envelope materials regulated under the state  
22 building code.

23 (4) To qualify as a building envelope specialist for siding, window and door work, a person  
24 must complete training approved by the board and receive a certificate of completion re-  
25 garding the installation, alteration and repair of siding materials such as wood, aluminum,  
26 enameled steel, fiber-reinforced cement, plastic and glass and of decks, window assemblies  
27 and frames, door assemblies and frames, sashes, hardware, glass, glass products,  
28 weatherstripping, caulking and other siding, window and door building envelope materials  
29 regulated under the state building code.

30 (5) The board may adopt rules that modify the categories of materials for a type of  
31 building envelope specialist training to reflect the development of new or innovative materi-  
32 als and construction methods.

33 **SECTION 7.** The Construction Contractors Board, the Department of Consumer and  
34 Business Services or a building inspector for a municipality administering and enforcing a  
35 building inspection program under ORS 455.148 or 455.150 may require a person who is en-  
36 gaged in work as a designated building envelope specialist to show proof that the person  
37 holds a current and appropriate certificate of completion for the type of work being per-  
38 formed by the person.

39 **SECTION 8.** (1) The Construction Contractors Board shall adopt rules establishing a  
40 continuing education system for all persons licensed by the board. The rules adopted by the  
41 board shall include, but need not be limited to, rules establishing the required number of  
42 hours and course content for continuing education. The board may establish reasonable fees  
43 for courses and instruction provided by the board, or for approving the course content and  
44 instruction for continuing education provided by other sources.

45 (2) The continuing education required for a contractor may include training in con-

1 **struction means and methods, compliance with the state building code and business prac-**  
2 **tices.**

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

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

7 **SECTION 9. (1) The Construction Contractors Board shall adopt rules establishing the**  
8 **date by which a licensee must first complete continuing education under section 8 of this**  
9 **2007 Act for persons that:**

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

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

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

14 **SECTION 10. Section 11 of this 2007 Act is added to and made a part of ORS 671.510 to**  
15 **671.710.**

16 **SECTION 11. (1) Notwithstanding ORS 701.055 and section 2 of this 2007 Act, a landscap-**  
17 **ing business licensed by the State Landscape Contractors Board may physically attach a deck**  
18 **to a structure without obtaining a license under ORS chapter 701 as a construction con-**  
19 **tractor if:**

20 **(a) Prior to undertaking the deck work, the landscaping business has:**

21 **(A) Notified the board that the landscaping business is engaged in work involving the**  
22 **physical attachment of decks to structures;**

23 **(B) Provided the board with proof that the landscaping business has obtained a surety**  
24 **bond covering the deck work in the amount of \$10,000 and obtained public liability, personal**  
25 **injury and property damage insurance covering the deck work in an amount not less than**  
26 **\$300,000; and**

27 **(C) Obtained identification as described in subsection (3) of this section;**

28 **(b) When performing the deck work, the landscaping business designates at least one**  
29 **appropriate building envelope specialist as defined in section 2 of this 2007 Act to substan-**  
30 **tially observe the attachment of the deck to the structure and to complete a building envel-**  
31 **ope quality assurance checklist for the work as provided in section 2 of this 2007 Act; and**

32 **(c) The landscaping business provides the jurisdiction that administers and enforces the**  
33 **building inspection program for the structure with a completed quality assurance checklist**  
34 **for the attachment of the deck to the structure that includes the name and signature of an**  
35 **appropriate building envelope specialist designated by the landscaping business to review the**  
36 **work.**

37 **(2) The bond and insurance described in subsection (1) of this section are in addition to**  
38 **the bond required under ORS 671.690 or the insurance required under ORS 671.565 and shall**  
39 **be specific to the deck work of the landscaping business. The bond required by this section**  
40 **must be continuously on file with the board in the amount required by this section and is for**  
41 **the exclusive purpose of payment of final orders and arbitration awards of the board for**  
42 **claims involving deck work. Upon termination or cancellation of the bond, withdrawal of the**  
43 **deposit or reduction of the bond to less than the required amount, the licensee shall imme-**  
44 **diately file a replacement bond.**

45 **(3) If a landscaping business complies with subsection (1)(a)(A) and (B) of this section,**

1 **the board shall issue identification to the landscaping business indicating that the landscap-**  
2 **ing business has complied with subsection (1)(a)(A) and (B) of this section. The identification**  
3 **may be in any form determined by the board and shall expire at the time the landscaping**  
4 **business license expires unless, at the time of application for renewal of the landscaping**  
5 **business license, the business renews the identification by providing evidence satisfactory to**  
6 **the board that the landscaping business has a bond and insurance in effect as required by**  
7 **this section. The board may impose a fee for the issuance or renewal of the identification.**

8 **SECTION 12.** ORS 671.520 is amended to read:

9 671.520. As used in ORS 671.510 to 671.710, unless the context requires otherwise:

10 (1) "Landscape contractor" means any person who for compensation or with the intent to be  
11 compensated performs or supervises activities requiring the art, ability, experience, knowledge, sci-  
12 ence and skill to:

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

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

15 (c) Construct or repair ornamental water features, drainage systems or irrigation systems; [or]

16 (d) Plan or install fences, decks **that are not subject to section 2 of this 2007 Act**, arbors,  
17 patios, landscape edging, driveways, walkways or retaining walls[.]; **or**

18 **(e) Plan or install decks under authority of section 11 of this 2007 Act.**

19 (2) "Landscaping business" means a business that for compensation or with the intent to be  
20 compensated arranges for or submits a bid or otherwise offers or contracts to provide the services  
21 of a landscape contractor.

22 (3) "Licensee" means a person that is licensed under ORS 671.510 to 671.710 as a landscape  
23 contractor or landscaping business.

24 (4) "Nursery stock" means nursery stock:

25 (a) As defined by ORS 571.005 other than stock grown for commercial resale or reforestation;  
26 or

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

28 (5) "Ornamental water features" means fountains, ponds, waterfalls, man-made streams and other  
29 decorative water-related constructions as identified by the board by rule.

30 **SECTION 13.** ORS 671.525 is amended to read:

31 671.525. (1) An applicant for a landscaping business license must qualify as an independent  
32 contractor, under ORS 670.600, to be licensed with the State Landscape Contractors Board.

33 (2) The board shall establish two classes of independent contractor registration:

34 (a) The nonexempt class is composed of the following entities:

35 (A) Sole proprietorships, partnerships, corporations and limited liability companies with one or  
36 more employees; and

37 (B) Partnerships, corporations and limited liability companies with more than two partners,  
38 corporate officers or members if any of the partners, officers or members are not part of the same  
39 family and related as parents, spouses, siblings, children, grandchildren, sons-in-law or daughters-  
40 in-law.

41 (b) The exempt class is composed of all sole proprietorships, partnerships, corporations and  
42 limited liability companies that do not qualify as nonexempt. All partnerships, corporations and  
43 limited liability companies must have a federal tax identification number.

44 (3) If a licensee who qualifies for registration under subsection (2)(b) of this section hires one  
45 or more employees, or falls into any of the categories set out in subsection (2)(a)(B) of this section,

1 the licensee is subject to penalties under ORS 671.997 and must reapply to the board for registration  
2 in the correct class.

3 (4) The decision of the board that a licensee is an independent contractor applies only when the  
4 licensee is performing work of the nature described in ORS 671.520 and 671.530 **or section 11 of**  
5 **this 2007 Act.**

6 **SECTION 14.** ORS 671.690 is amended to read:

7 671.690. (1) An applicant for a license as a landscaping business shall file with the State Land-  
8 scape Contractors Board a surety bond with one or more corporate sureties authorized to do busi-  
9 ness in this state, or an irrevocable letter of credit issued by an insured institution, as defined in  
10 ORS 706.008. The amount of the bond or letter of credit shall be:

11 (a) \$3,000 for an applicant, unless the applicant is described in paragraph (b), (c) or (d) of this  
12 subsection.

13 (b) \$10,000 for an applicant who, not in conjunction with the performance of landscaping work,  
14 constructs fences, decks **that are not subject to section 2 of this 2007 Act**, arbors, patios, land-  
15 scape edging, driveways, walkways or retaining walls, unless the applicant is made subject to para-  
16 graph (d) of this subsection by work on other jobs performed by the applicant.

17 (c) \$10,000 for an applicant who charges more than \$10,000, but less than \$25,000, for a land-  
18 scape job.

19 (d) \$15,000 for an applicant who charges \$25,000 or more for a landscape job.

20 (2) The bond or letter of credit required under subsection (1) of this section shall be conditioned  
21 that the applicant pays:

22 (a) All taxes and contributions due to the State of Oregon;

23 (b) All persons furnishing labor or material, or renting or supplying equipment to the business;

24 (c) All amounts that may be adjudged against the business by reason of negligent or improper  
25 work or breach of contract in performing any work subject to ORS 671.510 to 671.710; and

26 (d) All amounts from the bond, letter of credit or deposit the board orders paid under ORS  
27 671.703.

28 (3) In lieu of the surety bond or letter of credit required under subsection (1) of this section, the  
29 landscaping business may file with the board, under the same terms and conditions as when a bond  
30 is filed, a deposit in cash or negotiable securities acceptable to the board.

31 (4) The bond, letter of credit or deposit required by this section must be continuously on file  
32 with the board in the amount required by this section and is for the exclusive purpose of payment  
33 of final orders and arbitration awards of the board in accordance with ORS 671.703. Upon termi-  
34 nation or cancellation of the bond, withdrawal of the deposit or reduction of the bond, letter of  
35 credit or deposit to less than the required amount, the licensee shall immediately:

36 (a) File a replacement bond, letter of credit or deposit; or

37 (b) Surrender the license to the board and cease operating as a landscaping business.

38 (5) If the cost of a project makes, or foreseeably will make, a licensee subject to a higher bond  
39 or letter of credit requirement under subsection (1) of this section, the licensee shall immediately  
40 file additional bonds, letters of credit or deposits to meet the higher requirements.

41 (6) The landscaping business is responsible for all work that is subject to ORS 671.510 to  
42 671.710.

43 **SECTION 15.** ORS 671.703 is amended to read:

44 671.703. (1) If a person has a claim against a licensed landscaping business for negligent or im-  
45 proper work performed by the landscaping business, or for alleged breach of contract by the land-

1 landscaping business, the person may file the claim with the State Landscape Contractors Board.

2 (2) Upon receipt of a claim that qualifies under subsection (1) of this section, the board shall  
3 initiate an investigation. Upon completion of the investigation, if the board determines that facts  
4 exist supporting an order for payment, the board may order the landscaping business to pay the  
5 claim. A party to the claim may request a hearing on the order issued by the board.

6 (3) Subject to subsection (6) of this section, if the resolution of a claim under this section re-  
7 quires a hearing, the board may require that the hearing be conducted as a binding arbitration un-  
8 der rules adopted by the board under subsection (5) of this section.

9 (4) The board may use arbitration to resolve a landscaping dispute between any parties who  
10 agree to follow the rules of the board, including parties to a dispute not described under subsection  
11 (1) of this section.

12 (5) Except as provided in this subsection, rules adopted by the board to regulate arbitration  
13 under subsections (3) and (4) of this section must substantially conform with the provisions of ORS  
14 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.  
15 The rules may:

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

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

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

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

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

25 (6) A party to a claim that is subject to a board order of binding arbitration under subsection  
26 (3) of this section may avoid the arbitration if the party requests to have the claim resolved through  
27 a contested case hearing or files a complaint in a court. A party making a request or filing a  
28 complaint under this subsection is subject to the following provisions:

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

32 (b) If the party files a complaint in a court, the party must, within the time specified in para-  
33 graph (c) of this subsection, deliver a copy of the complaint to the board and to all parties entitled  
34 by the board rule to receive a copy of the complaint. If the party filing the complaint is the claim-  
35 ant, the claimant must allege all elements of the claim in the complaint. If the complaint is filed  
36 by the licensed landscaping business against whom a claim is alleged, the complaint may be a com-  
37 plaint for damages, a complaint for declaratory judgment or other complaint that allows the claim-  
38 ant to file a response alleging the elements of the claim. The claimant has the burden of proving the  
39 elements of the claim in any action described in this paragraph.

40 (c) A party that is subject to paragraph (a) or (b) of this subsection must deliver a request or  
41 complaint to the board as described in paragraphs (a) and (b) of this subsection no later than the  
42 30th day after the board sends notice that an arbitration hearing has been scheduled. Failure to  
43 timely deliver a request or complaint under this paragraph constitutes consent to the binding arbi-  
44 tration.

45 (d) If a party makes a timely request under paragraph (a) of this subsection for a contested case

1 hearing and another party timely files a complaint in compliance with paragraph (b) of this sub-  
2 section, the filing of the complaint supersedes the request for a contested case hearing.

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

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

7 (7) An arbitration conducted under subsection (3) or (4) of this section must be held before an  
8 administrative law judge acting as arbitrator. The administrative law judge assigned to act as  
9 arbitrator of the case on behalf of the board must be from the Office of Administrative Hearings  
10 established under ORS 183.605. The assignment of an administrative law judge to act as arbitrator  
11 is subject to a request for a different arbitrator under ORS 183.645 or a rule adopted pursuant to  
12 ORS 183.645.

13 (8) If a party to a claim under subsection (1) of this section requests a contested case hearing,  
14 the board shall schedule the hearing. If a party requests that the claim be resolved by a court, the  
15 board shall suspend further processing of the claim until the claim is resolved by an appropriate  
16 court.

17 (9) If the claim is submitted for determination by a court, the board may require that the  
18 claimant provide status reports on the pending action. The board may dismiss or close a claim filed  
19 under subsection (1) of this section as established by rule of the board if the claimant fails to submit  
20 status reports on a pending action.

21 (10) The board shall issue a final order or arbitration award in a form that indicates the maxi-  
22 mum amount payable from the deposit, bond or letter of credit. If the landscaping business does not  
23 pay the claim on or before the 30th day after receiving the board order or award, the board shall  
24 order the claim paid out of the deposit, bond or letter of credit filed under ORS 671.690 **or, if the**  
25 **claim is for deck work authorized under section 11 of this 2007 Act, paid out of the bond re-**  
26 **quired under section 11 of this 2007 Act.**

27 (11) The board may dismiss or close a claim as established by rule of the board if:

28 (a) The claimant does not permit the person against whom the claim is filed to be present at  
29 any inspection made by the board; or

30 (b) The board determines that the person against whom the claim is filed is capable of complying  
31 with recommendations made by the board relative to the claim, but the claimant does not permit the  
32 person to comply with the recommendations. The board may dismiss or close a claim under this  
33 paragraph only if the person was licensed at the time the work was first performed and is licensed  
34 at the time the board makes its recommendations.

35 (12) The board may suspend processing a claim if the board determines that the nature or  
36 complexity of the claim is such that a court is the appropriate forum for the adjudication of the  
37 claim.

38 **SECTION 16.** ORS 701.005 is amended to read:

39 701.005. As used in this chapter:

40 (1) "Board" means the Construction Contractors Board.

41 (2) "Building envelope" means the integrated assemblies, components and materials of a  
42 structure that separate the interior space of the structure from the exterior.

43 (3) "Building envelope specialist" means a person who has successfully completed ap-  
44 proved training in one or more types of building envelope work described in section 6 (2), (3)  
45 or (4) of this 2007 Act and possesses a current certificate of completion.



1       **(4) “Building envelope specialist training provider” means a post-secondary institution,**  
2 **trade school, trade association, professional society or other entity approved by the board**  
3 **to provide building envelope specialist education, training or continuing education.**

4       **(5) “Building envelope work” means the construction, reconstruction, alteration or repair**  
5 **of the building envelope of a structure regulated under the state building code.**

6       **(6) “Certificate of completion” means a document issued by a building envelope specialist**  
7 **training provider to affirm that a person has completed approved training in a type of**  
8 **building envelope specialist work.**

9       [(2)] **(7) “Construction debt” means an amount owed under:**

10       (a) A final order or arbitration award issued by the board; or

11       (b) A judgment or civil penalty arising from construction activities within the United States.

12       [(3)] **(8) “Contractor” means a person who, for compensation or with the intent to sell, arranges**  
13 **or undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract**  
14 **from, improve, inspect, move, wreck or demolish, for another, any building, highway, road, railroad,**  
15 **excavation or other structure, project, development or improvement attached to real estate or to**  
16 **do any part thereof. “Contractor” includes general contractors, residential-only contractors and**  
17 **specialty contractors as defined in this section.**

18       [(4)] **(9) “General contractor” means a contractor whose business operations require the use of**  
19 **more than two unrelated building trades or crafts that the contractor supervises or performs in**  
20 **whole or part, whenever the sum of all contracts on any single property, including materials and**  
21 **labor, exceeds an amount established by rule by the board. “General contractor” does not include**  
22 **specialty contractors or limited contractors, as described in ORS 701.085.**

23       [(5)] **(10) “Home inspector” means a person who, for a fee, inspects and provides written reports**  
24 **on the overall physical condition of a residential structure and the appurtenances thereto. “Home**  
25 **inspector” does not include persons certified under ORS chapter 455 to inspect new, repaired or**  
26 **altered structures for compliance with the state building code.**

27       [(6)] **(11) “Inspector” means a contractor registered with the board who inspects or otherwise**  
28 **provides services to a property owner or other contractor but does not substantively add to or**  
29 **subtract from a structure. “Inspector” includes but is not limited to a home inspector certified under**  
30 **ORS 701.350, a lead-based paint inspector licensed under ORS 701.515 and a cross connection in-**  
31 **pector and backflow assembly tester certified under ORS 448.279. “Inspector” does not include city**  
32 **or county inspectors acting under ORS 701.225 or an inspector as defined in ORS 455.715.**

33       [(7)] **(12) “Large commercial structure” means a structure that is not a residential structure or**  
34 **small commercial structure.**

35       [(8)] **(13) “Licensed developer” means a contractor who owns property or an interest in property**  
36 **and arranges for construction work, if the contractor:**

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

39       (b) Acts in association with one or more licensed general contractors and the general contractor  
40 or combination of general contractors have sole responsibility for overseeing all phases of con-  
41 struction activity on the property; and

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

43       [(9)] **(14) “Officer” means any of the following persons:**

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

45       (b) A general partner in a limited partnership.

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

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

3 (e) A trustee.

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

7 [(10)] (15) "Residential-only contractor" means a general contractor or specialty contractor who  
8 performs work exclusively in connection with residential structures and small commercial struc-  
9 tures, and the appurtenances thereto. "Residential-only contractor" includes, but is not limited to:

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

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

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

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

22 [(11)] (16) "Residential structure" means a residence, including a site-built home, modular home  
23 constructed off-site, floating home as defined in ORS 830.700, condominium unit, manufactured  
24 dwelling or duplex, or a multiunit residential building consisting of four units or less that is not part  
25 of a multistructure complex of buildings.

26 [(12)] (17) "Small commercial structure" means a nonresidential structure that has a ground  
27 area of 4,000 square feet or less, including exterior walls, and a height of not more than 20 feet from  
28 the top surface of the lowest flooring to the highest interior overhead finish of the structure.

29 [(13)] (18) "Specialty contractor" means a contractor who performs work on a structure, project,  
30 development or improvement and whose operations as such do not fall within the definition of  
31 "general contractor." "Specialty contractor" includes a person who performs work regulated under  
32 ORS chapter 446.

33 **SECTION 17.** ORS 701.010 is amended to read:

34 701.010. The Construction Contractors Board may adopt rules to make licensure optional for  
35 persons who offer, bid or undertake to perform work peripheral to construction, as defined by ad-  
36 ministrative rule of the board. The following persons are exempt from licensure under this chapter:

37 (1) A person who is constructing, altering, improving or repairing personal property.

38 (2) A person who is constructing, altering, improving or repairing a structure located within the  
39 boundaries of any site or reservation under the jurisdiction of the federal government.

40 (3) A person who furnishes materials, supplies, equipment or finished product and does not fab-  
41 ricate them into, or consume them, in the performance of the work of a contractor.

42 (4) A person working on one structure or project, under one or more contracts, when the ag-  
43 gregate price of all of that person's contracts for labor, materials and all other items is less than  
44 \$500 and such work is of a casual, minor or inconsequential nature. This subsection does not apply  
45 to a person who advertises or puts out any sign or card or other device that might indicate to the

1 public that the person is a contractor.

2 (5) An owner who contracts for work to be performed by a licensed contractor. This subsection  
3 does not apply to a person who, in the pursuit of an independent business, constructs, remodels,  
4 repairs or for compensation and with the intent to sell the structure, arranges to have constructed,  
5 remodeled or repaired a structure with the intent of offering the structure for sale before, upon or  
6 after completion. It is prima facie evidence that there was an intent of offering the structure for sale  
7 if the person who constructed, remodeled or repaired the structure or arranged to have the struc-  
8 ture constructed, remodeled or repaired does not occupy the structure after its completion.

9 (6) A person performing work on a property that person owns or performing work as the owner's  
10 employee, whether the property is occupied by the owner or not, or a person performing work on  
11 that person's residence, whether or not that person owns the residence. This subsection does not  
12 apply to a person performing work on a structure owned by that person or the owner's employee if  
13 the work is performed, in the pursuit of an independent business, with the intent of offering the  
14 structure for sale before, upon or after completion.

15 (7) A person licensed in one of the following trades or professions when operating within the  
16 scope of that license:

17 (a) An architect licensed by the State Board of Architect Examiners.

18 (b) A registered professional engineer licensed by the State Board of Examiners for Engineering  
19 and Land Surveying.

20 (c) A water well contractor licensed by the Water Resources Department.

21 (d) A sewage disposal system installer licensed by the Department of Environmental Quality.

22 (e) A landscaping business licensed under ORS 671.510 to 671.710 that constructs fences, decks  
23 **that are not subject to section 2 of this 2007 Act**, arbors, patios, landscape edging, driveways,  
24 walkways or retaining walls and that meets the applicable bonding requirements under ORS 671.690.

25 **(f) A landscaping business licensed under ORS 671.510 to 671.710 that constructs decks**  
26 **and that complies with section 11 of this 2007 Act.**

27 [(f)] (g) A pesticide operator licensed under ORS 634.116 who does not conduct inspections for  
28 wood destroying organisms for the transfer of real estate.

29 [(g)] (h) An appraiser certified or licensed under ORS chapter 674 or an appraiser assistant  
30 registered under ORS chapter 674 by the Appraiser Certification and Licensure Board.

31 (8) A person who performs work subject to this chapter as an employee of a contractor.

32 (9) A manufacturer of a manufactured home constructed under standards established by the  
33 federal government.

34 (10) A person involved in the movement of:

35 (a) Modular buildings or structures other than manufactured structures not in excess of 14 feet  
36 in width.

37 (b) Structures not in excess of 16 feet in width when the structures are being moved by their  
38 owner if the owner is not a contractor required to be licensed under this chapter.

39 (11) A commercial lending institution or surety company that arranges for the completion, repair  
40 or remodeling of a structure. As used in this subsection, "commercial lending institution" means  
41 any bank, mortgage banking company, trust company, savings bank, savings and loan association,  
42 credit union, national banking association, federal savings and loan association, insurance company  
43 or federal credit union maintaining an office in this state.

44 (12) A real estate licensee as defined in ORS 696.010 or the employee of that licensee when  
45 performing work on a structure that the real estate licensee manages under a contract.

1 (13) Units of government other than those specified in ORS 701.005 [(10)(b) and (c)] **(15)(b) and**  
2 **(c).**

3 (14) A qualified intermediary in a property exchange that qualifies under section 1031 of the  
4 Internal Revenue Code as amended and in effect on January 1, 2004, if the qualified intermediary  
5 is not performing construction activities.

6 (15) A business that supplies personnel to a licensed contractor for the performance of work  
7 under the direction and supervision of the contractor.

8 **SECTION 18.** ORS 701.055 is amended to read:

9 701.055. (1) A person may not undertake, offer to undertake or submit a bid to do work as a  
10 contractor unless that person has a current, valid license issued by the Construction Contractors  
11 Board. A partnership, corporation or joint venture may not undertake, offer to undertake or submit  
12 a bid to do work as a contractor unless that partnership, corporation or joint venture is licensed  
13 under this chapter. A partnership or joint venture is licensed for the purpose of offering to under-  
14 take work as a contractor on a structure if any of the partners or joint venturers whose name ap-  
15 pears in the business name of the partnership or joint venture is licensed under this chapter.

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

19 (3) A city, county or the State of Oregon may not issue a building permit to any person required  
20 to be licensed under this chapter that does not have a current, valid license. A county, city or state  
21 agency that requires the issuance of a permit as a condition precedent to construction, alteration,  
22 improvement, demolition, movement or repair of any building or structure or the appurtenances to  
23 the structure shall, as a condition for issuing the permit, require that the applicant for a permit file  
24 a written statement, subscribed by the applicant. The statement must affirm that the applicant is  
25 licensed under this chapter, give the license number and state that the license is in full force and  
26 effect, or, if the applicant is exempt from licensing under this chapter, list the basis for the ex-  
27 emption. The city, county or state agency shall list the contractor's license number on the permit  
28 obtained by that contractor.

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

34 \_\_\_\_\_  
35  
36 (a) I have read and understand the Information Notice to Property Owners About Construction  
37 Responsibilities; and

38 (b) I own, reside in or will reside in the completed dwelling. My general contractor is  
39 \_\_\_\_\_, Construction Contractors Board license no. \_\_\_\_\_, license expiration date  
40 \_\_\_\_\_. I will instruct my general contractor that all subcontractors who work on this  
41 dwelling must be licensed with the Construction Contractors Board **and that any building envelope**  
42 **work by the contractor requires the designation of an appropriate building envelope**  
43 **specialist;** or

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

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

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

6 \_\_\_\_\_  
7  
8 (5) The board shall adopt by rule a form entitled "Information Notice to Property Owners About  
9 Construction Responsibilities" that shall describe, in nontechnical language and in a clear and co-  
10 herent manner using words in their common and everyday meaning, the responsibilities property  
11 owners are undertaking by acting as their own general contractor and the problems that could de-  
12 velop. The responsibilities described in the form shall include, but not be limited to:

13 (a) Compliance with state and federal laws regarding Social Security tax, income tax and un-  
14 employment tax.

15 (b) Workers' compensation insurance on workers.

16 (c) Liability and property damage insurance.

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

20 (7) A city or county that requires a business license for engaging in a business subject to reg-  
21 ulation under this chapter shall require that the licensee or applicant for issuance or renewal of the  
22 business license file, or have on file, with the city or county, a signed statement that the licensee  
23 or applicant is licensed under this chapter.

24 (8) It is prima facie evidence of doing business as a contractor if a person for that person's own  
25 use performs, employs others to perform, or for compensation and with the intent to sell the struc-  
26 ture, arranges to have performed any work described in ORS 701.005 [(3)] (8) if within any 36-month  
27 period that person offers for sale two or more newly built structures on which that work was per-  
28 formed.

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

31 (10) The provisions of this chapter are exclusive and a city, county or other political subdivision  
32 may not require or issue any registrations, licenses or surety bonds, nor charge any fee for the  
33 regulatory or surety registration of any contractor licensed with the board. This subsection does  
34 not limit or abridge the authority of any city or county to:

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

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

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

40 (11)(a) A contractor shall maintain a list that includes the following information about all sub-  
41 contractors or other contractors performing work on a project for that contractor:

42 (A) Names and addresses.

43 (B) License numbers.

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

1 (12) A contractor may not hire any subcontractor or other contractor to perform work unless  
2 the subcontractor or contractor is licensed under this chapter or exempt from licensure under ORS  
3 701.010.

4 (13) A consumer notification form designed to specifically inform a property owner what the  
5 property owner should do to protect themselves in a residential repair, remodel or construction  
6 project shall be prepared by the board and provided at no cost to all licensed contractors. The  
7 contractor shall deliver the form to the property owner when the contractor submits a bid or pro-  
8 posal for work on a residential structure. The form shall include an explanation of the meaning of  
9 licensure, including a statement that licensure is not an endorsement of a contractor's work, and  
10 an explanation of the bond and insurance levels required of contractors for the benefit of property  
11 owners. The form must not be larger than one side of a sheet of paper that is 8-1/2 inches by 11  
12 inches. The contractor may reproduce the form on the contractor's bid proposal.

13 (14) A contractor may not perform work subject to this section for an owner of a residential  
14 structure without a written contract if the aggregate contract price exceeds \$2,000. If the price of  
15 a contract was initially less than \$2,000, but during the course of performance the contract exceeds  
16 that amount, the contractor shall mail or otherwise deliver a written contract to the owner not later  
17 than five days after the contractor knows or should reasonably know that the contract price will  
18 exceed \$2,000. Failure to have a written contract will not void the contract.

19 (15) Except as provided in ORS 671.540, a contractor that is not licensed under ORS 671.560  
20 shall hire a person licensed under ORS 671.560 to perform landscaping work.

21 **SECTION 19.** ORS 701.135 is amended to read:

22 701.135. (1) The Construction Contractors Board may revoke, suspend or refuse to issue or re-  
23 issue a license and the board may assess a civil penalty as provided in ORS 701.992 if the board  
24 determines after notice and opportunity for hearing:

25 (a) That the licensee or applicant has violated ORS 701.055 or 701.078.

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

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

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

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

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

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

40 (A) Two sole proprietors;

41 (B) One partnership;

42 (C) One corporation; or

43 (D) One limited liability company.

44 (h) Consistent with the provisions of ORS 670.280, that the licensee or applicant has been con-  
45 victed of one of the following crimes:

- 1 (A) Murder;
- 2 (B) Assault in the first degree;
- 3 (C) Kidnapping;
- 4 (D) Rape, sodomy or unlawful sexual penetration;
- 5 (E) Sexual abuse;
- 6 (F) Arson in the first degree;
- 7 (G) Robbery in the first degree;
- 8 (H) Theft in the first degree; or
- 9 (I) Theft by extortion.

10 (i) That the licensee or applicant has not, within 90 days after the date when payment was re-  
11 ceived from the public contracting agency, or contractor in the case of a subcontractor, made pay-  
12 ment to any person for supplying labor or materials contracted for with a public contract for a  
13 public improvement plus the amount of interest due.

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

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

18 **(L) That the licensee has designated a person who lacked a current and appropriate cer-**  
19 **tificate of completion as a building envelope specialist to substantially observe building en-**  
20 **velope work or to complete a building envelope quality assurance checklist.**

21 (2)(a) The administrator of the board, in accordance with administrative rules adopted by the  
22 board and after setting forth specific reasons for the findings, may suspend or refuse to renew a li-  
23 cense without hearing in any case where the administrator finds a serious danger to the public  
24 welfare, including but not limited to:

- 25 (A) Lack of a surety bond required by ORS 701.085;
- 26 (B) Lack of liability insurance required by ORS 701.105;
- 27 (C) Hiring employees while licensed as exempt under ORS 701.035; or
- 28 (D) Conduct as a construction contractor that is dishonest or fraudulent.

29 (b) If the licensee or applicant demands a hearing within 90 days after the date of notice to the  
30 licensee or applicant of the suspension or refusal to renew, then a hearing must be granted to the  
31 licensee or applicant as soon as practicable after the demand, and the administrator shall issue an  
32 order pursuant to the hearing as required by ORS chapter 183 confirming, altering or revoking the  
33 administrator's earlier order. Notwithstanding ORS 670.325, a hearing need not be held where the  
34 order of suspension or refusal to renew is accompanied by or is pursuant to a citation for violation  
35 that is subject to judicial determination in any court of this state, and the order by its terms will  
36 terminate in case of final judgment in favor of the licensee or applicant.

37 **(3)(a) The board may withdraw approval of a building envelope specialist training provider**  
38 **or may assess a civil penalty against a provider that violates a rule established by the board**  
39 **under section 3 of this 2007 Act or that:**

- 40 **(A) Has knowingly provided false information to the board;**
- 41 **(B) Has provided verification of building envelope specialist training for a person who did**  
42 **not complete training required by the board for a type of building envelope work; or**
- 43 **(C) Has engaged in conduct that the board finds to be dishonest or fraudulent and to**  
44 **constitute a serious danger to the public health and welfare.**

45 **(b) The board may assess a civil penalty against a building envelope specialist who per-**

1 **forms building envelope specialist work of a type for which the person does not have training**  
2 **and a current and appropriate certificate of completion.**

3 **(c) The board may assess a civil penalty against any person who falsely represents that**  
4 **the person is a building envelope specialist or an approved building envelope specialist**  
5 **training provider.**

6 **(4)(a) In addition to all other remedies, if the board has reason to believe that a person**  
7 **is engaging in a violation of a provision of this chapter, the board may issue an order di-**  
8 **recting the person to cease committing the violation. The issuance of a board order under**  
9 **this paragraph is subject to ORS 183.413 to 183.497.**

10 [(3)] **(b) In addition to all other remedies, if it appears to the board that a person has engaged**  
11 **in, or is engaging in, any act, practice or transaction that violates the provisions of this chapter,**  
12 **the board may direct the Attorney General or the district attorney of the county in which the act,**  
13 **practice or transaction occurs, to apply to the court for an injunction restraining the person from**  
14 **violating the provisions of this chapter. An injunction may not issue for failure to maintain the list**  
15 **provided for in ORS 701.055 (11) unless the court determines that the failure is intentional.**

16 [(4)] **(5) A certified copy of the record of conviction shall be conclusive evidence of a conviction**  
17 **under subsection (1)(h) of this section.**

18 [(5)] **(6) If the board suspends or revokes the license of an individual contractor or contractor**  
19 **business for a violation of subsection (1)(g) of this section, the board may not restore or reissue the**  
20 **license unless the individual contractor or a responsible managing individual, as defined in ORS**  
21 **701.078, for the contractor business has successfully completed the training and testing described in**  
22 **ORS 701.072.**

23 **SECTION 20. ORS 701.235 is amended to read:**

24 **701.235. (1) The Construction Contractors Board shall adopt rules to carry out the provisions**  
25 **of this chapter including, but not limited to, rules that:**

26 **(a) Establish language for surety bonds;**

27 **(b) Establish processing requirements for different types of claims described in this chapter;**

28 **(c) Limit whether a claim may be processed by the board if there is no direct contractual re-**  
29 **lationship between the claimant and the contractor;**

30 **(d) Notwithstanding ORS 701.146 (7) and 701.150 (4) and subject to ORS 701.150 (6), exclude or**  
31 **limit recovery from the contractor's bond required by ORS 701.085, of damages awarded by a court**  
32 **or arbitrator for interest, service charges, costs and attorney fees arising from filing and proving**  
33 **the claim; and**

34 **(e) Designate a form to be used by an owner of residential property under ORS 87.007 for the**  
35 **purpose of indicating the method the owner has selected to comply with the requirements of ORS**  
36 **87.007 (2) or to indicate that ORS 87.007 (2) does not apply.**

37 **(2) The board may adopt rules prescribing terms and conditions under which a contractor may**  
38 **substitute a letter of credit from a bank authorized to do business in this state instead of the bond**  
39 **requirements prescribed in ORS 701.085.**

40 **(3) The board may adopt rules to administer and enforce sections 2, 6 and 7 of this 2007**  
41 **Act.**

42 **SECTION 21. (1) The amendments to ORS 671.520, 671.525, 671.690, 671.703, 701.005,**  
43 **701.010, 701.055, 701.135 and 701.235 by sections 12 to 20 of this 2007 Act become operative**  
44 **January 1, 2010.**

45 **(2) Sections 2, 6, 7 and 11 of this 2007 Act apply to construction for which a permit is**



1 issued on or after January 1, 2010.

2 (3) The Construction Contractors Board shall adopt initial rules under section 3 of this  
3 2007 Act in time for the rules to become effective no later than January 1, 2010.

4 SECTION 22. This 2007 Act being necessary for the immediate preservation of the public  
5 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect  
6 on its passage.

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