

**HOUSE AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3242
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By JOINT COMMITTEE ON WAYS AND MEANS

June 25

1 On page 1 of the printed A-engrossed bill, line 5, after “701.992” insert “and sections 2 and 5,
2 chapter 114, Oregon Laws 2007 (Enrolled House Bill 2109)”.

3 In line 6, delete the first “and” and after “701.252” insert “; limiting expenditures; and declaring
4 an emergency”.

5 In line 10, after “person” insert “or joint venture”.

6 In line 14, after “person” insert “or joint venture”.

7 On page 2, line 5, after “person” insert “or joint venture”.

8 In line 17, after “person” insert “or joint venture”.

9 On page 9, line 19, delete “or”.

10 In line 23, delete the period and insert “; or

11 “(c) A nonresidential structure of any size for which the contract price of all construction con-
12 tractor work to be performed on the structure as part of a construction project does not total more
13 than \$250,000.”.

14 On page 11, delete lines 27 through 45.

15 Delete pages 12 through 15.

16 On page 16, delete lines 1 through 16 and insert:

17 “**SECTION 16.** ORS 701.055, as amended by section 8, chapter 114, Oregon Laws 2007 (Enrolled
18 House Bill 2109), is amended to read:

19 “701.055. [(1) A person or joint venture may not undertake, offer to undertake or submit a bid to
20 do work as a contractor unless that person or joint venture has a current, valid license issued under
21 this chapter by the Construction Contractors Board. A partnership or joint venture is licensed for the
22 purpose of offering to undertake work as a contractor on a structure if any of the partners or joint
23 venturers whose name appears in the business name of the partnership or joint venture is licensed
24 under this chapter.]

25 “[2] (1) A contractor may not hire [any subcontractor or other] a contractor to perform work
26 unless the [subcontractor or] contractor is licensed under this chapter **and properly endorsed for**
27 **the work to be performed** or is exempt from licensure under ORS 701.010.

28 “[3] (2) Except as provided in ORS 671.540, a contractor that is not licensed under ORS 671.560
29 shall hire a person licensed under ORS 671.560 to perform landscaping work.

30 “**SECTION 16a.** Section 2, chapter 114, Oregon Laws 2007 (Enrolled House Bill 2109), is
31 amended to read:

32 “**Sec. 2.** (1) If a person is required under this chapter to be licensed as a contractor, a city,
33 county or state agency may not issue the person a building permit unless the person has a current,
34 valid contractor license **properly endorsed for the work to be performed**. A city, county or state

1 agency that requires the issuance of a permit for the construction, alteration, improvement, demo-
2 lition, movement or repair of a building, structure or appurtenances to a structure shall, as a con-
3 dition for issuing the permit, require the applicant for a permit to file a written statement signed
4 by the applicant. [The statement must affirm that the applicant is licensed under this chapter, give
5 the] **If the applicant is a contractor, the contractor shall provide the contractor's** license
6 number and state that the license is in full force and effect[, or, if the applicant is exempt from li-
7 censing under this chapter, list the basis for the exemption]. **If the applicant is exempt from li-**
8 **censing under this chapter, the applicant shall state the basis for the exemption.** The city,
9 county or state agency shall list the contractor's license number on the permit issued to that con-
10 tractor.

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

16 “ _____

17
18 (a) I have read and understand the Information Notice to Property Owners About Construction
19 Responsibilities; and

20 (b) I own, reside in or will reside in the completed dwelling. My **residential** general contractor
21 is _____, Construction Contractors Board license no. _____, license expiration
22 date _____. I will instruct my [general] contractor that all subcontractors who work on
23 this dwelling must be licensed with the Construction Contractors Board **and properly endorsed for**
24 **the work to be performed;** or

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

27 (d) I will be my own [general] contractor and, if I hire [subcontractors] **contractors**, I will hire
28 only [subcontractors] **contractors** licensed with the Construction Contractors Board **and properly**
29 **endorsed for the work to be performed.**

30 (e) If I change my mind and do hire a **residential** general contractor, I will contract with a
31 [general] contractor who is licensed with the Construction Contractors Board and **properly en-**
32 **dorsed for the work to be performed.** I will immediately notify the office issuing this building
33 permit of the name **and license number** of the [general] contractor _____.

34 “ _____

35
36 “(3) The Construction Contractors Board shall adopt by rule a form titled ‘Information Notice
37 to Property Owners About Construction Responsibilities’ that clearly describes in everyday language
38 the responsibilities property owners are undertaking by acting as their own [general] contractor and
39 the problems that could develop. The responsibilities described in the form shall include, but not be
40 limited to:

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

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

44 “(c) Liability and property damage insurance.

45 “(4) The board shall develop and furnish to city, county and state building permit offices, at no

1 cost to the offices, the Information Notice to Property Owners About Construction Responsibilities
2 and the statement to be signed by the permit applicant.

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

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

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

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

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

16 “**SECTION 16b.** If House Bill 2654 does not become law, section 5, chapter 114, Oregon Laws
17 2007 (Enrolled House Bill 2109), is amended to read:

18 “**Sec. 5.** (1) The Construction Contractors Board shall prepare, and provide at no cost to all li-
19 censed contractors, a consumer notification form designed to specifically inform property owners
20 what the property owners should do to protect themselves in a residential repair, remodel or con-
21 struction project. The form shall include an explanation of the meaning of licensure, including a
22 statement that licensure is not [*an endorsement*] **a guarantee** of a contractor’s work, and an expla-
23 nation of the bond and insurance levels required of contractors for the benefit of property owners.
24 The form must not be larger than one side of a sheet of paper that is 8-1/2 inches by 11 inches.

25 “(2) A contractor shall deliver the consumer notification form to the property owner when the
26 contractor submits a bid or proposal for work on a residential structure. The contractor may re-
27 produce the form on the contractor’s bid proposal.

28 “**SECTION 17.** ORS 701.060, as amended by section 9, chapter 114, Oregon Laws 2007 (Enrolled
29 House Bill 2109), is amended to read:

30 “701.060. [(1)] Any contractor licensed under this chapter may at any time apply for [*a license*
31 *in another category*] **an additional or different endorsement**. The Construction Contractors Board
32 may charge a [*transfer*] fee not to exceed \$20 for each [*additional license*] **application**.

33 “[*2*] *If a contractor applies for a license pursuant to subsection (1) of this section, all construction,*
34 *alteration, improvement, moving over public highways, roads or streets, demolition or repair performed*
35 *by that contractor on buildings of all types shall be subject to the provisions of this chapter and to*
36 *regulation by the board. Licensure under subsection (1) of this section shall be exclusive as provided*
37 *in section 2 (6) of this 2007 Act.*”].

38 On page 45, delete lines 44 and 45 and delete page 46 and insert:

39 “**SECTION 52.** If Senate Bill 94 becomes law, section 10 of this 2007 Act is amended to read:

40 “**Sec. 10.** (1) If an order of the Construction Contractors Board that determines a [*claim*] **com-**
41 **plaint** under ORS 701.145 becomes final by operation of law or on appeal and remains unpaid 10
42 days after the date the order becomes final, the [*claimant*] **complainant** may file the order with the
43 county clerk in any county of this state.

44 “(2) Upon receipt, the clerk shall record the order in the County Clerk Lien Record. In addition
45 to any other remedy provided by law, recording an order in the County Clerk Lien Record pursuant

1 to the provisions of this section has the effect provided for in ORS 205.125 and 205.126, and the or-
2 der may be enforced as provided in ORS 205.125 and 205.126.

3 “(3)(a) Payments from the surety bond of a residential contractor pursuant to board order and
4 notice are satisfied in the following priority in any 90-day period:

5 “(A) Board orders as a result of [claims] **complaints** against a residential contractor by the
6 owner of a residential or small commercial structure have payment priority to the full extent of the
7 bond over all other types of [claims] **complaints**.

8 “(B) If the [claims] **complaints** described in subparagraph (A) of this paragraph do not exhaust
9 the bond, then amounts due as a result of all other types of residential or small commercial struc-
10 ture [claims] **complaints** filed within that 90-day period may be satisfied from the bond, except that
11 the total amount paid from any one bond to nonowner [claimants] **complainants** may not exceed
12 \$3,000.

13 “(b) A 90-day period begins on the date the first [claim] **complaint** is filed with the board. Sub-
14 sequent 90-day periods begin on the date the first [claim] **complaint** is filed with the board after the
15 close of the preceding 90-day period.

16 “(4) If the total [claims] **complaints** filed with the board against a residential contractor within
17 90 days after the board receives notice of the first [claim] **complaint** against the contractor exceed
18 the amount of the bond available for those [claims] **complaints**, the bond shall be apportioned as
19 the board determines, subject to the priorities established under this section.

20 “(5) If the total amounts due as a result of [claims] **complaints** filed with the board within 90
21 days after the first [claim] **complaint** is filed do not exceed the amount of the bond available for
22 those [claims] **complaints**, all amounts due as a result of [claims] **complaints** filed within the 90-day
23 period shall have priority over all [claims] **complaints** subsequently filed until the amount of the
24 bond available for the payment of [claims] **complaints** is exhausted.

25 “(6) The total amount paid from a residential contractor bond for costs, interest and attorney
26 fees may not exceed \$3,000.

27 “**SECTION 53.** If Senate Bill 94 becomes law, section 11 of this 2007 Act is amended to read:

28 “**Sec. 11.** (1)(a) Payments from the surety bond of a commercial contractor pursuant to Con-
29 struction Contractors Board order and notice are satisfied in the following priority in any 90-day
30 period:

31 “(A) Board orders as a result of [claims] **complaints** against a commercial contractor by a
32 person furnishing labor to a contractor or owed employee benefits by a contractor have payment
33 priority to the full extent of the bond over all other types of [claims] **complaints**.

34 “(B) If the [claims] **complaints** described in subparagraph (A) of this paragraph do not exhaust
35 the bond, then amounts due as a result of all other types of small commercial or large commercial
36 structure [claims] **complaints** may be satisfied from the bond, except [claims] **complaints** for costs,
37 interest and attorney fees.

38 “(C) If [claims] **complaints** described in subparagraphs (A) and (B) of this paragraph do not
39 exhaust the bond, then [claims] **complaints** for costs, interest and attorney fees resulting from small
40 commercial or large commercial structure [claims] **complaints** may be satisfied from the bond.

41 “(b) A 90-day period begins on the date the first [claim] **complaint** is filed with the board. Sub-
42 sequent 90-day periods begin on the date the first [claim] **complaint** is filed with the board after the
43 close of the preceding 90-day period.

44 “(2) If the total [claims] **complaints** filed with the board against a commercial contractor within
45 90 days after the board receives notice of the first [claim] **complaint** against the contractor exceed

1 the amount of the bond available for those *[claims]* **complaints**, the bond shall be apportioned as
2 the board determines, subject to the priorities established under this section.

3 “(3) If the total amounts due as a result of *[claims]* **complaints** filed with the board within 90
4 days after the first *[claim]* **complaint** is filed do not exceed the amount of the bond available for
5 those *[claims]* **complaints**, all amounts due as a result of *[claims]* **complaints** filed within the 90-day
6 period shall have priority over all *[claims]* **complaints** subsequently filed until the amount of the
7 bond available for the payment of *[claims]* **complaints** is exhausted.

8 “**SECTION 54. If Senate Bill 605 becomes law and House Bill 2117 does not become law,**
9 **section 13 of this 2007 Act (amending ORS 701.005) is repealed and ORS 701.005, as amended**
10 **by section 1, chapter __, Oregon Laws 2007 (Enrolled Senate Bill 605), is amended to read:**

11 “701.005. As used in this chapter:

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

13 “(2) ‘**Commercial contractor**’ means a licensed contractor that holds an endorsement as
14 **a:**

15 “(a) **Commercial general contractor level 1;**

16 “(b) **Commercial specialty contractor level 1;**

17 “(c) **Commercial general contractor level 2;**

18 “(d) **Commercial specialty contractor level 2; or**

19 “(e) **Commercial developer.**

20 “(3) ‘**Commercial developer**’ means a developer of property that is zoned for or intended
21 **for use compatible with a small commercial or large commercial structure.**

22 “[2] (4) ‘Construction debt’ means an amount owed under:

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

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

25 “[3] (5) ‘Contractor’ means **any of the following:**

26 “(a) A person *[operating as a general contractor, residential-only contractor or specialty contractor*
27 *business or other person]* who, for compensation or with the intent to sell, arranges or undertakes
28 or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve,
29 inspect, move, wreck or demolish, for another, any building, highway, road, railroad, excavation or
30 other structure, project, development or improvement attached to real estate, or to clean or service
31 chimneys, or to do any part thereof.

32 “(b) **A person that purchases or owns property and constructs or for compensation ar-**
33 **ranges for the construction of one or more residential structures or small commercial**
34 **structures with the intent of selling the structures.**

35 “(c) **A school district, as defined in ORS 332.002, that permits students to construct a**
36 **residential structure or small commercial structure as an educational experience to learn**
37 **building techniques and sells the completed structure.**

38 “(d) **A community college district, as defined in ORS 341.005, that permits students to**
39 **construct a residential structure or small commercial structure as an educational experience**
40 **to learn building techniques and sells the completed structure.**

41 “(e) **Any person except a landscape contractor, nurseryman, gardener or person engaged**
42 **in the commercial harvest of forest products, that is engaged as an independent contractor**
43 **to remove trees, prune trees, remove tree limbs or stumps or to engage in tree or limb**
44 **guying.**

45 “(f) **A business that supplies the services of a home inspector certified under ORS 701.350,**

1 a lead-based paint inspector licensed under ORS 701.515 or a cross connection inspector and
2 backflow assembly tester certified under ORS 448.279.

3 “(6) ‘Developer’ means a contractor that owns property or an interest in property and
4 engages in the business of arranging for construction work or performing other activities
5 associated with the improvement of real property, with the intent to sell the property.

6 “[4] (7) ‘General contractor’:

7 “(a) Means a contractor whose business operations require the use of more than two unrelated
8 building trades or crafts that the contractor supervises or performs in whole or part, whenever the
9 sum of all contracts on any single property, including materials and labor, exceeds an amount es-
10 tablished by rule by the board. [*‘General contractor’ does not include specialty contractors or limited*
11 *contractors, as described in ORS 701.085.*]

12 “(b) Does not mean a specialty contractor or a residential limited contractor.

13 “[5] (8) ‘Home inspector’ means a person who, for a fee, inspects and provides written reports
14 on the overall physical condition of a residential structure and the appurtenances thereto. ‘Home
15 inspector’ does not include persons certified under ORS chapter 455 to inspect new, repaired or al-
16 tered structures for compliance with the state building code.

17 “[6] *‘Inspector’ means a contractor registered with the board who inspects or otherwise provides*
18 *services to a property owner or other contractor but does not substantively add to or subtract from a*
19 *structure. ‘Inspector’ includes but is not limited to a home inspector certified under ORS 701.350, a*
20 *lead-based paint inspector licensed under ORS 701.515 and a cross connection inspector and backflow*
21 *assembly tester certified under ORS 448.279. ‘Inspector’ does not include city or county inspectors act-*
22 *ing under ORS 701.225 or an inspector as defined in ORS 455.715.]*

23 “(9) ‘Key employee’ means an employee or owner of a contractor who is a corporate of-
24 ficer, manager, superintendent, foreperson or lead person or any other employee identified
25 by the board by rule.

26 “[7] (10) ‘Large commercial structure’ means a structure that is not a residential structure or
27 small commercial structure.

28 “[8] *‘Licensed developer’ means a contractor who owns property or an interest in property and*
29 *arranges for construction work, if the contractor:]*

30 “[a] *Engages in the business of arranging for construction work and performing other activities*
31 *associated with the improvement of real property, with the intent to sell the property;]*

32 “[b] *Acts in association with one or more licensed general contractors and the general contractor*
33 *or combination of general contractors have sole responsibility for overseeing all phases of construction*
34 *activity on the property; and]*

35 “[c] *Does not perform any construction work on the property.]*

36 “[9] (11) ‘Officer’ means any of the following persons:

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

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

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

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

41 “(e) A trustee.

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

45 “[10] *‘Residential-only contractor’ means a general contractor or specialty contractor who performs*

1 *work exclusively in connection with residential structures and small commercial structures, and the*
2 *appurtenances thereto. 'Residential-only contractor' includes, but is not limited to:]*

3 *“(a) A person who purchases or owns property and constructs or for compensation arranges for*
4 *the construction of one or more residential structures or small commercial structures with the intent*
5 *of selling the structures;]*

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

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

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

15 **“(12) ‘Residential contractor’ means a licensed contractor that holds an endorsement as**
16 **a:**

17 **“(a) Residential general contractor;**

18 **“(b) Residential specialty contractor;**

19 **“(c) Residential limited contractor; or**

20 **“(d) Residential developer.**

21 **“(13) ‘Residential developer’ means a developer of property that is zoned for or intended**
22 **for use compatible with a residential or small commercial structure.**

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

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

30 **“(14) ‘Residential structure’:**

31 **“(a) Means:**

32 **“(A) A residence that is a site-built home;**

33 **“(B) A structure that contains one or more dwelling units and is four stories or less**
34 **above grade;**

35 **“(C) A condominium, rental residential unit or other residential dwelling unit that is part**
36 **of a larger structure, if the property interest in the unit is separate from the property in-**
37 **terest in the larger structure;**

38 **“(D) A modular home constructed off-site;**

39 **“(E) A manufactured dwelling; or**

40 **“(F) A floating home as defined in ORS 830.700.**

41 **“(b) Does not mean:**

42 **“(A) Subject to paragraph (a)(C) of this subsection, a structure that contains both resi-**
43 **dential and nonresidential units;**

44 **“(B) Transient lodging;**

45 **“(C) A residential school or residence hall;**

1 “(D) A state or local correctional facility other than a local facility for persons enrolled
2 in work release programs maintained under ORS 144.460;

3 “(E) A youth correction facility as defined in ORS 420.005;

4 “(F) A youth care center operated by a county juvenile department under administrative
5 control of a juvenile court pursuant to ORS 420.855 to 420.885;

6 “(G) A detention facility as defined in ORS 419A.004;

7 “(H) A nursing home;

8 “(I) A hospital; or

9 “(J) A place constructed primarily for recreational activities.

10 “(15) ‘Small commercial structure’ means:

11 “(a) A nonresidential structure that has a ground area of 10,000 square feet or less, in-
12 cluding exterior walls, and a height of not more than 20 feet from the top surface of the
13 lowest flooring to the highest interior overhead finish of the structure;

14 “(b) A nonresidential leasehold, rental unit or other unit that is part of a larger struc-
15 ture, if the unit has a ground area of 12,000 square feet or less, excluding exterior walls, and
16 a height of not more than 20 feet from the top surface of the lowest flooring to the highest
17 interior overhead finish of the unit; or

18 “(c) A nonresidential structure of any size for which the contract price of all con-
19 struction contractor work to be performed on the structure as part of a construction project
20 does not total more than \$250,000.

21 “[(13)] (16) ‘Specialty contractor’ means a contractor who performs work on a structure, project,
22 development or improvement and whose operations as such do not fall within the definition of
23 ‘general contractor.’ ‘Specialty contractor’ includes a person who performs work regulated under
24 ORS [chapter 446] 446.395.

25 “**SECTION 55. If House Bill 2117 becomes law and Senate Bill 605 does not become law,**
26 **section 13 of this 2007 Act (amending ORS 701.005) is repealed and ORS 701.005, as amended**
27 **by section 41, chapter __, Oregon Laws 2007 (Enrolled House Bill 2117), is amended to read:**

28 “701.005. As used in this chapter:

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

30 “(2) ‘Commercial contractor’ means a licensed contractor that holds an endorsement as
31 a:

32 “(a) Commercial general contractor level 1;

33 “(b) Commercial specialty contractor level 1;

34 “(c) Commercial general contractor level 2;

35 “(d) Commercial specialty contractor level 2; or

36 “(e) Commercial developer.

37 “(3) ‘Commercial developer’ means a developer of property that is zoned for or intended
38 for use compatible with a small commercial or large commercial structure.

39 “[(2)] (4) ‘Construction debt’ means an amount owed under:

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

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

42 “[(3)] (5) ‘Contractor’ means **any of the following:**

43 “(a) A person who, for compensation or with the intent to sell, arranges or undertakes or offers
44 to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect,
45 move, wreck or demolish, for another, any building, highway, road, railroad, excavation or other

1 structure, project, development or improvement attached to real estate or to do any part thereof.
2 [*Contractor* includes general contractors, residential-only contractors and specialty contractors as de-
3 fined in this section.]

4 **“(b) A person that purchases or owns property and constructs or for compensation ar-
5 ranges for the construction of one or more residential structures or small commercial
6 structures with the intent of selling the structures.**

7 **“(c) A school district, as defined in ORS 332.002, that permits students to construct a
8 residential structure or small commercial structure as an educational experience to learn
9 building techniques and sells the completed structure.**

10 **“(d) A community college district, as defined in ORS 341.005, that permits students to
11 construct a residential structure or small commercial structure as an educational experience
12 to learn building techniques and sells the completed structure.**

13 **“(e) Any person except a landscape contracting business, nurseryman, gardener or per-
14 son engaged in the commercial harvest of forest products, that is engaged as an independent
15 contractor to remove trees, prune trees, remove tree limbs or stumps or to engage in tree
16 or limb guying.**

17 **“(f) A business that supplies the services of a home inspector certified under ORS 701.350,
18 a lead-based paint inspector licensed under ORS 701.515 or a cross connection inspector and
19 backflow assembly tester certified under ORS 448.279.**

20 **“(6) ‘Developer’ means a contractor that owns property or an interest in property and
21 engages in the business of arranging for construction work or performing other activities
22 associated with the improvement of real property, with the intent to sell the property.**

23 “[4] (7) ‘General contractor’:

24 **“(a) Means a contractor whose business operations require the use of more than two unrelated
25 building trades or crafts that the contractor supervises or performs in whole or part, whenever the
26 sum of all contracts on any single property, including materials and labor, exceeds an amount es-
27 tablished by rule by the board. [*General contractor* does not include specialty contractors or limited
28 contractors, as described in ORS 701.085.]**

29 **“(b) Does not mean a specialty contractor or a residential limited contractor.**

30 “[5] (8) ‘Home inspector’ means a person who, for a fee, inspects and provides written reports
31 on the overall physical condition of a residential structure and the appurtenances thereto. ‘Home
32 inspector’ does not include persons certified under ORS chapter 455 to inspect new, repaired or al-
33 tered structures for compliance with the state building code.

34 “[6] *‘Inspector’ means a contractor registered with the board who inspects or otherwise provides
35 services to a property owner or other contractor but does not substantively add to or subtract from a
36 structure. ‘Inspector’ includes but is not limited to a home inspector certified under ORS 701.350, a
37 lead-based paint inspector licensed under ORS 701.515 and a cross connection inspector and backflow
38 assembly tester certified under ORS 448.279. ‘Inspector’ does not include city or county inspectors act-
39 ing under ORS 701.225 or an inspector as defined in ORS 455.715.]*

40 **“(9) ‘Key employee’ means an employee or owner of a contractor who is a corporate of-
41 ficer, manager, superintendent, foreperson or lead person or any other employee identified
42 by the board by rule.**

43 “[7] (10) ‘Large commercial structure’ means a structure that is not a residential structure or
44 small commercial structure.

45 “[8] *‘Licensed developer’ means a contractor who owns property or an interest in property and*

1 *arranges for construction work, if the contractor:]*

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

4 *“(b) Acts in association with one or more licensed general contractors and the general contractor*
5 *or combination of general contractors have sole responsibility for overseeing all phases of construction*
6 *activity on the property; and]*

7 *“(c) Does not perform any construction work on the property.]*

8 *“(9) (11) ‘Officer’ means any of the following persons:*

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

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

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

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

13 *“(e) A trustee.*

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

17 *“(10) ‘Residential-only contractor’ means a general contractor or specialty contractor who performs*
18 *work exclusively in connection with residential structures and small commercial structures, and the*
19 *appurtenances thereto. ‘Residential-only contractor’ includes, but is not limited to:]*

20 *“(a) A person who purchases or owns property and constructs or for compensation arranges for*
21 *the construction of one or more residential structures or small commercial structures with the intent*
22 *of selling the structures;]*

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

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

29 *“(d) Any person except a landscape contracting business, nurseryman, gardener or person engaged*
30 *in the commercial harvest of forest products who is engaged as an independent contractor to remove*
31 *trees, prune trees, remove tree limbs or stumps or to engage in tree or limb guying.]*

32 **“(12) ‘Residential contractor’ means a licensed contractor that holds an endorsement as**
33 **a:**

34 **“(a) Residential general contractor;**

35 **“(b) Residential specialty contractor;**

36 **“(c) Residential limited contractor; or**

37 **“(d) Residential developer.**

38 **“(13) ‘Residential developer’ means a developer of property that is zoned for or intended**
39 **for use compatible with a residential or small commercial structure.**

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

44 *“(12) ‘Small commercial structure’ means a nonresidential structure that has a ground area of*
45 *4,000 square feet or less, including exterior walls, and a height of not more than 20 feet from the top*

1 *surface of the lowest flooring to the highest interior overhead finish of the structure.]*

2 **“(14) ‘Residential structure’:**

3 **“(a) Means:**

4 **“(A) A residence that is a site-built home;**

5 **“(B) A structure that contains one or more dwelling units and is four stories or less**
6 **above grade;**

7 **“(C) A condominium, rental residential unit or other residential dwelling unit that is part**
8 **of a larger structure, if the property interest in the unit is separate from the property in-**
9 **terest in the larger structure;**

10 **“(D) A modular home constructed off-site;**

11 **“(E) A manufactured dwelling; or**

12 **“(F) A floating home as defined in ORS 830.700.**

13 **“(b) Does not mean:**

14 **“(A) Subject to paragraph (a)(C) of this subsection, a structure that contains both resi-**
15 **dential and nonresidential units;**

16 **“(B) Transient lodging;**

17 **“(C) A residential school or residence hall;**

18 **“(D) A state or local correctional facility other than a local facility for persons enrolled**
19 **in work release programs maintained under ORS 144.460;**

20 **“(E) A youth correction facility as defined in ORS 420.005;**

21 **“(F) A youth care center operated by a county juvenile department under administrative**
22 **control of a juvenile court pursuant to ORS 420.855 to 420.885;**

23 **“(G) A detention facility as defined in ORS 419A.004;**

24 **“(H) A nursing home;**

25 **“(I) A hospital; or**

26 **“(J) A place constructed primarily for recreational activities.**

27 **“(15) ‘Small commercial structure’ means:**

28 **“(a) A nonresidential structure that has a ground area of 10,000 square feet or less, in-**
29 **cluding exterior walls, and a height of not more than 20 feet from the top surface of the**
30 **lowest flooring to the highest interior overhead finish of the structure;**

31 **“(b) A nonresidential leasehold, rental unit or other unit that is part of a larger struc-**
32 **ture, if the unit has a ground area of 12,000 square feet or less, excluding exterior walls, and**
33 **a height of not more than 20 feet from the top surface of the lowest flooring to the highest**
34 **interior overhead finish of the unit; or**

35 **“(c) A nonresidential structure of any size for which the contract price of all con-**
36 **struction contractor work to be performed on the structure as part of a construction project**
37 **does not total more than \$250,000.**

38 **“[(13)] (16) ‘Specialty contractor’ means a contractor who performs work on a structure, project,**
39 **development or improvement and whose operations as such do not fall within the definition of**
40 **‘general contractor.’ ‘Specialty contractor’ includes a person who performs work regulated under**
41 **ORS [chapter 446] 446.395.**

42 **“SECTION 56. If both Senate Bill 605 and House Bill 2117 become law, section 13 of this**
43 **2007 Act (amending ORS 701.005) is repealed and ORS 701.005, as amended by section 1,**
44 **chapter ___, Oregon Laws 2007 (Enrolled Senate Bill 605), and section 41, chapter ___, Oregon**
45 **Laws 2007 (Enrolled House Bill 2117), is amended to read:**

1 “701.005. As used in this chapter:

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

3 “(2) ‘Commercial contractor’ means a licensed contractor that holds an endorsement as

4 **a:**

5 “(a) Commercial general contractor level 1;

6 “(b) Commercial specialty contractor level 1;

7 “(c) Commercial general contractor level 2;

8 “(d) Commercial specialty contractor level 2; or

9 “(e) Commercial developer.

10 “(3) ‘Commercial developer’ means a developer of property that is zoned for or intended

11 **for use compatible with a small commercial or large commercial structure.**

12 “[2] (4) ‘Construction debt’ means an amount owed under:

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

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

15 “[3] (5) ‘Contractor’ means **any of the following:**

16 “(a) A person [*operating as a general contractor, residential-only contractor or specialty contractor*

17 *business or other person*] who, for compensation or with the intent to sell, arranges or undertakes

18 or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve,

19 inspect, move, wreck or demolish, for another, any building, highway, road, railroad, excavation or

20 other structure, project, development or improvement attached to real estate, or to clean or service

21 chimneys, or to do any part thereof.

22 “(b) **A person that purchases or owns property and constructs or for compensation ar-**

23 **ranges for the construction of one or more residential structures or small commercial**

24 **structures with the intent of selling the structures.**

25 “(c) **A school district, as defined in ORS 332.002, that permits students to construct a**

26 **residential structure or small commercial structure as an educational experience to learn**

27 **building techniques and sells the completed structure.**

28 “(d) **A community college district, as defined in ORS 341.005, that permits students to**

29 **construct a residential structure or small commercial structure as an educational experience**

30 **to learn building techniques and sells the completed structure.**

31 “(e) **Any person except a landscape contracting business, nurseryman, gardener or per-**

32 **son engaged in the commercial harvest of forest products, that is engaged as an independent**

33 **contractor to remove trees, prune trees, remove tree limbs or stumps or to engage in tree**

34 **or limb guying.**

35 “(f) **A business that supplies the services of a home inspector certified under ORS 701.350,**

36 **a lead-based paint inspector licensed under ORS 701.515 or a cross connection inspector and**

37 **backflow assembly tester certified under ORS 448.279.**

38 “(6) ‘Developer’ means a contractor that owns property or an interest in property and

39 engages in the business of arranging for construction work or performing other activities

40 associated with the improvement of real property, with the intent to sell the property.

41 “[4] (7) ‘General contractor’:

42 “(a) Means a contractor whose business operations require the use of more than two unrelated

43 building trades or crafts that the contractor supervises or performs in whole or part, whenever the

44 sum of all contracts on any single property, including materials and labor, exceeds an amount es-

45 tablished by rule by the board. [*General contractor’ does not include specialty contractors or limited*

1 *contractors, as described in ORS 701.085.]*

2 **“(b) Does not mean a specialty contractor or a residential limited contractor.**

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 al-*
6 *tered structures for compliance with the state building code.*

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

13 **“(9) ‘Key employee’ means an employee or owner of a contractor who is a corporate of-**
14 **ficer, manager, superintendent, foreperson or lead person or any other employee identified**
15 **by the board by rule.**

16 *“[(7)] (10) ‘Large commercial structure’ means a structure that is not a residential structure or*
17 *small commercial structure.*

18 *“[(8) ‘Licensed developer’ means a contractor who owns property or an interest in property and*
19 *arranges for construction work, if the contractor:]*

20 *“[(a) Engages in the business of arranging for construction work and performing other activities*
21 *associated with the improvement of real property, with the intent to sell the property;]*

22 *“[(b) Acts in association with one or more licensed general contractors and the general contractor*
23 *or combination of general contractors have sole responsibility for overseeing all phases of construction*
24 *activity on the property; and]*

25 *“[(c) Does not perform any construction work on the property.]*

26 *“[(9)] (11) ‘Officer’ means any of the following persons:*

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

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

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

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

31 *“(e) A trustee.*

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

35 *“[(10) ‘Residential-only contractor’ means a general contractor or specialty contractor who performs*
36 *work exclusively in connection with residential structures and small commercial structures, and the*
37 *appurtenances thereto. ‘Residential-only contractor’ includes, but is not limited to:]*

38 *“[(a) A person who purchases or owns property and constructs or for compensation arranges for*
39 *the construction of one or more residential structures or small commercial structures with the intent*
40 *of selling the structures;]*

41 *“[(b) A school district, as defined in ORS 332.002, that permits students to construct a residential*
42 *structure or small commercial structure as an educational experience to learn building techniques and*
43 *sells the completed structure;]*

44 *“[(c) A community college district, as defined in ORS 341.005, that permits students to construct*
45 *a residential structure or small commercial structure as an educational experience to learn building*

1 *techniques and sells the completed structure; or]*

2 *“(d) Any person except a landscape contracting business, nurseryman, gardener or person engaged*
3 *in the commercial harvest of forest products who is engaged as an independent contractor to remove*
4 *trees, prune trees, remove tree limbs or stumps or to engage in tree or limb guying.]*

5 **“(12) ‘Residential contractor’ means a licensed contractor that holds an endorsement as**
6 **a:**

7 **“(a) Residential general contractor;**

8 **“(b) Residential specialty contractor;**

9 **“(c) Residential limited contractor; or**

10 **“(d) Residential developer.**

11 **“(13) ‘Residential developer’ means a developer of property that is zoned for or intended**
12 **for use compatible with a residential or small commercial structure.**

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

17 *“(12) ‘Small commercial structure’ means a nonresidential structure that has a ground area of*
18 *4,000 square feet or less, including exterior walls, and a height of not more than 20 feet from the top*
19 *surface of the lowest flooring to the highest interior overhead finish of the structure.]*

20 **“(14) ‘Residential structure’:**

21 **“(a) Means:**

22 **“(A) A residence that is a site-built home;**

23 **“(B) A structure that contains one or more dwelling units and is four stories or less**
24 **above grade;**

25 **“(C) A condominium, rental residential unit or other residential dwelling unit that is part**
26 **of a larger structure, if the property interest in the unit is separate from the property in-**
27 **terest in the larger structure;**

28 **“(D) A modular home constructed off-site;**

29 **“(E) A manufactured dwelling; or**

30 **“(F) A floating home as defined in ORS 830.700.**

31 **“(b) Does not mean:**

32 **“(A) Subject to paragraph (a)(C) of this subsection, a structure that contains both resi-**
33 **dential and nonresidential units;**

34 **“(B) Transient lodging;**

35 **“(C) A residential school or residence hall;**

36 **“(D) A state or local correctional facility other than a local facility for persons enrolled**
37 **in work release programs maintained under ORS 144.460;**

38 **“(E) A youth correction facility as defined in ORS 420.005;**

39 **“(F) A youth care center operated by a county juvenile department under administrative**
40 **control of a juvenile court pursuant to ORS 420.855 to 420.885;**

41 **“(G) A detention facility as defined in ORS 419A.004;**

42 **“(H) A nursing home;**

43 **“(I) A hospital; or**

44 **“(J) A place constructed primarily for recreational activities.**

45 **“(15) ‘Small commercial structure’ means:**

1 “(a) A nonresidential structure that has a ground area of 10,000 square feet or less, in-
2 cluding exterior walls, and a height of not more than 20 feet from the top surface of the
3 lowest flooring to the highest interior overhead finish of the structure;

4 “(b) A nonresidential leasehold, rental unit or other unit that is part of a larger struc-
5 ture, if the unit has a ground area of 12,000 square feet or less, excluding exterior walls, and
6 a height of not more than 20 feet from the top surface of the lowest flooring to the highest
7 interior overhead finish of the unit; or

8 “(c) A nonresidential structure of any size for which the contract price of all con-
9 struction contractor work to be performed on the structure as part of a construction project
10 does not total more than \$250,000.

11 “[(13)] (16) ‘Specialty contractor’ means a contractor who performs work on a structure, project,
12 development or improvement and whose operations as such do not fall within the definition of
13 ‘general contractor.’ ‘Specialty contractor’ includes a person who performs work regulated under
14 ORS [chapter 446] 446.395.

15 “**SECTION 57. If House Bill 2498 becomes law, section 14 of this 2007 Act (amending ORS**
16 **701.010) is repealed and ORS 701.010, as amended by section 1, chapter __, Oregon Laws 2007**
17 **(Enrolled House Bill 2498), is amended to read:**

18 “701.010. The Construction Contractors Board may adopt rules to make licensure optional for
19 persons who offer, bid or undertake to perform work peripheral to construction, as defined by ad-
20 ministrative rule of the board. The following persons are exempt from licensure under this chapter:

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

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

24 “(3) A person who furnishes materials, supplies, equipment or finished product and does not
25 fabricate them into, or consume them, in the performance of the work of a contractor.

26 “(4) A person working on one structure or project, under one or more contracts, when the ag-
27 gregate price of all of that person’s contracts for labor, materials and all other items is less than
28 \$500 and such work is of a casual, minor or inconsequential nature. This subsection does not apply
29 to a person who advertises or puts out any sign or card or other device that might indicate to the
30 public that the person is a contractor.

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

38 “(6) An owner who contracts for one or more licensed contractors to perform work wholly or
39 partially within the same calendar year on not more than three existing residential structures of the
40 owner. This subsection does not apply to an owner contracting for work that requires a building
41 permit unless the work that requires a permit is performed by, or under the direction of, a **resi-**
42 **dential** general contractor.

43 “(7) A person performing work on a property that person owns or performing work as the
44 owner’s employee, whether the property is occupied by the owner or not, or a person performing
45 work on that person’s residence, whether or not that person owns the residence. This subsection

1 does not apply to a person performing work on a structure owned by that person or the owner's
2 employee, if the work is performed in the pursuit of an independent business with the intent of of-
3 fering the structure for sale before, upon or after completion.

4 “(8) A person licensed in one of the following trades or professions when operating within the
5 scope of that license:

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

7 “(b) A registered professional engineer licensed by the State Board of Examiners for Engineer-
8 ing and Land Surveying.

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

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

11 “(e) A landscaping business licensed under ORS 671.510 to 671.710 that constructs fences, decks,
12 arbors, patios, landscape edging, driveways, walkways or retaining walls and that meets the appli-
13 cable bonding requirements under ORS 671.690.

14 “(f) A pesticide operator licensed under ORS 634.116 who does not conduct inspections for wood
15 destroying organisms for the transfer of real estate.

16 “(g) An appraiser certified or licensed under ORS chapter 674 or an appraiser assistant regis-
17 tered under ORS chapter 674 by the Appraiser Certification and Licensure Board.

18 “(9) A person who performs work subject to this chapter as an employee of a contractor.

19 “(10) A manufacturer of a manufactured home constructed under standards established by the
20 federal government.

21 “(11) A person involved in the movement of:

22 “(a) Modular buildings or structures other than manufactured structures not in excess of 14 feet
23 in width.

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

26 “(12) A commercial lending institution or surety company that arranges for the completion, re-
27 pair or remodeling of a structure. As used in this subsection, ‘commercial lending institution’ means
28 any bank, mortgage banking company, trust company, savings bank, savings and loan association,
29 credit union, national banking association, federal savings and loan association, insurance company
30 or federal credit union maintaining an office in this state.

31 “(13) A real estate licensee as defined in ORS 696.010 or the employee of that licensee when
32 performing work on a structure that the real estate licensee manages under a contract.

33 “(14) Units of government other than those specified in ORS 701.005 [(10)(b) and (c)] **(5)(c) and**
34 **(d)**.

35 “(15) A qualified intermediary in a property exchange that qualifies under section 1031 of the
36 Internal Revenue Code as amended and in effect on January 1, 2004, if the qualified intermediary
37 is not performing construction activities.

38 “(16) A business that supplies personnel to a licensed contractor for the performance of work
39 under the direction and supervision of the contractor.

40 “(17) **City or county inspectors acting under ORS 701.225 or inspectors described in ORS**
41 **455.715.**

42 “**SECTION 58. If Senate Bill 94 becomes law, section 18 of this 2007 Act (amending ORS**
43 **701.065) is repealed and ORS 701.065, as amended by section 6, chapter __, Oregon Laws 2007**
44 **(Enrolled Senate Bill 94), is amended to read:**

45 “701.065. (1) Except as provided in subsection (2) of this section, a contractor may not perfect

1 a construction lien, file a complaint with the Construction Contractors Board or commence an ar-
2 bitration or a court action for compensation for the performance of any work or for the breach of
3 any contract for work that is subject to this chapter, unless the contractor had a valid license issued
4 by the board **and properly endorsed for the work performed:**

5 “(a) At the time the contractor bid or entered into the contract for performance of the work;
6 and

7 “(b) Continuously while performing the work for which compensation is sought.

8 “(2) The board, arbitrator or court may not apply the provisions of subsection (1) of this section
9 to a contractor if the board, arbitrator or court determines that:

10 “(a) The contractor either did not have a valid license **with a proper endorsement** at any time
11 required under subsection (1) of this section, or had an initial issuance of a valid license, and:

12 “(A) The contractor was not aware of the requirement that the contractor be licensed **or**
13 **properly endorsed for the work performed**, and the contractor submitted a completed application
14 for a license within a number of days established by the board, but not more than 90 days, of the
15 date the contractor became aware of the requirement;

16 “(B) At the time the contractor perfected a construction lien or commenced any proceeding
17 subject to the provisions of subsection (1) of this section, the contractor was licensed by the board
18 **and properly endorsed for the work performed;** and

19 “(C) Enforcement of the provisions of subsection (1) of this section would result in substantial
20 injustice to the contractor;

21 “(b) The contractor was licensed by the board for some but not all of the times required under
22 subsection (1) of this section and had a lapse in the license and:

23 “(A) The contractor was not aware of the lapse in the license for more than a number of days
24 established by the board, but not to exceed 90 days, before submitting a completed application for
25 license renewal with the board;

26 “(B) Except for perfection of a construction lien and a court action to foreclose the lien, at the
27 time the contractor commenced any proceeding subject to the provisions of subsection (1) of this
28 section the contractor’s license was renewed under ORS 701.115 to include the entire time period
29 for which a license was required under subsection (1) of this section; and

30 “(C) For perfection of a construction lien and a court action to foreclose the lien, the contrac-
31 tor’s license was renewed under ORS 701.115 for the entire time period for which a license was re-
32 quired under subsection (1) of this section, but not later than 90 days following perfection of the
33 lien; **or**

34 “[*(c)(A) The contractor is a licensed developer and did not have a valid license during all or part*
35 *of the period described in subsection (1) of this section;*]

36 “[*(B) The licensed developer was unaware of the license requirement and obtained a license within*
37 *a time established by the board, not to exceed 90 days after the licensed developer learned of the re-*
38 *quirement;*]

39 “[*(C) The licensed developer was licensed at the time the licensed developer perfected the lien or*
40 *commenced the proceeding; and*]

41 “[*(D) Enforcement of subsection (1) of this section would result in substantial injustice to the li-*
42 *censed developer; or*]

43 “[*(d)*] (c) The proceeding:

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

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

1 “(ii) Provides construction or design labor or services of any kind; or
2 “(iii) Manufactures, distributes, rents or otherwise provides materials, supplies, equipment, sys-
3 tems or products; and
4 “(B) Arises out of defects, deficiencies or inadequate performance in the construction, design,
5 labor, services, materials, supplies, equipment, systems or products provided.
6 “(3) If a contractor falsely swears to information provided under ORS 701.075 or knowingly vi-
7 olates the provisions of ORS 656.029, 670.600 or 701.075, the contractor may not perfect a con-
8 struction lien, file a complaint with the board or commence an arbitration or a court action for
9 compensation for the performance of any work on a residential structure or for the breach of any
10 contract for work on a residential structure that is subject to this chapter.
11 “**SECTION 58a. If House Bill 2654 becomes law, section 20 of this 2007 Act (amending ORS**
12 **701.075) is repealed and ORS 701.075, as amended by section 24, chapter __, Oregon Laws 2007**
13 **(Enrolled House Bill 2654), is amended to read:**
14 “701.075. (1) An applicant for a construction contractor license must submit the application on
15 a form prescribed by the Construction Contractors Board. The application shall include, but not be
16 limited to, the following information:
17 “(a) [*Classification of the license*] **The endorsement** being sought.
18 “(b) A list of construction debts involving the applicant, or an owner or officer of the applicant,
19 if the order, award, penalty or judgment that establishes the debt was issued within the preceding
20 five years.
21 “(c) For each person described in paragraphs (h) and (i) of this subsection, a Social Security
22 number.
23 “(d) Workers’ compensation insurance account number, if the applicant is required to have
24 workers’ compensation insurance.
25 “(e) Unemployment insurance account number, if the applicant is required to have unemploy-
26 ment insurance.
27 “(f) State withholding tax account number, if the applicant is required to withhold state income
28 tax.
29 “(g) Federal employer identification number, if the applicant is required to have a federal em-
30 ployer identification number.
31 “(h) The name and address of:
32 “(A) Each partner, if the applicant is a partnership, limited liability partnership or foreign lim-
33 ited liability partnership.
34 “(B) The general partner, if the applicant is a limited partnership.
35 “(C) Each joint venturer, if the applicant is a joint venture.
36 “(D) The owner, if the applicant is a sole proprietorship.
37 “(E) The officers, if the applicant is a corporation.
38 “(F) The manager and each member, if the applicant is a manager-managed limited liability
39 company.
40 “(G) Each member, if the applicant is a member-managed limited liability company.
41 “(H) The responsible managing individual designated by the applicant.
42 “(i) The name and address of the following if the applicant is a partnership, limited liability
43 partnership, foreign limited liability partnership, joint venture, manager-managed limited liability
44 company or member-managed limited liability company:
45 “(A) Each partner in a partnership, limited liability partnership or foreign limited liability

1 partnership that is a partner, joint venturer or member of the applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 “(3) Subsection (2)(a) of this section does not apply to [*a licensed*] **an applicant for licensing**
38 **with endorsement solely as a residential or commercial** developer.

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

41 “**SECTION 59. If Senate Bill 94 becomes law and House Bill 2654 does not become law,**
42 **section 22 of this 2007 Act (amending ORS 701.085) is repealed and ORS 701.085, as amended**
43 **by section 7, chapter __, Oregon Laws 2007 (Enrolled Senate Bill 94), is amended to read:**

44 “701.085. (1) An applicant for issuance or renewal of a contractor license shall file with the
45 Construction Contractors Board a surety bond with one or more corporate sureties authorized to

1 do business in this state in the amount set forth in *[subsections (2) to (5) of this section]* **section 3**
2 **or 4 of this 2007 Act.**

3 “(2) **If an applicant for issuance, renewal or an additional endorsement of a license will**
4 **hold endorsements as both a residential contractor and a commercial contractor, the appli-**
5 **cant shall file with the board a surety bond for each endorsement in the amount set forth**
6 **in section 3 or 4 of this 2007 Act.**

7 “(3) The surety bond must provide that the applicant, with regard to work subject to this
8 chapter, will pay amounts ordered paid by the board under ORS 701.145 or 701.146. Bonds filed un-
9 der this *[subsection]* **section** shall remain in effect for at least one year or until depleted by pay-
10 ments under ORS 701.150 **and sections 10 and 11 of this 2007 Act**, unless the surety sooner cancels
11 the bond. At the discretion of the surety the bond may be continued for an additional period by
12 continuation certificate. Except as provided in subsection *[(6)]* (4) of this section, the aggregate li-
13 ability of the surety under the bond for complaints against the contractor may not exceed the penal
14 sum of the bond no matter how many years the bond is in force. Except as provided in subsection
15 *[(6)]* (4) of this section, an extension by continuation certificate, reinstatement, reissue or renewal
16 of the bond may not increase the liability of the surety.

17 “[2] *A general contractor or licensed developer shall obtain a surety bond in the amount of*
18 *\$15,000.*]

19 “[3] *A specialty contractor shall obtain a surety bond in the amount of \$10,000.*]

20 “[4] *An inspector shall obtain a surety bond in the amount of \$10,000.*]

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

25 “[6] (4) The board, by rule, may require a licensee to obtain a new surety bond if, pursuant to
26 a board order for payment of a complaint described in ORS 701.140, the surety pays an amount out
27 of the bond of the licensee. The new surety bond must be in the **applicable** amount set forth in
28 *[subsections (2) to (5) of this section]* **section 3 or 4 of this 2007 Act** unless a higher amount is re-
29 quired by a board condition or rule described in subsection *[(7) or (8)]* (5) or (6) of this section. The
30 board may allow a licensee to obtain, instead of a new bond, a certification that the surety remains
31 liable for the full penal sum of the bond, notwithstanding payment by the surety on the complaint.

32 “[7] (5) If the amount the licensee must pay against the bond under **subsection (3) of** this
33 section exceeds the amount of the bond, the board shall suspend the contractor’s license until the
34 amount owed is paid. The board, as a condition of ending the suspension, may require a contractor
35 requesting reinstatement of a license to file a bond of an amount up to five times as much as the
36 amount required ordinarily of a licensee under *[this section]* **section 3 or 4 of this 2007 Act.**

37 “[8] (6) The board by rule may establish conditions for applicants or persons licensed under
38 this chapter under which the applicant or licensee must file a bond of an amount up to five times
39 as much as the amount required ordinarily of an applicant or licensee under *[this section]* **section**
40 **3 or 4 of this 2007 Act.** The board may reduce the amount of bond it would otherwise require if the
41 contractor demonstrates satisfactory completion of approved elective classes on dispute resolution
42 and prevention, basic accounting and record keeping or such other classes as the board may pre-
43 scribe.

44 “[9] (7) The bond required under this section is for the exclusive purpose of payment of final
45 orders and arbitration awards of the board in accordance with this chapter.

1 “[(10)] (8) Upon determination under ORS 701.145 or 701.146 of a complaint against a contractor
2 who holds a bond required under this section, the board shall notify the surety on the bond of the
3 final order in a manner determined by the board by rule. The notification shall include a list of all
4 complaints upon which a final order has been issued.

5 “[(11)] (9) A court action may not be commenced against a surety on a bond required under this
6 section until 30 days after the date that the surety is notified by the board under ORS 701.150 that
7 payment is due on the final order.

8 “[(12)] (10) In any action against a surety on a bond under this section that is based on the
9 failure of the surety to pay a final order, the court may award:

10 “(a) Costs;

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

12 “(c) Twice the amount of any damages that the board ordered the surety to pay on the com-
13 plaint, if the surety arbitrarily and capriciously refused to pay upon order of the board.

14 “**SECTION 60. If House Bill 2654 becomes law and Senate Bill 94 does not become law,**
15 **section 22 of this 2007 Act (amending ORS 701.085) is repealed and ORS 701.085, as amended**
16 **by section 22, chapter __, Oregon Laws 2007 (Enrolled House Bill 2654), is amended to read:**

17 “701.085. (1) An applicant for issuance or renewal of a contractor license shall file with the
18 Construction Contractors Board a surety bond with one or more corporate sureties authorized to
19 do business in this state in the amount set forth in [subsections (2) to (5) of this section] **section 3**
20 **or 4 of this 2007 Act.**

21 “**(2) If an applicant for issuance, renewal or an additional endorsement of a license will**
22 **hold endorsements as both a residential contractor and a commercial contractor, the appli-**
23 **cant shall file with the board a surety bond for each endorsement in the amount set forth**
24 **in section 3 or 4 of this 2007 Act.**

25 “**(3) The surety bond must provide that the applicant, with regard to work subject to this**
26 **chapter, will pay claims ordered paid by the board under ORS 701.145 or 701.146. Bonds filed under**
27 **this [subsection] section shall remain in effect for at least one year or until depleted by claims paid**
28 **under ORS 701.150 and sections 10 and 11 of this 2007 Act, unless the surety sooner cancels the**
29 **bond. At the discretion of the surety the bond may be continued for an additional period by con-**
30 **tinuation certificate. Except as provided in subsection [(6)] (4) of this section, the aggregate liability**
31 **of the surety under the bond for claims against the bond may not exceed the penal sum of the bond**
32 **no matter how many years the bond is in force. Except as provided in subsection [(6)] (4) of this**
33 **section, an extension by continuation certificate, reinstatement, reissue or renewal of the bond may**
34 **not increase the liability of the surety.**

35 “[(2) A general contractor or licensed developer shall obtain a surety bond in the amount of
36 \$20,000.]

37 “[(3) A specialty contractor shall obtain a surety bond in the amount of \$15,000.]

38 “[(4) An inspector shall obtain a surety bond in the amount of \$15,000.]

39 “[(5) The board may reduce the amount of the surety bond required by this section to \$10,000 for
40 a contractor upon a showing that the contractor does not perform work as a contractor exceeding
41 \$40,000 in gross annual volume and does not enter into contracts that exceed \$5,000. The board shall
42 designate the contractor as a limited contractor.]

43 “[(6)] (4) The board, by rule, may require a licensee to obtain a new surety bond if, pursuant to
44 a board order for payment of a claim described in ORS 701.140, the surety pays a claim out of the
45 bond of the licensee. The new surety bond must be in the **applicable** amount set forth in [subsections

1 (2) to (5) of this section] **section 3 or 4 of this 2007 Act** unless a higher amount is required by a
2 board condition or rule described in subsection [(7) or (8)] **(5) or (6)** of this section. The board may
3 allow a licensee to obtain, instead of a new bond, a certification that the surety remains liable for
4 the full penal sum of the bond, notwithstanding payment by the surety on the claim.

5 “[7] **(5)** If the amount the licensee must pay against the bond under **subsection (3)** of this
6 section exceeds the amount of the bond, the board shall suspend the contractor’s license until the
7 amount owed is paid. The board, as a condition of ending the suspension, may require a contractor
8 requesting reinstatement of a license to file a bond of an amount up to five times as much as the
9 amount required ordinarily of a licensee under [this section] **section 3 or 4 of this 2007 Act**.

10 “[8] **(6)** The board by rule may establish conditions for applicants or persons licensed under
11 this chapter under which the applicant or licensee must file a bond of an amount up to five times
12 as much as the amount required ordinarily of an applicant or licensee under [this section] **section**
13 **3 or 4 of this 2007 Act**. The board may reduce the amount of bond it would otherwise require if the
14 contractor demonstrates satisfactory completion of approved elective classes on dispute resolution
15 and prevention, basic accounting and record keeping or such other classes as the board may pre-
16 scribe.

17 “[9] **(7)** The bond required under this section is for the exclusive purpose of payment of final
18 orders and arbitration awards of the board in accordance with this chapter.

19 “[10] **(8)** Upon determination under ORS 701.145 or 701.146 of a claim against a contractor who
20 holds a bond required under this section, the board shall notify the surety on the bond of the final
21 order in a manner determined by the board by rule. The notification shall include a list of all claims
22 upon which a final order has been issued.

23 “[11] **(9)** A suit or action may not be commenced against a surety on a bond required under
24 this section until 30 days after the date that the surety is notified by the board under ORS 701.150
25 that payment is due on the claim.

26 “[12] **(10)** In any action against a surety on a bond under this section that is based on the
27 failure of the surety to pay a claim or on the denial of a claim by the surety, the court may award:

28 “(a) Costs;

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

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

32 “**SECTION 61. If both Senate Bill 94 and House Bill 2654 become law, section 22 of this**
33 **2007 Act (amending ORS 701.085) is repealed and ORS 701.085, as amended by section 7,**
34 **chapter __, Oregon Laws 2007 (Enrolled Senate Bill 94), and section 22, chapter __, Oregon**
35 **Laws 2007 (Enrolled House Bill 2654), is amended to read:**

36 “701.085. (1) An applicant for issuance or renewal of a contractor license shall file with the
37 Construction Contractors Board a surety bond with one or more corporate sureties authorized to
38 do business in this state in the amount set forth in [subsections (2) to (5) of this section] **section 3**
39 **or 4 of this 2007 Act**.

40 “**(2) If an applicant for issuance, renewal or an additional endorsement of a license will**
41 **hold endorsements as both a residential contractor and a commercial contractor, the appli-**
42 **cant shall file with the board a surety bond for each endorsement in the amount set forth**
43 **in section 3 or 4 of this 2007 Act**.

44 “**(3)** The surety bond must provide that the applicant, with regard to work subject to this
45 chapter, will pay amounts ordered paid by the board under ORS 701.145 or 701.146. Bonds filed un-

1 der this *[subsection]* **section** shall remain in effect for at least one year or until depleted by pay-
2 ments under ORS 701.150 **and sections 10 and 11 of this 2007 Act**, unless the surety sooner cancels
3 the bond. At the discretion of the surety the bond may be continued for an additional period by
4 continuation certificate. Except as provided in subsection *[(6)] (4)* of this section, the aggregate li-
5 ability of the surety under the bond for complaints against the contractor may not exceed the penal
6 sum of the bond no matter how many years the bond is in force. Except as provided in subsection
7 *[(6)] (4)* of this section, an extension by continuation certificate, reinstatement, reissue or renewal
8 of the bond may not increase the liability of the surety.

9 “*[(2) A general contractor or licensed developer shall obtain a surety bond in the amount of*
10 *\$20,000.]*

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

12 “*[(4) An inspector shall obtain a surety bond in the amount of \$15,000.]*

13 “*[(5) The board may reduce the amount of the surety bond required by this section to \$10,000 for*
14 *a contractor upon a showing that the contractor does not perform work as a contractor exceeding*
15 *\$40,000 in gross annual volume and does not enter into contracts that exceed \$5,000. The board shall*
16 *designate the contractor as a limited contractor.]*

17 “*[(6)] (4)* The board, by rule, may require a licensee to obtain a new surety bond if, pursuant to
18 a board order for payment of a complaint described in ORS 701.140, the surety pays an amount out
19 of the bond of the licensee. The new surety bond must be in the **applicable** amount set forth in
20 *[subsections (2) to (5) of this section]* **section 3 or 4 of this 2007 Act** unless a higher amount is re-
21 quired by a board condition or rule described in subsection *[(7) or (8)] (5) or (6)* of this section. The
22 board may allow a licensee to obtain, instead of a new bond, a certification that the surety remains
23 liable for the full penal sum of the bond, notwithstanding payment by the surety on the complaint.

24 “*[(7)] (5)* If the amount the licensee must pay against the bond under **subsection (3) of** this
25 section exceeds the amount of the bond, the board shall suspend the contractor’s license until the
26 amount owed is paid. The board, as a condition of ending the suspension, may require a contractor
27 requesting reinstatement of a license to file a bond of an amount up to five times as much as the
28 amount required ordinarily of a licensee under *[this section]* **section 3 or 4 of this 2007 Act**.

29 “*[(8)] (6)* The board by rule may establish conditions for applicants or persons licensed under
30 this chapter under which the applicant or licensee must file a bond of an amount up to five times
31 as much as the amount required ordinarily of an applicant or licensee under *[this section]* **section**
32 **3 or 4 of this 2007 Act**. The board may reduce the amount of bond it would otherwise require if the
33 contractor demonstrates satisfactory completion of approved elective classes on dispute resolution
34 and prevention, basic accounting and record keeping or such other classes as the board may pre-
35 scribe.

36 “*[(9)] (7)* The bond required under this section is for the exclusive purpose of payment of final
37 orders and arbitration awards of the board in accordance with this chapter.

38 “*[(10)] (8)* Upon determination under ORS 701.145 or 701.146 of a complaint against a contractor
39 who holds a bond required under this section, the board shall notify the surety on the bond of the
40 final order in a manner determined by the board by rule. The notification shall include a list of all
41 complaints upon which a final order has been issued.

42 “*[(11)] (9)* A court action may not be commenced against a surety on a bond required under this
43 section until 30 days after the date that the surety is notified by the board under ORS 701.150 that
44 payment is due on the final order.

45 “*[(12)] (10)* In any action against a surety on a bond under this section that is based on the

1 failure of the surety to pay a final order, the court may award:

2 “(a) Costs;

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

4 “(c) Twice the amount of any damages that the board ordered the surety to pay on the com-
5 plaint, if the surety arbitrarily and capriciously refused to pay upon order of the board.

6 **“SECTION 62. If House Bill 2654 does not become law, section 26 of this 2007 Act**
7 **(amending ORS 701.135) is repealed and ORS 701.135, as amended by section 10, chapter 114,**
8 **Oregon Laws 2007 (Enrolled House Bill 2109), is amended to read:**

9 “701.135. (1) The Construction Contractors Board may revoke, suspend or refuse to issue or re-
10 issue a license and the board may assess a civil penalty as provided in ORS 701.992 if the board
11 determines after notice and opportunity for hearing:

12 “(a) That the licensee or applicant has violated [*ORS 701.055 or 701.078 or section 4, 5, 6 or 7*
13 *of this 2007 Act*] **a provision of this chapter.**

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

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

17 **“(d) That the licensee has knowingly assisted a licensed contractor to perform work for**
18 **which the contractor is not properly endorsed.**

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

22 “[*e*] (f) That the licensee has knowingly provided false information to the board.

23 “[*f*] (g) That the licensee has worked without a construction permit where a permit is required
24 and the work resulted in a claim being filed with the board. For purposes of this paragraph, ‘con-
25 struction permit’ includes a building permit, electrical permit, mechanical permit or plumbing per-
26 mit.

27 “[*g*] (h) That the number of licensed contractors working together on the same task on the
28 same job site, where one of the contractors is [*licensed*] **classed** as exempt under ORS 701.035 (2)(b),
29 exceeded the following:

30 “(A) Two sole proprietors;

31 “(B) One partnership;

32 “(C) One corporation; or

33 “(D) One limited liability company.

34 “[*h*] (i) Consistent with the provisions of ORS 670.280, that the licensee or applicant has been
35 convicted of one of the following crimes:

36 “(A) Murder;

37 “(B) Assault in the first degree;

38 “(C) Kidnapping;

39 “(D) Rape, sodomy or unlawful sexual penetration;

40 “(E) Sexual abuse;

41 “(F) Arson in the first degree;

42 “(G) Robbery in the first degree;

43 “(H) Theft in the first degree; or

44 “(I) Theft by extortion.

45 “[*i*] (j) That the licensee or applicant has not, within 90 days after the date when payment was

1 received from the public contracting agency, or contractor in the case of a subcontractor, made
2 payment to any person for supplying labor or materials contracted for with a public contract for a
3 public improvement plus the amount of interest due.

4 “[*j*] (k) That the licensee or applicant has repeatedly reported bad faith or false claims of
5 nonpayment against contractors or subcontractors.

6 “[*k*] (L) That the licensee or applicant has engaged in conduct as a contractor that is dishonest
7 or fraudulent and that the board finds injurious to the welfare of the public.

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

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

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

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

15 “(D) Conduct as a construction contractor that is dishonest or fraudulent.

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

24 “(3) In addition to all other remedies, if it appears to the board that a person has engaged in,
25 or is engaging in, any act, practice or transaction that violates the provisions of this chapter, the
26 board may direct the Attorney General or the district attorney of the county in which the act,
27 practice or transaction occurs, to apply to the court for an injunction restraining the person from
28 violating the provisions of this chapter. An injunction may not issue for failure to maintain the list
29 provided for in section 4 [*of this 2007 Act*], **chapter 114, Oregon Laws 2007 (Enrolled House Bill**
30 **2109)**, unless the court determines that the failure is intentional.

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

33 “(5) If the board suspends or revokes the license of an individual contractor or contractor
34 business for a violation of subsection [*(1)(g)*] **(1)(h)** of this section, the board may not restore or
35 reissue the license unless the individual contractor or a responsible managing individual, as defined
36 in ORS 701.078, for the contractor business has successfully completed the training and testing de-
37 scribed in ORS 701.072.

38 “**SECTION 63. If House Bill 2654 becomes law, section 26 of this 2007 Act (amending ORS**
39 **701.135) is repealed and ORS 701.135, as amended by section 10, chapter 114, Oregon Laws 2007**
40 **(Enrolled House Bill 2109), and section 28b, chapter __, Oregon Laws 2007 (Enrolled House**
41 **Bill 2654), is amended to read:**

42 “701.135. (1) The Construction Contractors Board may revoke, suspend or refuse to issue or re-
43 issue a license and the board may assess a civil penalty as provided in ORS 701.992 if the board
44 determines after notice and opportunity for hearing:

45 “(a) That the licensee or applicant has violated a provision of [*ORS 701.055 or 701.078 or section*

1 2 (1), 4 or 7, chapter 114, Oregon Laws 2007 (Enrolled House Bill 2109), or section 7, 11 or 13 of this
2 2007 Act or a rule adopted under section 14 (4) of this 2007 Act] **this chapter.**

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

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

6 “(d) **That the licensee has knowingly assisted a licensed contractor to perform work for
7 which the contractor is not properly endorsed.**

8 “[d)] (e) That a lien was filed on a structure under ORS 87.010 to 87.060 and 87.075 to 87.093
9 because the licensee or applicant wrongfully failed to perform a contractual duty to pay money to
10 the person claiming the lien.

11 “[e)] (f) That the licensee has knowingly provided false information to the board.

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

16 “[g)] (h) That the number of licensed contractors working together on the same task on the
17 same job site, where one of the contractors is [licensed] **classed** as exempt under ORS 701.035 (2)(b),
18 exceeded the following:

19 “(A) Two sole proprietors;

20 “(B) One partnership;

21 “(C) One corporation; or

22 “(D) One limited liability company.

23 “[h)] (i) Consistent with the provisions of ORS 670.280, that the licensee or applicant, or an
24 owner or officer of the licensee or applicant has been convicted of one of the following crimes in
25 this state or an equivalent crime in another state:

26 “(A) Murder;

27 “(B) Assault in the first degree;

28 “(C) Kidnapping;

29 “(D) Rape, sodomy or unlawful sexual penetration;

30 “(E) Sexual abuse;

31 “(F) Arson in the first degree;

32 “(G) Robbery in the first degree;

33 “(H) Theft in the first degree; or

34 “(I) Theft by extortion.

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

39 “[j)] (k) That the licensee or applicant has repeatedly reported bad faith or false claims of
40 nonpayment against contractors or subcontractors.

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

43 “(2) The board may revoke, suspend or refuse to issue or reissue a license if the board deter-
44 mines after notice and opportunity for hearing that an applicant or licensee is unfit for licensure
45 based upon information submitted under ORS 701.075 or discovered by a board investigation under

1 ORS 701.225.

2 “(3) The board may assess a civil penalty as provided in ORS 701.992 if the board determines
3 after notice and opportunity for hearing that any person has violated [ORS 701.055 (I)] **section 2**
4 **of this 2007 Act.**

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

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

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

11 “(C) Hiring employees while [*licensed*] **classed** as exempt under ORS 701.035;

12 “(D) Conduct as a construction contractor that is dishonest or fraudulent; or

13 “(E) Failure to pay a construction debt.

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

22 “(5)(a) In addition to all other remedies, if the board has reason to believe that a person is en-
23 gaging in an act, practice or transaction that violates this chapter or a board rule, the board may
24 issue an order directing the person to cease the act or to take corrective action.

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

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

34 “(d) An order described in this subsection becomes final if the person does not file a timely re-
35 quest for a hearing concerning the order or fails to appear at the requested hearing as scheduled.

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

37 “(6) In addition to all other remedies, if it appears to the board that a person has engaged in,
38 or is engaging in, any act, practice or transaction that violates the provisions of this chapter, the
39 board may direct the Attorney General or the district attorney of the county in which the act,
40 practice or transaction occurs, to apply to the court for an injunction restraining the person from
41 violating the provisions of this chapter. An injunction may not issue for failure to maintain the list
42 provided for in section 4, chapter 114, Oregon Laws 2007 (Enrolled House Bill 2109), unless the court
43 determines that the failure is intentional.

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

1 “(8) If the board suspends or revokes the license of an individual contractor or contractor
2 business for a violation of subsection [(1)(g)] (1)(h) of this section, the board may not restore or
3 reissue the license unless the individual contractor or a responsible managing individual for the
4 contractor business has successfully completed the training and testing described in ORS 701.072.

5 “**SECTION 64. If Senate Bill 94 becomes law, section 28 of this 2007 Act (amending ORS**
6 **701.139) is repealed and ORS 701.139, as amended by section 11, chapter __, Oregon Laws 2007**
7 **(Enrolled Senate Bill 94), is amended to read:**

8 “701.139. [Except as provided in ORS 701.148 (2), the Construction Contractors Board may resolve
9 a dispute against a licensed contractor only if a complaint is made against the contractor’s surety bond
10 required by ORS 701.085. In order to have access to the bond,] **The Construction Contractors**
11 **Board may determine the validity of a complaint described in ORS 701.140 filed against a li-**
12 **censed contractor.** A person must file [a] the complaint [of a type described in ORS 701.140] within
13 the applicable time limitation described in ORS 701.143. The complaint must be filed and resolved
14 as follows:

15 “(1) **A complaint against a residential contractor that is not also endorsed as a com-**
16 **mercial contractor must be resolved as provided in ORS 701.145.**

17 “(2) **A complaint against a commercial contractor that is not also endorsed as a resi-**
18 **dential contractor must be resolved as provided in ORS 701.146.**

19 “(3) **A complaint against a contractor that is endorsed as both a residential contractor**
20 **and a commercial contractor:**

21 “[1] (a) [A complaint] That involves work on a residential structure or an appurtenance to a
22 residential structure must be resolved as provided under ORS 701.145.

23 “[2] (b) [A complaint] That involves work on a small commercial structure or an appurtenance
24 to a small commercial structure may be resolved as provided in ORS 701.145 or 701.146, **at the**
25 **complainant’s election.**

26 “[3] (c) [Except as provided in subsections (4) and (5) of this section, a complaint] That involves
27 work on a large commercial structure or an appurtenance to a large commercial structure must be
28 resolved as provided in ORS 701.146.

29 “[4] A complaint by an owner that involves work on a large commercial structure or an
30 appurtenance to a large commercial structure when the total contract involved in the complaint is
31 \$25,000 or less may be resolved as provided in ORS 701.145 or 701.146.]

32 “[5] (4) Notwithstanding subsections (1) to [(4)] (3) of this section **and except as provided in**
33 **ORS 701.148**, with prior agreement of the complainant and the licensed contractor, a complaint may
34 be resolved by the board through binding arbitration under ORS 701.148.

35 “**SECTION 65. If Senate Bill 94 becomes law, section 29 of this 2007 Act (amending ORS**
36 **701.140) is repealed and ORS 701.140, as amended by section 12, chapter __, Oregon Laws 2007**
37 **(Enrolled Senate Bill 94), is amended to read:**

38 “701.140. A complaint [made against a licensed contractor’s bond required by ORS 701.085] **under**
39 **ORS 701.139** must arise from the performance, or a contract for the performance, of work that [is
40 subject to this chapter] **requires a contractor license issued by the Construction Contractors**
41 **Board.** The complaint must be of one or more of the following types:

42 “(1) A complaint against a contractor by the owner of a structure or other real property for the
43 following:

44 “(a) Negligent work.

45 “(b) Improper work.

1 “(c) Breach of contract.

2 “(2) A complaint against a contractor by the owner of a structure or other real property to
3 discharge, or to recoup funds expended in discharging, a lien established under ORS 87.010 to 87.060
4 and 87.075 to 87.093 under circumstances described under this subsection. If the complaint is pro-
5 cessed under ORS 701.145, the Construction Contractors Board may reduce the amount of the com-
6 plaint by any amount the complainant owes the contractor. The board shall process complaints
7 described in this subsection under ORS 701.145 only if:

8 “(a) The owner paid the contractor for that contractor’s work subject to this chapter; [and]

9 “(b) A lien is filed against the property of the owner under ORS 87.010 to 87.060 and 87.075 to
10 87.093 because the contractor failed to pay the person claiming the lien for that person’s contribu-
11 tion toward completion of the improvement; **and**

12 **“(c) The complaint is described in ORS 701.139 (1) or (3)(a) or (b).**

13 “(3) A complaint against a licensed subcontractor by a licensed contractor for the following:

14 “(a) Negligent work;

15 “(b) Improper work; or

16 “(c) Breach of contract.

17 “(4) A complaint by a person furnishing labor to a contractor **or owed employee benefits by**
18 **a contractor.**

19 “(5) A complaint, as limited by rule of the board, by a person furnishing material or renting or
20 supplying equipment to a contractor. The minimum limit set by the board may not exceed \$150.

21 “(6) A complaint by a subcontractor against a contractor for unpaid labor or materials arising
22 out of a contract.

23 **“SECTION 66. If Senate Bill 94 becomes law, section 30 of this 2007 Act (amending ORS**
24 **701.145) is repealed and ORS 701.145, as amended by section 14, chapter __, Oregon Laws 2007**
25 **(Enrolled Senate Bill 94), is amended to read:**

26 “701.145. For a complaint described in ORS 701.139 (1) [*involving work on a residential structure*
27 *or an appurtenance to a residential structure, a complaint described in ORS 701.139 (2) involving work*
28 *on a small commercial structure or an appurtenance to a small commercial structure that is not re-*
29 *solved under ORS 701.146 or an owner’s complaint described in ORS 701.139 (4) involving work on*
30 *a large commercial structure or an appurtenance to a large commercial structure that is not resolved*
31 *under ORS 701.146] **or (3)(a) or a complaint under ORS 701.139 (3)(b) that a complainant elects**
32 **to have resolved under this section:***

33 “(1) The complainant must file the complaint with the Construction Contractors Board in a form
34 prescribed by the board.

35 “(2) The board may suspend processing of the complaint if:

36 “(a) The same facts and issues involved in the complaint have been submitted to a court of
37 competent jurisdiction for determination or have been submitted to any other entity authorized by
38 law or the parties to effect a resolution or settlement; or

39 “(b) The board determines that the nature or complexity of the dispute described in the com-
40 plaint is such that a court is the appropriate forum for the adjudication of the dispute.

41 “(3) The board may dismiss or close the complaint as established by rule of the board if any of
42 the following conditions apply:

43 “(a) The complainant does not respond to a board request and the request is necessary to the
44 board’s investigation of the complaint.

45 “(b) The complainant does not allow the board to conduct one or more on-site meetings to me-

1 mediate or investigate the complaint.

2 “(c) The complainant does not permit the contractor against whom the complaint is filed to be
3 present at an on-site investigation made by the board.

4 “(d) The board determines that the contractor against whom the complaint is filed is capable
5 of complying with recommendations made by the board relative to the complaint, but the
6 complainant does not permit the contractor to comply with the recommendations. The board may
7 refuse to accept or further process a complaint under this paragraph only if the contractor was li-
8 censed at the time the work was first performed and is licensed at the time the board makes its
9 recommendations.

10 “(e) The amount in controversy is less than an amount adopted by the board and not more than
11 \$250.

12 “(4) Upon acceptance of the complaint, the board shall give notice to the contractor against
13 whom the complaint is made and shall initiate proceedings to determine the validity of the com-
14 plaint. If, after investigation, the board determines that a violation of this chapter or of any rule
15 adopted thereunder has occurred, or damage has been caused by the contractor, the board may re-
16 commend to the contractor such action as the board considers appropriate to compensate the
17 complainant. If the contractor performs accordingly, the board shall give that fact due consideration
18 in any subsequent disciplinary proceeding brought by the board. The board may conduct one or more
19 on-site meetings to mediate or investigate the complaint.

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

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

24 “(b) Refer the matter for hearing.

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

27 **“SECTION 67. If Senate Bill 94 becomes law, section 31 of this 2007 Act (amending ORS**
28 **701.146) is repealed and ORS 701.146, as amended by section 15, chapter __, Oregon Laws 2007**
29 **(Enrolled Senate Bill 94), is amended to read:**

30 “701.146. For a complaint described in ORS 701.139 [(3) *involving work on a large commercial*
31 *structure or an appurtenance to a large commercial structure, a complaint described in ORS 701.139*
32 *(2) involving work on a small commercial structure or an appurtenance to a small commercial structure*
33 *that is not resolved under ORS 701.145 or an owner’s complaint described in ORS 701.139 (4) involving*
34 *work on a large commercial structure or an appurtenance to a large commercial structure that is not*
35 *resolved under ORS 701.145] **(2) or (3)(c) or a complaint under ORS 701.139 (3)(b) that a***

36 **complainant elects to have resolved under this section:**

37 “(1) The person seeking to file the complaint with the Construction Contractors Board must:

38 “(a) Bring an action on the dispute against the licensed contractor in a court of competent ju-
39 risdiction; or

40 “(b) Initiate a proceeding to resolve the dispute through binding arbitration substantially in
41 conformance with ORS 36.600 to 36.740.

42 “(2) The complainant must file the complaint with the Construction Contractors Board by de-
43 livering to the board a copy of the complainant’s court pleading or the demand for arbitration or
44 other document necessary to initiate arbitration. The pleading, demand or other document must be
45 accompanied by a completed board complaint form. The complainant must also give notice to the

1 surety on the bond by delivering to the surety a copy of the complainant's court pleading or the
2 demand for arbitration or other document necessary to initiate arbitration and a copy of the com-
3 pleted board complaint form. Delivery to the board and the surety must be accomplished by certified
4 mail, return receipt requested, no later than the earlier of:

5 “(a) The 90th day after filing the court action or after filing or making the arbitration demand
6 or other initiation of arbitration;

7 “(b) The 14th day before the first day of trial or arbitration; or

8 “(c) The 30th day before:

9 “(A) The court issues a judgment in the action; or

10 “(B) The arbitrator issues an award on the arbitration.

11 “(3) Filing the complaint with the board under subsection (2) of this section constitutes filing
12 the complaint for purposes of establishing timeliness of the complaint under ORS 701.143 and pri-
13 ority of the complaint for possible payment from the bond under [ORS 701.150] **section 11 of this**
14 **2007 Act.**

15 “(4) Except as provided in this subsection and subsection (7) of this section, if the complainant
16 properly gives notice to the surety under subsection (2) of this section, a judgment or award against
17 the contractor entered in the action or arbitration is binding on the surety. If the complainant de-
18 livers the notice required under subsection (2) of this section to the wrong surety, the surety re-
19 ceiving the notice may avoid being bound by a judgment or award by delivering notice of the
20 mistake to the complainant or the complainant's attorney of record, and to the board, on or before
21 the 30th day after the surety receives notice under subsection (2) of this section. Delivery of the
22 notice of mistake must be by certified mail, return receipt requested, or by facsimile machine or
23 other form of transmission with an acknowledgment of receipt.

24 “(5) A surety under subsection (2) of this section has an absolute right to intervene in an action
25 or arbitration brought or initiated under subsection (1) of this section. A complainant may not join
26 a surety as a party to an action or arbitration unless the complainant disputes the validity or
27 timeliness of the surety's notice of mistake or the surety disputes the validity or timeliness of the
28 delivery to the surety of the notice required by subsection (2) of this section. If the surety elects to
29 intervene or is joined as a party, the surety is bound by all issues of fact and law determined by the
30 court or arbitrator and may not seek board review of those determinations.

31 “(6) If a court issues a judgment on an action, or reduces an arbitration award to judgment,
32 against a contractor on a complaint described in subsection (1) of this section, the complainant must
33 deliver a certified copy of the judgment to the board and to the surety no later than the 30th day
34 after entry of the judgment in order to maintain the complaint and possibly receive payment from
35 the bond. The entry of a final judgment against the contractor concludes the contractor's involve-
36 ment in any proceedings to determine whether the complaint is subject to payment from the bond.
37 The complainant and the surety are the only parties to the administrative process set forth in sub-
38 section (7) of this section.

39 “(7) Upon receipt of a timely delivered certified copy of the judgment as described in subsection
40 (6) of this section, the board shall issue a proposed order in the amount of the judgment together
41 with any costs, interest and attorney fees awarded under the judgment, to the extent that the
42 judgment, costs, interest and fees are within the jurisdiction of the board. The board's determination
43 of the complaint is limited to whether the complaint comes within the jurisdiction of the board and
44 is subject to payment by the surety. The board shall issue the proposed order in a form that indi-
45 cates the surety's maximum liability to the complainant. If a hearing is not requested within the

1 time set forth in the proposed order, the proposed order becomes final without any further action
2 by the board. If a hearing is requested, unless review of an issue is precluded under subsection (5)
3 of this section, the board may determine:

4 “(a) Whether the complaint was timely filed with the board as provided in ORS 701.143.

5 “(b) Whether the surety received timely notice as provided in subsections (2) and (6) of this
6 section.

7 “(c) Whether the complaint is for work subject to this chapter.

8 “(d) The extent of the surety’s liability to the complainant.

9 “**SECTION 68. If Senate Bill 94 becomes law, section 32 of this 2007 Act (amending ORS**
10 **701.148) is repealed and ORS 701.148, as amended by section 17, chapter __, Oregon Laws 2007**
11 **(Enrolled Senate Bill 94), is amended to read:**

12 “701.148. (1) Subject to subsection (4) of this section, if the resolution of a complaint under ORS
13 701.145 requires a hearing, the Construction Contractors Board may require that the hearing be
14 conducted as a binding arbitration under rules adopted by the board under subsection (3) of this
15 section. This subsection does not authorize the board to require binding arbitration of a complaint
16 that is subject to ORS 701.146.

17 “(2) The board may use mediation or arbitration to resolve a construction dispute between any
18 parties who agree to follow the rules of the board, [*including but not limited to parties to a complaint*
19 *that is subject to ORS 701.146*] **other than a dispute involving work on a large commercial**
20 **structure.**

21 “(3) Except as provided in this subsection, rules adopted by the board to regulate arbitration
22 under subsections (1) and (2) of this section must substantially conform with the provisions of ORS
23 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.
24 The rules may:

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

27 “(b) Limit orders and awards made by the arbitrator as necessary to comply with this chapter;

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

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

32 “(e) Include any other provision necessary to conform the arbitration to this chapter.

33 “(4) A party to a complaint that is subject to a board order of binding arbitration under sub-
34 section (1) of this section may avoid the arbitration if the party requests to have the complaint re-
35 solved through a contested case hearing or files a court action. A party making a hearing request
36 or filing a court action under this subsection is subject to the following provisions:

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

40 “(b) If the party files a court action, the party must, within the time specified in paragraph (c)
41 of this subsection, deliver a copy of the party’s court pleading to the board and to all persons enti-
42 tled by board rule to receive a copy of the pleading. If the party filing the court action is the
43 complainant to the board, the complainant must plead all facts and issues of the board complaint in
44 the court action. If the court action is filed by the contractor against whom a board complaint is
45 alleged, the court action must be an action for damages, an action for declaratory judgment or an-

1 other action that allows the board complainant to file a response pleading all facts and issues of the
2 board complaint. The board complainant has the burden of proving the elements of the board com-
3 plaint in a court action described in this paragraph.

4 “(c) A party that is subject to paragraph (a) or (b) of this subsection must deliver the contested
5 case hearing request or the copy of the party’s court pleading to the board as described in para-
6 graphs (a) and (b) of this subsection no later than the 30th day after the board sends notice that an
7 arbitration hearing has been scheduled. Failure to timely deliver a request or court pleading under
8 this paragraph constitutes consent to the binding arbitration.

9 “(d) If a party makes a timely request under paragraph (a) of this subsection for a contested case
10 hearing and another party timely files a court action and complies with paragraph (b) of this sub-
11 section, the filing of the court action supersedes the request for a contested case hearing.

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

14 “(f) The board may adopt a rule that a contested case hearing for a complaint seeking less than
15 \$1,000 is not available under this subsection.

16 “(g) The provisions of paragraph (b) of this subsection are in addition to any other requirements
17 imposed by law regarding the filing of a court action.

18 “(5) The board may refuse to accept a dispute for mediation or arbitration under subsection (1)
19 or (2) of this section if the board determines that the nature or complexity of the dispute is such that
20 a court or other forum is more appropriate for resolution of the dispute.

21 **“SECTION 69. If Senate Bill 94 becomes law, section 33 of this 2007 Act (amending ORS**
22 **701.150) is repealed and ORS 701.150, as amended by section 19, chapter __, Oregon Laws 2007**
23 **(Enrolled Senate Bill 94), is amended to read:**

24 **“701.150. (1) A Construction Contractors Board final order that is not paid by the con-**
25 **tractor and that:**

26 **“(a) Arises out of a complaint filed under ORS 701.145 must be satisfied from a bond re-**
27 **quired for a residential contractor.**

28 **“(b) Arises out of a complaint filed under ORS 701.146 must be satisfied from a bond re-**
29 **quired for a commercial contractor.**

30 **“(2) If a [Construction Contractors] board final order is not paid by the contractor, the board**
31 **shall notify the surety on the bond. The surety may not pay on a complaint until the surety receives**
32 **notice from the board that the complaint is ready for payment.**

33 **“[(2) If an order of the board that determines a complaint under ORS 701.145 becomes final by**
34 **operation of law or on appeal and remains unpaid 10 days after the date the order becomes final, the**
35 **complainant may file the order with the county clerk in any county of this state.]**

36 **“[(3) Upon receipt, the clerk shall record the order in the County Clerk Lien Record. In addition**
37 **to any other remedy provided by law, recording an order in the County Clerk Lien Record pursuant**
38 **to the provisions of this section has the effect provided for in ORS 205.125 and 205.126, and the order**
39 **may be enforced as provided in ORS 205.125 and 205.126.]**

40 **“[(4) Payments from the surety bond of a contractor pursuant to board order and notice are satis-**
41 **fied in the following priority in any 90-day period. A 90-day period begins on the date the first com-**
42 **plaint is filed with the board. Subsequent 90-day periods begin on the date the first complaint is filed**
43 **with the board after the close of the preceding 90-day period. Within a 90-day period:]**

44 **“[(a) Board orders as a result of complaints against a contractor by the owner of a residential or**
45 **small commercial structure have payment priority to the full extent of the bond over all other types of**

1 *complaints.]*

2 *“(b) If the complaints described in paragraph (a) of this subsection do not exhaust the bond, then*
3 *amounts due as a result of all other types of residential or small commercial structure complaints filed*
4 *within that 90-day period may be satisfied from the bond, except that the total amount paid from any*
5 *one bond to nonowner complainants may not exceed \$3,000.]*

6 *“(c) If payments involving residential and small commercial structures do not exhaust the bond,*
7 *board orders and notice involving large commercial structure complaints are satisfied in the following*
8 *priority, except that the total amount paid from any one bond to nonowner complainants may not exceed*
9 *\$3,000:]*

10 *“[(A) Labor, including employee benefits.]*

11 *“[(B) All other complaints involving large commercial structures except costs, interest and attorney*
12 *fees.]*

13 *“[(C) Any costs, interest and attorney fees the plaintiff may be entitled to recover.]*

14 *“[(d) If the total complaints filed with the board against a contractor within 90 days after the board*
15 *receives notice of the first complaint against the contractor exceed the amount of the bond available for*
16 *those complaints, the bond shall be apportioned as the board determines, subject to the priorities es-*
17 *tablished under this section.]*

18 *“[(e) If the total amounts due as a result of complaints filed with the board within 90 days after*
19 *the first complaint is filed do not exceed the amount of the bond available for those complaints, all*
20 *amounts due as a result of complaints filed within the 90-day period shall have priority over all com-*
21 *plaints subsequently filed until the amount of the bond available for the payment of complaints is ex-*
22 *hausted.]*

23 *“[(5)] (3) Notwithstanding [subsection (4) of this section] sections 10 and 11 of this 2007 Act, a*
24 *bond is not subject to payment for a complaint that is filed more than 14 months after the earlier*
25 *of:*

26 *“(a) The expiration or cancellation date of the license that was in force when the work that is*
27 *the subject of the complaint was completed or abandoned; or*

28 *“(b) The date that the surety canceled the bond.*

29 *“[(6) The total amount paid from any one bond for costs, interest and attorney fees may not exceed*
30 *\$3,000.]*

31 **“SECTION 70. (1) Sections 3 to 6, 8 and 10 to 12 of this 2007 Act, the amendments to**
32 **sections 10 and 11 of this 2007 Act by sections 52 and 53 of this 2007 Act, the amendments**
33 **to ORS 18.635, 18.800, 205.126, 279C.375, 656.021, 701.005, 701.010, 701.060, 701.072, 701.075,**
34 **701.078, 701.085, 701.105, 701.138, 701.139, 701.140, 701.145, 701.146, 701.148, 701.150, 701.205 and**
35 **701.235 by sections 13, 14, 17, 19 to 24, 27 to 34, 36, 39 to 43, 48, 54 to 57, 58a, 59 to 61 and 64**
36 **to 69 of this 2007 Act and the repeal of ORS 701.058 and 701.252 by section 51 of this 2007 Act**
37 **become operative July 1, 2008.**

38 **“(2) Sections 3, 4 and 8 of this 2007 Act and the amendments to ORS 656.021, 701.060,**
39 **701.075, 701.085 and 701.105 by sections 17, 20, 22 to 24, 48, 58a and 59 to 61 of this 2007 Act**
40 **apply to licenses issued or renewed on or after July 1, 2008.**

41 **“(3) Sections 10 and 11 of this 2007 Act and the amendments to ORS 18.635, 18.800, 205.126,**
42 **701.139, 701.140, 701.145, 701.146, 701.150 and 701.235 by sections 28 to 31, 33, 36, 39 to 41, 64**
43 **to 67 and 69 of this 2007 Act apply to claims or complaints filed against persons whose con-**
44 **tractor licenses are issued or renewed on or after July 1, 2008.**

45 **“(4) Sections 2 and 9 of this 2007 Act, the amendments to section 6 of this 2007 Act by**

1 section 7 of this 2007 Act and the amendments to ORS 279C.465, 279C.585, 479.940, 646.551,
2 656.027, 671.540, 701.035, 701.055, 701.065, 701.115, 701.135, 701.230, 701.990 and 701.992 and
3 sections 2 and 5, chapter 114, Oregon Laws 2007 (Enrolled House Bill 2109), by sections 15,
4 16, 16a, 16b, 18, 25, 26, 35, 37, 38, 44 to 47, 49, 50, 58, 62 and 63 of this 2007 Act become oper-
5 ative July 1, 2010.

6 “(5) The amendments to ORS 701.205 by section 34 of this 2007 Act do not affect the term
7 of office served by any member of the Construction Contractors Board appointed to a term
8 beginning before July 1, 2009. For appointments to terms beginning on or after July 1, 2009,
9 the Governor shall appoint members to achieve the board composition described in ORS
10 701.205 as amended by section 34 of this 2007 Act no later than July 1, 2013.

11 “(6) The Construction Contractors Board may take all necessary actions prior to the
12 operative dates specified in this section for the efficient administration and enforcement of
13 this 2007 Act.

14 “SECTION 71. Notwithstanding any other law limiting expenditures, the limitation on
15 expenditures established by section 1, chapter _____, Oregon Laws 2007 (Enrolled House
16 Bill 5013), for the biennium beginning July 1, 2007, as the maximum limit for payment of ex-
17 penses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding
18 lottery funds and federal funds, collected or received by the Construction Contractors Board,
19 is increased by \$315,000 for the purpose of carrying out the duties, functions and powers of
20 the board under sections 3 to 6, 8, 10 to 12 and 70 of this 2007 Act and the amendments to
21 ORS 701.005, 701.010, 701.060, 701.072, 701.075, 701.078, 701.085, 701.105, 701.138, 701.139, 701.140,
22 701.145, 701.146, 701.148, 701.150, 701.205 and 701.235 by sections 13, 14, 17, 19 to 24, 27 to 34,
23 36, 54 to 57, 58a, 59 to 61 and 64 to 69 of this 2007 Act.

24 “SECTION 72. This 2007 Act being necessary for the immediate preservation of the public
25 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
26 July 1, 2007.”.

27