

# House Bill 2656

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 **as introduced**.

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 building envelope work unless contractor is or employs 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.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to construction; creating new provisions; amending ORS 701.005, 701.010, 701.055, 701.060,  
3 701.065, 701.067, 701.103, 701.115, 701.125, 701.130, 701.135, 701.138, 701.145, 701.590 and 701.990;  
4 and declaring an emergency.

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

6 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 455.**

7 **SECTION 2. (1) A person may not occupy or use a constructed, reconstructed, altered**  
8 **or repaired structure unless the Department of Consumer and Business Services or a**  
9 **municipality administering and enforcing a building inspection program under ORS 455.148**  
10 **or 455.150 has issued a certificate of occupancy or temporary certificate of occupancy for the**  
11 **structure. The department may adopt rules establishing the standards for and conditions**  
12 **under which the department or a municipality may issue a temporary certificate of occu-**  
13 **pancy.**

14 **(2) The department or a municipality may not issue a certificate of occupancy for a**  
15 **structure until:**

16 **(a) Work on the building envelope of the structure is verified by a certified building en-**  
17 **velope specialist who observed the work to a substantial degree as described in rules of the**  
18 **Construction Contractors Board; and**

19 **(b) The department or municipality conducts an inspection of the work covered under the**  
20 **building permit and verifies that the work for which inspection is required was completed in**  
21 **accordance with the building permit, the state building code and state and local laws.**

22 **SECTION 3. Notwithstanding section 2 of this 2007 Act, prior to January 1, 2010, the**  
23 **Department of Consumer and Business Services or a municipality administering and enforc-**  
24 **ing a building inspection program under ORS 455.148 or 455.150 may issue a certificate of**  
25 **occupancy for a structure on which building envelope work started before January 1, 2009,**

**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 if a certified building envelope specialist verification is submitted under section 2 (2)(a) of  
 2 this 2007 Act for all building envelope work performed on the structure on or after January  
 3 1, 2009.

4 **SECTION 4.** Sections 5, 7 to 9 and 11 of this 2007 Act are added to and made a part of  
 5 ORS chapter 701.

6 **SECTION 5.** (1) A person may not construct, alter, repair, add to, subtract from or im-  
 7 prove the building envelope of a structure for which a building permit is required under the  
 8 state building code unless the person is a certified building envelope specialist or certified  
 9 building envelope installer performing work within the scope of a certification issued to the  
 10 person by the Construction Contractors Board under section 7 of this 2007 Act.

11 (2) An individual may not undertake, offer to undertake or submit a bid to do work as a  
 12 building envelope specialist or building envelope installer unless the individual is or is an  
 13 owner of or employed by a construction contractor licensed by the board.

14 **SECTION 6.** (1) Section 5 of this 2007 Act applies to persons who perform building en-  
 15 velope specialist work, as defined by the Construction Contractors Board by rule, on or after  
 16 January 1, 2009.

17 (2) Section 5 of this 2007 Act applies to persons who perform building envelope installer  
 18 work, as defined by the board by rule, on or after January 1, 2010.

19 **SECTION 7.** (1) The Construction Contractors Board shall adopt rules establishing a  
 20 certification system for building envelope specialists and building envelope installers. The  
 21 rules adopted by the board shall include, but need not be limited to, rules:

22 (a) Creating and defining the scope of construction of, alteration of, repair of, addition  
 23 to, subtraction from or improvement to a building envelope that is subject to sections 5 and  
 24 8 of this 2007 Act;

25 (b) Establishing the form and content for a certification application;

26 (c) Establishing the form and content for a certificate renewal application;

27 (d) Establishing the minimum scope and degree of education and training required of a  
 28 certified building envelope specialist or certified building envelope installer for a particular  
 29 type of work;

30 (e) Creating an objective process for approving building envelope specialist and building  
 31 envelope installer education and training programs;

32 (f) Requiring building envelope specialists and building envelope installers to carry evi-  
 33 dence of certification when undertaking or performing work on a building envelope; and

34 (g) Creating and defining the form and content of verification checklists for use by the  
 35 Department of Consumer and Business Services and municipalities under section 2 of this  
 36 2007 Act.

37 (2) The board shall provide the checklists described in subsection (1)(g) of this section to  
 38 the department and municipalities without charge.

39 **SECTION 8.** A certified building envelope specialist shall:

40 (1) Complete the appropriate education and testing from a source approved by the Con-  
 41 struction Contractors Board;

42 (2) Observe to a substantial degree, as defined by board rule, the construction of, alter-  
 43 ation of, repair of, addition to, subtraction from or improvement to the building envelope by  
 44 the building envelope installer;

45 (3) Provide a written verification checklist to the Department of Consumer and Business

1 Services or a municipality administering and enforcing a building inspection program under  
 2 ORS 455.148 or 455.150 affirming that the building envelope work was observed by the building  
 3 envelope specialist to a substantial degree and that the work conforms with the building  
 4 permit, the state building code and state and local laws; and

5 (4) Comply with any continuing education requirements established by the board.

6 **SECTION 9.** (1) The Construction Contractors Board shall adopt rules establishing a  
 7 continuing education system for all persons licensed or certified by the board. The rules  
 8 adopted by the board shall include, but need not be limited to, rules establishing the required  
 9 number of hours and course content for continuing education. The board may establish rea-  
 10 sonable fees for course content and instruction provided by the board, or for approving the  
 11 course content and instruction for continuing education provided by other sources.

12 (2) The continuing education required for a contractor must include continuing education  
 13 on business practices and building codes.

14 (3) A person may not renew a license or certificate issued by the board unless the person  
 15 provides proof acceptable to the board that the person has completed the continuing educa-  
 16 tion required by the board.

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

18 **SECTION 10.** (1) The Construction Contractors Board shall adopt rules establishing the  
 19 date by which a person must first complete continuing education under section 9 of this 2007  
 20 Act for persons that:

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

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

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

25 **SECTION 11.** (1) Any inspector authorized by the Construction Contractors Board to de-  
 26 termine compliance with the provisions of this chapter is authorized to require any person  
 27 who is engaged in work as a building envelope specialist or building envelope installer to  
 28 demonstrate proof of compliance with the certification requirements of this chapter. If the  
 29 person does not demonstrate proof of compliance with the certification requirements of this  
 30 chapter, the inspector shall give notice of the noncompliance to the general contractor for  
 31 the work.

32 (2) The notice of noncompliance shall be in writing, shall specifically state that the per-  
 33 son performing work as a building envelope specialist or building envelope installer on the  
 34 structure is not in compliance with the certification requirements of this chapter and shall  
 35 provide that unless the person demonstrates proof of compliance within 10 days of the date  
 36 of the notice, the inspector may by order stop all work on the structure. The inspector shall  
 37 also deliver the notice of noncompliance to the owner of the structure, or shall mail the  
 38 notice to all persons who are mortgagees or trust deed beneficiaries of record with respect  
 39 to the real property upon which the structure is situated. If more than one person is the  
 40 owner of the structure, a copy of the notice need be given to only one of the owners.

41 (3) If after receipt of the notice of noncompliance the person fails within the 10-day pe-  
 42 riod specified in the notice to demonstrate proof of compliance with the certification re-  
 43 quirements of this chapter, the inspector may order all work on the structure stopped by  
 44 notice in writing served on any persons engaged in work on the structure. A person may not  
 45 perform work on the structure until proof of certification compliance is demonstrated for

1 the person who performed the building envelope specialist or building envelope installer  
 2 work, except that with permission of the inspector the general contractor may have the  
 3 building envelope reinstalled using the services of a certified building envelope specialist and  
 4 certified building envelope installer. However, the inspector may not order work on the  
 5 structure stopped until at least 10 days after the copies of the notice of noncompliance have  
 6 been delivered to the owners or mailed to the mortgagees and trust deed beneficiaries as  
 7 specified in this section.

8 (4) Notwithstanding subsection (3) of this section, the board or an inspector may order  
 9 work on the structure stopped immediately if, 10 or more days before receiving the notice  
 10 of noncompliance, the general contractor:

11 (a) Received a notice of noncompliance in regard to other persons performing building  
 12 envelope specialist or building envelope installer work on the same structure; or

13 (b) Received a notice of noncompliance for the same person in regard to the person's  
 14 performance of building envelope specialist or building envelope installer work on a different  
 15 structure.

16 **SECTION 12.** Section 11 of this 2007 Act applies to persons performing:

17 (1) Building envelope specialist work, as defined by the Construction Contractors Board  
 18 by rule, on or after January 1, 2009; and

19 (2) Building envelope installer work, as defined by the Construction Contractors Board  
 20 by rule, on or after January 1, 2010.

21 **SECTION 13.** ORS 701.005 is amended to read:

22 701.005. As used in this chapter:

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

24 (2) "Building envelope" means the integrated assemblies, components and materials of a  
 25 structure that are intended to separate and protect the interior space of the structure from  
 26 the adverse effects of exterior climatic conditions.

27 (3) "Certified building envelope installer" or "building envelope installer" means a person  
 28 who performs work on the building envelope of a structure that is observed to a substantial  
 29 degree by a building envelope specialist.

30 (4) "Certified building envelope specialist" or "building envelope specialist" means a con-  
 31 tractor or person who is employed by, or contracts with, a contractor to observe to a sub-  
 32 stantial degree and verify the proper performance of the construction of, alteration of, repair  
 33 of, addition to or improvement of a building envelope.

34 [(2)] (5) "Construction debt" means an amount owed under:

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

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

37 [(3)] (6) "Contractor" means a person who, for compensation or with the intent to sell, arranges  
 38 or undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract  
 39 from, improve, inspect, move, wreck or demolish, for another, any building, highway, road, railroad,  
 40 excavation or other structure, project, development or improvement attached to real estate or to  
 41 do any part thereof. "Contractor" includes general contractors, residential-only contractors and  
 42 specialty contractors as defined in this section.

43 [(4)] (7) "General contractor" means a contractor whose business operations require the use of  
 44 more than two unrelated building trades or crafts that the contractor supervises or performs in  
 45 whole or part, whenever the sum of all contracts on any single property, including materials and

1 labor, exceeds an amount established by rule by the board. “General contractor” does not include  
 2 specialty contractors or limited contractors, as described in ORS 701.085.

3 [(5)] (8) “Home inspector” means a person who, for a fee, inspects and provides written reports  
 4 on the overall physical condition of a residential structure and the appurtenances thereto. “Home  
 5 inspector” does not include persons certified under ORS chapter 455 to inspect new, repaired or  
 6 altered structures for compliance with the state building code.

7 [(6)] (9) “Inspector” means a contractor registered with the board who inspects or otherwise  
 8 provides services to a property owner or other contractor but does not substantively add to or  
 9 subtract from a structure. “Inspector” includes but is not limited to a home inspector certified under  
 10 ORS 701.350, a lead-based paint inspector licensed under ORS 701.515 and a cross connection in-  
 11 spector and backflow assembly tester certified under ORS 448.279. “Inspector” does not include city  
 12 or county inspectors acting under ORS 701.225 or an inspector as defined in ORS 455.715.

13 [(7)] (10) “Large commercial structure” means a structure that is not a residential structure or  
 14 small commercial structure.

15 [(8)] (11) “Licensed developer” means a contractor who owns property or an interest in property  
 16 and arranges for construction work, if the contractor:

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

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

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

23 [(9)] (12) “Officer” means any of the following persons:

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

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

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

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

28 (e) A trustee.

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

32 [(10)] (13) “Residential-only contractor” means a general contractor or specialty contractor who  
 33 performs work exclusively in connection with residential structures and small commercial struc-  
 34 tures, and the appurtenances thereto. “Residential-only contractor” includes, but is not limited to:

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

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

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

44 (d) Any person except a landscape contractor, nurseryman, gardener or person engaged in the  
 45 commercial harvest of forest products who is engaged as an independent contractor to remove trees,

1 prune trees, remove tree limbs or stumps or to engage in tree or limb guying.

2 [(11)] (14) “Residential structure” means a residence, including a site-built home, modular home  
 3 constructed off-site, floating home as defined in ORS 830.700, condominium unit, manufactured  
 4 dwelling or duplex, or a multiunit residential building consisting of four units or less that is not part  
 5 of a multistructure complex of buildings.

6 [(12)] (15) “Small commercial structure” means a nonresidential structure that has a ground  
 7 area of 4,000 square feet or less, including exterior walls, and a height of not more than 20 feet from  
 8 the top surface of the lowest flooring to the highest interior overhead finish of the structure.

9 [(13)] (16) “Specialty contractor” means a contractor who performs work on a structure, project,  
 10 development or improvement and whose operations as such do not fall within the definition of  
 11 “general contractor.” “Specialty contractor” includes a person who performs work regulated under  
 12 ORS chapter 446.

13 **SECTION 14.** ORS 701.010 is amended to read:

14 701.010. The Construction Contractors Board may adopt rules to make licensure **and certifi-**  
 15 **ication** optional for persons who offer, bid or undertake to perform work peripheral to construction,  
 16 as defined by administrative rule of the board. The following persons are exempt from licensure **or**  
 17 **certification** under this chapter:

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

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

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

23 (4) A person working on one structure or project, under one or more contracts, when the ag-  
 24 gregate price of all of that person’s contracts for labor, materials and all other items is less than  
 25 \$500 and such work is of a casual, minor or inconsequential nature. This subsection does not apply  
 26 to a person who advertises or puts out any sign or card or other device that might indicate to the  
 27 public that the person is a contractor.

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

35 (6) A person performing work on a property that person owns or performing work as the owner’s  
 36 employee, whether the property is occupied by the owner or not, or a person performing work on  
 37 that person’s residence, whether or not that person owns the residence. This subsection does not  
 38 apply to a person performing work on a structure owned by that person or the owner’s employee if  
 39 the work is performed, in the pursuit of an independent business, with the intent of offering the  
 40 structure for sale before, upon or after completion.

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

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

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

- 1 (c) A water well contractor licensed by the Water Resources Department.
- 2 (d) A sewage disposal system installer licensed by the Department of Environmental Quality.
- 3 (e) A landscaping business licensed under ORS 671.510 to 671.710 that constructs fences, decks,
- 4 arbors, patios, landscape edging, driveways, walkways or retaining walls and that meets the appli-
- 5 cable bonding requirements under ORS 671.690.
- 6 (f) A pesticide operator licensed under ORS 634.116 who does not conduct inspections for wood
- 7 destroying organisms for the transfer of real estate.
- 8 (g) An appraiser certified or licensed under ORS chapter 674 or an appraiser assistant registered
- 9 under ORS chapter 674 by the Appraiser Certification and Licensure Board.
- 10 (8) A person who performs work subject to this chapter as an employee of a contractor.
- 11 (9) A manufacturer of a manufactured home constructed under standards established by the
- 12 federal government.
- 13 (10) A person involved in the movement of:
- 14 (a) Modular buildings or structures other than manufactured structures not in excess of 14 feet
- 15 in width.
- 16 (b) Structures not in excess of 16 feet in width when the structures are being moved by their
- 17 owner if the owner is not a contractor required to be licensed under this chapter.
- 18 (11) A commercial lending institution or surety company that arranges for the completion, repair
- 19 or remodeling of a structure. As used in this subsection, "commercial lending institution" means
- 20 any bank, mortgage banking company, trust company, savings bank, savings and loan association,
- 21 credit union, national banking association, federal savings and loan association, insurance company
- 22 or federal credit union maintaining an office in this state.
- 23 (12) A real estate licensee as defined in ORS 696.010 or the employee of that licensee when
- 24 performing work on a structure that the real estate licensee manages under a contract.
- 25 (13) Units of government other than those specified in ORS 701.005 [(10)(b)] **(13)(b)** and (c).
- 26 (14) A qualified intermediary in a property exchange that qualifies under section 1031 of the
- 27 Internal Revenue Code as amended and in effect on January 1, 2004, if the qualified intermediary
- 28 is not performing construction activities.
- 29 (15) A business that supplies personnel to a licensed contractor for the performance of work
- 30 under the direction and supervision of the contractor.

31 **SECTION 15.** ORS 701.055 is amended to read:

32 701.055. (1) A person may not undertake, offer to undertake or submit a bid to do work as a

33 contractor unless that person has a current, valid license issued by the Construction Contractors

34 Board. A partnership, corporation or joint venture may not undertake, offer to undertake or submit

35 a bid to do work as a contractor unless that partnership, corporation or joint venture is licensed

36 under this chapter. A partnership or joint venture is licensed for the purpose of offering to under-

37 take work as a contractor on a structure if any of the partners or joint venturers whose name ap-

38 pears in the business name of the partnership or joint venture is licensed under this chapter.

39 **(2) A contractor may not undertake, offer to undertake or submit a bid to do work on a**

40 **building envelope unless the contractor holds a building envelope specialist certificate ap-**

41 **propriate for the work to be performed or employs or contracts with a certified building**

42 **envelope specialist holding a certificate appropriate for the work to be performed.**

43 [(2)] **(3)** A licensed partnership or corporation shall notify the board immediately upon any

44 change in licensed partners or corporate officers. If a partnership no longer has a licensed partner,

45 the partnership may not conduct activities that require a license under this chapter.

1           [(3)] (4) A city, county or the State of Oregon may not issue a building permit to any person  
 2 required to be licensed **or certified** under this chapter [*that does not have a current, valid license*]  
 3 **unless the required license or certificate is current and valid.** A county, city or state agency  
 4 that requires the issuance of a permit as a condition precedent to construction, alteration, im-  
 5 provement, demolition, movement or repair of any building or structure or the appurtenances to the  
 6 structure shall, as a condition for issuing the permit, require that the applicant for a permit file a  
 7 written statement, subscribed by the applicant. The statement must affirm that the applicant is li-  
 8 censed **and certified as required** under this chapter, give the license [*number*] **and certificate**  
 9 **numbers** and state that the license **and certificate** is in full force and effect, or, if the applicant  
 10 is exempt from licensing **and certification** under this chapter, list the basis for the exemption. The  
 11 city, county or state agency shall list the contractor’s license **and certificate** number on the permit  
 12 obtained by that contractor.

13           [(4)] (5) If the applicant for a building permit is exempt from licensure **and certification** under  
 14 ORS 701.010 (6), the city, county or state shall supply the applicant with an Information Notice to  
 15 Property Owners About Construction Responsibilities. The city, county or state may not issue a  
 16 building permit for a residential structure to the applicant until the applicant signs a statement in  
 17 substantially the following form:

18 \_\_\_\_\_  
 19  
 20           (a) I have read and understand the Information Notice to Property Owners About Construction  
 21 Responsibilities; and

22           (b) I own, reside in or will reside in the completed dwelling. My general contractor is  
 23 \_\_\_\_\_, Construction Contractors Board license no. \_\_\_\_\_, license expiration date  
 24 \_\_\_\_\_. I will instruct my general contractor that all subcontractors who work on this  
 25 dwelling must be licensed **and appropriately certified** with the Construction Contractors Board;  
 26 or

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

29           (d) I will be my own general contractor and, if I hire subcontractors, I will hire only subcon-  
 30 tractors licensed [*with*] **and appropriately certified by** the Construction Contractors Board.

31           (e) If I change my mind and do hire a general contractor, I will contract with a general con-  
 32 tractor who is licensed [*with*] **and appropriately certified by** the Construction Contractors Board  
 33 and I will immediately notify the office issuing this building permit of the name of the general con-  
 34 tractor \_\_\_\_\_.

35 \_\_\_\_\_  
 36  
 37           [(5)] (6) The board shall adopt by rule a form entitled “Information Notice to Property Owners  
 38 About Construction Responsibilities” that shall describe, in nontechnical language and in a clear  
 39 and coherent manner using words in their common and everyday meaning, the responsibilities  
 40 property owners are undertaking by acting as their own general contractor and the problems that  
 41 could develop. The responsibilities described in the form shall include, but not be limited to:

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

44           (b) Workers’ compensation insurance on workers.

45           (c) Liability and property damage insurance.



1        [(6)] (7) The board shall develop and furnish to city, county and state building permit offices,  
 2 at no cost to the offices, the Information Notice to Property Owners About Construction Responsi-  
 3 bilities and the statement to be signed by the permit applicant.

4        [(7)] (8) A city or county that requires a business license for engaging in a business subject to  
 5 regulation under this chapter shall require that the licensee or applicant for issuance or renewal  
 6 of the business license file, or have on file, with the city or county, a signed statement that the  
 7 licensee or applicant:

8            (a) Is licensed under this chapter; **and**

9            (b) **If undertaking or performing work on a building envelope, is certified as:**

10           (A) **A building envelope specialist or employs or contracts with a certified building en-**  
 11 **velope specialist; and**

12           (B) **A building envelope installer or employs or contracts with at least one certified**  
 13 **building envelope installer.**

14        [(8)] (9) It is prima facie evidence of doing business as a contractor if a person for that person's  
 15 own use performs, employs others to perform, or for compensation and with the intent to sell the  
 16 structure, arranges to have performed any work described in ORS 701.005 [(3)] (6) if within any  
 17 36-month period that person offers for sale two or more newly built structures on which that work  
 18 was performed.

19        [(9)] (10) Licensure under this chapter is prima facie evidence that the licensee conducts a sep-  
 20 arate, independent business.

21        [(10)] (11) The provisions of this chapter are exclusive and a city, county or other political  
 22 subdivision may not require or issue any registrations, licenses or surety bonds, nor charge any fee  
 23 for the regulatory or surety registration of any contractor licensed with the board. This subsection  
 24 does not limit or abridge the authority of any city or county to:

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

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

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

30        [(11)(a)] (12)(a) A contractor shall maintain a list that includes the following information about  
 31 all subcontractors or other contractors performing work on a project for that contractor:

32           (A) Names and addresses.

33           (B) License numbers.

34           (C) **Certificate numbers of building envelope specialists and building envelope installers.**

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

37        [(12)] (13) A contractor may not hire any subcontractor or other contractor to perform work  
 38 unless the subcontractor or contractor is licensed **and appropriately certified** under this chapter  
 39 or exempt from licensure **and certification** under ORS 701.010.

40        [(13)] (14) A consumer notification form designed to specifically inform a property owner what  
 41 the property owner should do to protect themselves in a residential repair, remodel or construction  
 42 project shall be prepared by the board and provided at no cost to all licensed contractors. The  
 43 contractor shall deliver the form to the property owner when the contractor submits a bid or pro-  
 44 posal for work on a residential structure. The form shall include an explanation of the meaning of  
 45 licensure **and certification**, including a statement that licensure **or certification** is not an

1 endorsement of a contractor's work, and an explanation of the bond and insurance levels required  
 2 of contractors for the benefit of property owners. The form must not be larger than one side of a  
 3 sheet of paper that is 8-1/2 inches by 11 inches. The contractor may reproduce the form on the  
 4 contractor's bid proposal.

5 [(14)] (15) A contractor may not perform work subject to this section for an owner of a resi-  
 6 dential structure without a written contract if the aggregate contract price exceeds \$2,000. If the  
 7 price of a contract was initially less than \$2,000, but during the course of performance the contract  
 8 exceeds that amount, the contractor shall mail or otherwise deliver a written contract to the owner  
 9 not later than five days after the contractor knows or should reasonably know that the contract  
 10 price will exceed \$2,000. Failure to have a written contract will not void the contract.

11 [(15)] (16) Except as provided in ORS 671.540, a contractor that is not licensed under ORS  
 12 671.560 shall hire a person licensed under ORS 671.560 to perform landscaping work.

13 **SECTION 16.** ORS 701.060 is amended to read:

14 701.060. (1) Any contractor licensed under this chapter may at any time apply for a license in  
 15 another category. The Construction Contractors Board may charge a transfer fee not to exceed \$20  
 16 for each additional license.

17 (2) If a contractor applies for a license pursuant to subsection (1) of this section all construction,  
 18 alteration, improvement, moving over public highways, roads or streets, demolition or repair per-  
 19 formed by that contractor on buildings of all types shall be subject to the provisions of this chapter  
 20 and to regulation by the board. Such licensure shall be exclusive as provided in ORS 701.055 [(10)]  
 21 (11).

22 **SECTION 17.** ORS 701.065 is amended to read:

23 701.065. (1) Except as provided in subsection (2) of this section, a contractor may not perfect a  
 24 claim of a construction lien, or commence a claim with the Construction Contractors Board, in ar-  
 25 bitration or in any court of this state for compensation for the performance of any work or for the  
 26 breach of any contract for work that is subject to this chapter, unless the contractor had a valid  
 27 license **and appropriate certification** issued by the board:

- 28 (a) At the time the contractor bid or entered into the contract for performance of the work; and
- 29 (b) Continuously while performing the work for which compensation is sought.

30 (2) The board, arbitrator or court shall not apply the provisions of subsection (1) of this section  
 31 to a lien or claim if the board, arbitrator or court determines that:

32 (a) The contractor either did not have a valid license **or appropriate certificate** at any time  
 33 required under subsection (1) of this section, or had an initial issuance thereof, and:

34 (A) The contractor was not aware of the requirement that the contractor be licensed **or ap-**  
 35 **propriately certified**, and the contractor submitted a completed application for a license **and ap-**  
 36 **propriate certification** within a number of days established by the board, but not more than 90  
 37 days, of the date the contractor became aware of the requirement;

38 (B) At the time the contractor perfected a claim of a construction lien or commenced any other  
 39 claim subject to the provisions of subsection (1) of this section, the contractor was licensed **and**  
 40 **appropriately certified** by the board; and

41 (C) Enforcement of the provisions of subsection (1) of this section would result in substantial  
 42 injustice to the contractor;

43 (b) The contractor was licensed **and appropriately certified** by the board for some but not all  
 44 of the times required under subsection (1) of this section and had a lapse in such license **or cer-**  
 45 **tificate** and:

1 (A) The contractor was not aware of the lapse in the license **or certificate** for more than a  
 2 number of days established by the board, but not to exceed 90 days, before submitting a completed  
 3 application for license **or certificate** renewal with the board;

4 (B) Except for perfection of a claim of a construction lien and a suit to foreclose the lien, at the  
 5 time the contractor commenced any other claim subject to the provisions of subsection (1) of this  
 6 section the contractor's license **and any appropriate certificate** was renewed under ORS 701.115  
 7 to include the entire time period for which a license **and certificate** was required under subsection  
 8 (1) of this section; and

9 (C) For perfection of a claim of a construction lien and a suit to foreclose the lien, the con-  
 10 tractor's license **and any appropriate certificate** was renewed under ORS 701.115 for the entire  
 11 time period for which a license **and certificate** was required under subsection (1) of this section,  
 12 but not later than 90 days following perfection of the lien;

13 (c)(A) The contractor is a licensed developer and did not have a valid license during all or part  
 14 of the period described in subsection (1) of this section;

15 (B) The licensed developer was unaware of the license requirement and obtained a license  
 16 within a time established by the board, not to exceed 90 days after the licensed developer learned  
 17 of the requirement;

18 (C) The licensed developer was licensed at the time the licensed developer perfected the lien  
 19 or commenced the claim; and

20 (D) Enforcement of subsection (1) of this section would result in substantial injustice to the li-  
 21 censed developer; or

22 (d) The claim:

23 (A) Is directed against a person or entity that:

24 (i) Is subject to this chapter or ORS chapter 671 or 672;

25 (ii) Provides construction or design labor or services of any kind; or

26 (iii) Manufactures, distributes, rents or otherwise provides materials, supplies, equipment, sys-  
 27 tems or products; and

28 (B) Arises out of defects, deficiencies or inadequate performance in the construction, design,  
 29 labor, services, materials, supplies, equipment, systems or products provided.

30 (3) If a contractor falsely swears to information provided under ORS 701.075 or knowingly vio-  
 31 lates the provisions of ORS 656.029, 670.600 or 701.075, the contractor may not perfect a claim of a  
 32 construction lien, or commence a claim with the board, in arbitration or in any court of this state  
 33 for compensation for the performance of any work on a residential structure or for the breach of  
 34 any contract for work on a residential structure that is subject to this chapter.

35 **SECTION 18.** ORS 701.067 is amended to read:

36 701.067. If any person suffered costs or damages as a result of an individual providing a false  
 37 or invalid Construction Contractors Board number or otherwise misleading a person with respect  
 38 to licensure **or certification** with the board, that person may bring suit in a court of competent  
 39 jurisdiction to recover damages. The court may award reasonable attorney fees to the prevailing  
 40 party in an action under this section.

41 **SECTION 19.** ORS 701.103 is amended to read:

42 701.103. A lapse, surrender, suspension or other change in license **or certificate** status does not  
 43 affect any authority otherwise granted the Construction Contractors Board to proceed with an in-  
 44 vestigation, conduct a disciplinary hearing or take disciplinary action against a person for a vio-  
 45 lation of this chapter or rules of the board, or to determine a timely claim described in ORS 701.140.

1        **SECTION 20.** ORS 701.115 is amended to read:

2        701.115. (1) A license is valid for two years from the date of issuance unless the license is re-  
3        voked or suspended as set forth in ORS 701.135. **A certificate is valid for a term established by**  
4        **the Construction Contractors Board by rule.**

5        (2) A license **or certificate** may be renewed by submitting an application for renewal on the  
6        prescribed form, providing any additional information required, including evidence of completion of  
7        any required education, and submitting the appropriate application fee, as provided by Construction  
8        Contractors Board rule.

9        (3) The board may vary the dates of license **or certificate** renewal by giving to the licensee  
10       **or certificate holder** written notice of the renewal date assigned and by making appropriate ad-  
11       justments in the fee for the license **or certificate** renewal application.

12       (4) If a contractor applies for renewal not more than one year after the contractor's license **or**  
13       **certificate** lapses, upon the contractor's compliance with the requirements of subsection (2) of this  
14       section, the board may renew the lapsed license **or certificate**. The board may designate the effec-  
15       tive date of renewal as the last date on which the contractor was licensed **or certified**.

16       (5) A contractor may convert a license **or certificate** to inactive status if the contractor is not  
17       engaged in work as a contractor. A contractor having an inactive license **or certificate** is subject  
18       to board licensing **and certification** requirements and application fees, but is not subject to the  
19       bonding requirement of ORS 701.085 or the insurance requirement of ORS 701.105. An inactive li-  
20       cense **or certificate** is not considered [a] valid [*license*] for purposes of offering to undertake con-  
21       struction work, submitting a bid for construction work, obtaining a building permit or performing  
22       construction work. A license **or certificate** may not be placed or maintained in inactive status more  
23       than once during any two-year licensing term.

24       (6) The board shall issue a pocket-card [*certificate of licensure*] **identification** to a contractor,  
25       **building envelope specialist or building envelope installer** licensed **or certified** under this chap-  
26       ter indicating the type of license **or certificate** issued.

27       **SECTION 21.** ORS 701.125 is amended to read:

28       701.125. Each applicant shall pay to the Construction Contractors Board:

29       (1) For an application for the issuance or renewal of a contractor license, **building envelope**  
30       **specialist certificate or building envelope installer certificate**, an application fee as determined  
31       by the board under ORS 701.130.

32       (2) For an application for changes to a contractor license, **building envelope specialist certif-**  
33       **icate or building envelope installer certificate**, other than changes due to clerical errors by the  
34       board, an application fee established by board rule.

35       **SECTION 22.** ORS 701.130 is amended to read:

36       701.130. (1) Before July 1 of each year, the Construction Contractors Board shall determine the  
37       amounts of the fees to be charged for applications under ORS 701.125 for the issuance or renewal  
38       of contractor licenses, **building envelope specialist certificates and building envelope installer**  
39       **certificates**. The fee amounts are subject to prior approval of the Oregon Department of Adminis-  
40       trative Services and a report to the Emergency Board prior to adoption. The fee amounts shall be  
41       within the budget authorized by the Legislative Assembly as that budget may be modified by the  
42       Emergency Board. The fee amounts established under this section may not exceed the cost of ad-  
43       ministering the regulatory program of the board under this chapter, as authorized by the Legislative  
44       Assembly within the board's budget, as the budget may be modified by the Emergency Board.

45       (2) The amounts of the fees determined by the board under subsection (1) of this section shall

1 be effective as set by rule.

2 **SECTION 23.** ORS 701.135 is amended to read:

3 701.135. (1) The Construction Contractors Board may revoke, suspend or refuse to issue or re-  
 4 issue a license **or certificate** and [*the board*] may assess a civil penalty as provided in ORS 701.992  
 5 **against a person** if the board determines after notice and opportunity for hearing:

6 (a) That the [*licensee or applicant*] **person** has violated ORS 701.055, [*or*] 701.078 **or section 5**  
 7 **of this 2007 Act.**

8 (b) That the [*licensee*] **person** has violated a rule or order of the board.

9 (c) That the [*licensee*] **person** has knowingly assisted an unlicensed **or uncertified** person to act  
 10 in violation of this chapter.

11 (d) That a lien was filed on a structure under ORS 87.010 to 87.060 and 87.075 to 87.093 because  
 12 the [*licensee or applicant*] **person** wrongfully failed to perform a contractual duty to pay money to  
 13 [*the person claiming*] the lien **claimant.**

14 (e) That the [*licensee*] **person** has knowingly provided false information to the board.

15 (f) That the [*licensee*] **person** has worked **as a licensed contractor** without a construction  
 16 permit where a permit is required and the work resulted in a claim being filed with the board. For  
 17 purposes of this paragraph, “construction permit” includes a building permit, electrical permit, me-  
 18 chanical permit or plumbing permit.

19 (g) That the number of licensed contractors, **including the person**, working together on the  
 20 same task on the same job site[,] where one of the contractors is licensed as exempt under ORS  
 21 701.035 (2)(b)[,] exceeded the following:

22 (A) Two sole proprietors;

23 (B) One partnership;

24 (C) One corporation; or

25 (D) One limited liability company.

26 (h) Consistent with the provisions of ORS 670.280, that the [*licensee or applicant*] **person** has  
 27 been convicted of one of the following crimes:

28 (A) Murder;

29 (B) Assault in the first degree;

30 (C) Kidnapping;

31 (D) Rape, sodomy or unlawful sexual penetration;

32 (E) Sexual abuse;

33 (F) Arson in the first degree;

34 (G) Robbery in the first degree;

35 (H) Theft in the first degree; or

36 (I) Theft by extortion.

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

41 (j) That the [*licensee or applicant*] **person** has repeatedly reported bad faith or false claims of  
 42 nonpayment against contractors or subcontractors.

43 (k) That the [*licensee or applicant*] **person** has engaged in conduct as a contractor, **building**  
 44 **envelope specialist or building envelope installer** that is dishonest or fraudulent and that the  
 45 board finds injurious to the welfare of the public.

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

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

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

7 (C) Hiring employees while licensed as exempt under ORS 701.035; or

8 (D) Conduct as a construction contractor, **building envelope specialist or building envelope**  
 9 **installer** that is dishonest or fraudulent.

10 (b) If the [*licensee or applicant*] **person** demands a hearing within 90 days after the date of notice  
 11 to the [*licensee or applicant*] **person** of the suspension or refusal to renew, then a hearing must be  
 12 granted to the [*licensee or applicant*] **person** as soon as practicable after the demand, and the ad-  
 13 ministrator shall issue an order pursuant to the hearing as required by ORS chapter 183 confirming,  
 14 altering or revoking the administrator's earlier order. Notwithstanding ORS 670.325, a hearing need  
 15 not be held where the order of suspension or refusal to renew is accompanied by or is pursuant to  
 16 a citation for violation that is subject to judicial determination in any court of this state, and the  
 17 order by its terms will terminate in case of final judgment in favor of the [*licensee or applicant*]  
 18 **person**.

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

25 (4) A certified copy of the record of conviction shall be conclusive evidence of a conviction un-  
 26 der subsection (1)(h) of this section.

27 (5) If the board suspends or revokes the license of an individual contractor or contractor busi-  
 28 ness for a violation of subsection (1)(g) of this section, the board may not restore or reissue the li-  
 29 cense unless the individual contractor or a responsible managing individual, as defined in ORS  
 30 701.078, for the contractor business has successfully completed the training and testing described in  
 31 ORS 701.072.

32 **SECTION 24.** ORS 701.138 is amended to read:

33 701.138. (1) Every person offering to undertake or undertaking construction of building sewer  
 34 piping shall comply with the requirements of ORS chapter 701.

35 (2) Every person submitting a bid or a written estimate of the costs to construct building sewer  
 36 piping shall provide to potential customers, prior to an agreement to perform, the following:

37 (a) The person's Construction Contractors Board license number and category;

38 (b) The applicable bonding and liability coverage; and

39 (c) The statement described in ORS 701.055 [(3)] (4).

40 (3) Any person licensed under ORS 701.055 may install a building sewer after obtaining a permit  
 41 for plumbing inspection under ORS 447.095.

42 (4) As used in this section, "building sewer" means that part of the system of drainage piping  
 43 that conveys sewage into a septic tank, cesspool or other treatment unit that begins five feet outside  
 44 the building or structure within which the sewage originates.

45 **SECTION 25.** ORS 701.145 is amended to read:

1 701.145. For a claim described in ORS 701.139 (1) involving work on a residential structure or  
 2 an appurtenance thereto, a claim described in ORS 701.139 (2) involving work on a small commercial  
 3 structure or an appurtenance thereto that is not resolved under ORS 701.146 or an owner’s claim  
 4 described in ORS 701.139 (4) involving work on a large commercial structure or an appurtenance  
 5 thereto that is not resolved under ORS 701.146:

6 (1) The person having the claim must file with the Construction Contractors Board a statement  
 7 of the claim in a form prescribed by the board.

8 (2) The board may suspend processing of the claim if:

9 (a) The same facts and issues involved in the claim have been submitted to a court of competent  
 10 jurisdiction for determination or have been submitted to any other entity authorized by law or the  
 11 parties to effect a resolution or settlement; or

12 (b) The board determines that the nature or complexity of the claim is such that a court is the  
 13 appropriate forum for the adjudication of the claim.

14 (3) The board may dismiss or close the claim as established by rule of the board if any of the  
 15 following conditions apply:

16 (a) The claimant does not permit the contractor against whom the claim is filed to be present  
 17 at an on-site investigation made by the board.

18 (b) The board determines that the contractor against whom the claim is filed is capable of  
 19 complying with recommendations made by the board relative to the claim, but the claimant does not  
 20 permit the contractor to comply with the recommendations. The board may refuse to accept or fur-  
 21 ther process a claim under this paragraph only if the contractor was licensed **and appropriately**  
 22 **certified** at the time the work was first performed and is licensed **and appropriately certified** at  
 23 the time the board makes its recommendations.

24 (c) The amount in controversy is less than an amount adopted by the board and not more than  
 25 \$250.

26 (4) Upon acceptance of the statement of claim, the board shall give notice to the contractor  
 27 against whom the claim is made and shall initiate proceedings to determine the validity of the claim.  
 28 If, after investigation, the board determines that a violation of this chapter or of any rule adopted  
 29 thereunder has occurred, or damage has been caused by the contractor, the board may recommend  
 30 to the contractor such action as the board considers appropriate to compensate the claimant. If the  
 31 contractor performs accordingly, the board shall give that fact due consideration in any subsequent  
 32 disciplinary proceeding brought by the board. If a claim is for less than \$1,000, the board may pro-  
 33 cess the claim without conducting an on-site investigation.

34 (5) Subject to ORS 701.148, if the board is unable to resolve the claim under subsection (4) of  
 35 this section, the board may issue a contested case notice under ORS 183.415 and:

36 (a) Issue a proposed default order under ORS 183.415 to become effective only if a party does  
 37 not request a contested case hearing; or

38 (b) Refer the matter for hearing.

39 (6) The board shall send a copy of the notice and any proposed order described in subsection (5)  
 40 of this section to the surety on the contractor bond required by ORS 701.085.

41 **SECTION 26.** ORS 701.590 is amended to read:

42 701.590. (1) A contractor shall deliver a notice of the procedure contained in ORS 701.565 to  
 43 701.580 to an owner along with the consumer notification form required to be delivered to an owner  
 44 under ORS 701.055 [(13)] (14). The notice must be conspicuous and may be included as part of the  
 45 underlying contract.

1 (2) The notice required by subsection (1) of this section must be in substantially the following  
2 form:

3 \_\_\_\_\_  
4  
5 OREGON LAW CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE  
6 YOU MAY COMMENCE ARBITRATION OR A COURT ACTION AGAINST ANY CONTRACTOR,  
7 SUBCONTRACTOR OR SUPPLIER FOR CONSTRUCTION DEFECTS. BEFORE YOU COM-  
8 MENCE ARBITRATION OR A COURT ACTION YOU MUST DELIVER A WRITTEN NOTICE OF  
9 ANY CONDITIONS YOU ALLEGE ARE DEFECTIVE TO THE CONTRACTOR, SUBCONTRAC-  
10 TOR OR SUPPLIER YOU BELIEVE IS RESPONSIBLE FOR THE ALLEGED DEFECT AND PRO-  
11 VIDE THE CONTRACTOR, SUBCONTRACTOR OR SUPPLIER THE OPPORTUNITY TO MAKE  
12 AN OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT  
13 ANY OFFER MADE BY THE CONTRACTOR, SUBCONTRACTOR OR SUPPLIER. THERE ARE  
14 STRICT DEADLINES AND PROCEDURES UNDER STATE LAW. FAILURE TO MEET THOSE  
15 DEADLINES OR FOLLOW THOSE PROCEDURES WILL AFFECT YOUR ABILITY TO COM-  
16 MENCE ARBITRATION OR A COURT ACTION.

17 \_\_\_\_\_  
18  
19 **SECTION 27.** ORS 701.990 is amended to read:

20 701.990. (1) Violation of ORS 701.055 (1) **or (2)** is a Class A misdemeanor.

21 (2) The intentional use of a contractor’s license number without the authorization of the licensed  
22 contractor is a Class A misdemeanor.

23 (3) Use of a contractor’s license number, with or without the authorization of the licensed con-  
24 tractor, with the intent to deceive the public is a Class A misdemeanor.

25 **(4) The intentional use of a building envelope specialist or building envelope installer**  
26 **certification number without the authorization of the certificate holder is a Class A**  
27 **misdemeanor.**

28 **(5) Use of a building envelope specialist or building envelope installer certification num-**  
29 **ber, with or without the authorization of the certificate holder, with the intent to deceive**  
30 **the public is a Class A misdemeanor.**

31 **SECTION 28.** (1) Sections 2 and 8 of this 2007 Act and the amendments to ORS 701.005,  
32 701.010, 701.055, 701.060, 701.065, 701.067, 701.103, 701.115, 701.125, 701.130, 701.135, 701.138,  
33 701.145, 701.590 and 701.990 by sections 13 to 27 of this 2007 Act become operative January 1,  
34 2009.

35 **(2) Section 8 of this 2007 Act applies to work performed by a certified building envelope**  
36 **specialist on or after January 1, 2009.**

37 **(3) The Construction Contractors Board shall adopt rules under section 7 of this 2007 Act**  
38 **to become effective no later than January 1, 2009. The board shall make forms available to**  
39 **municipalities under section 7 of this 2007 Act no later than January 1, 2009.**

40 **SECTION 29.** This 2007 Act being necessary for the immediate preservation of the public  
41 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**  
42 **on its passage.**