

# Senate Bill 605

Sponsored by Senator NELSON (at the request of Grant Darrow) (Pre-session filed.)

## SUMMARY

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

Makes person engaged in business of cleaning or servicing chimneys subject to licensure as construction contractor. Creates one-year exemption from civil penalty for unlicensed cleaning or servicing of chimney.

## A BILL FOR AN ACT

1  
2 Relating to construction contractors; creating new provisions; and amending ORS 701.005.

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

4 **SECTION 1.** ORS 701.005 is amended to read:

5 701.005. As used in this chapter:

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

7 (2) "Construction debt" means an amount owed under:

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

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

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

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

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

27 (6) "Inspector" means a contractor registered with the board who inspects or otherwise provides  
28 services to a property owner or other contractor but does not substantively add to or subtract from  
29 a structure. "Inspector" includes but is not limited to a home inspector certified under ORS 701.350,  
30 a lead-based paint inspector licensed under ORS 701.515 and a cross connection inspector and  
31 backflow assembly tester certified under ORS 448.279. "Inspector" does not include city or county

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

1 inspectors acting under ORS 701.225 or an inspector as defined in ORS 455.715.

2 (7) "Large commercial structure" means a structure that is not a residential structure or small  
3 commercial structure.

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

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

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

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

12 (9) "Officer" means any of the following persons:

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

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

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

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

17 (e) A trustee.

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

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

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

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

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

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

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

40 (12) "Small commercial structure" means a nonresidential structure that has a ground area of  
41 4,000 square feet or less, including exterior walls, and a height of not more than 20 feet from the  
42 top surface of the lowest flooring to the highest interior overhead finish of the structure.

43 (13) "Specialty contractor" means a contractor who performs work on a structure, project, de-  
44 velopment or improvement and whose operations as such do not fall within the definition of "general  
45 contractor." "Specialty contractor" includes a person who performs work regulated under ORS

1 chapter 446.

2 **SECTION 2. Notwithstanding the amendments to ORS 701.005 by section 1 of this 2007**  
3 **Act, the Construction Contractors Board may not impose a civil penalty under ORS 701.992**  
4 **for unlicensed cleaning or servicing of a chimney that occurs not more than one year after**  
5 **the effective date of this 2007 Act.**

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