

Enrolled
Senate Bill 63

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CHAPTER

AN ACT

Relating to landscaping; creating new provisions; and amending ORS 671.610.

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

SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS 671.510 to 671.710.

SECTION 2. An applicant for the issuance or renewal of a landscape contractor license or landscaping business license shall include in the application to the State Landscape Contractors Board notice of any unpaid court judgment, arbitration award or administrative agency final order entered or issued in any jurisdiction that requires the applicant to pay damages arising out of the performance of, or a contract for, landscaping work. The board may adopt rules that require an applicant to provide additional information regarding a judgment, arbitration award or agency final order described in this section and the status of any appeal or exceptions.

SECTION 3. Section 2 of this 2007 Act applies to judgments entered, and arbitration awards and final agency orders issued, on or after the effective date of this 2007 Act.

SECTION 4. ORS 671.610 is amended to read:

671.610. (1) In addition to any civil penalty assessed under ORS 671.997, the State Landscape Contractors Board may suspend, revoke or refuse to issue or renew the license of a landscape contractor or landscaping business that does any of the following:

- (a) Obtains or attempts to obtain a license under ORS 671.510 to 671.710 by fraud or material misrepresentation.
- (b) Makes a material misrepresentation about the quality of any material or service the person provides.
- (c) Performs defective work.
- (d) Furnishes defective materials.
- (e) Makes misleading statements when advertising services or materials.
- (f) Violates a provision of ORS 671.510 to 671.710.
- (g) Fails to have a replacement bond, letter of credit or deposit on file at the time of a termination, cancellation, reduction or withdrawal of the bond, letter of credit or deposit required by ORS 671.690.
- (h) Fails to maintain public liability, personal injury and property damage insurance as required by ORS 671.565 throughout a licensing period.

- (i) Violates a voluntary compliance agreement entered into under ORS 646.605 to 646.652.
 - (j) Performs work for which a permit is required under the state building code without obtaining the required permit, if the work results in the filing of a claim with the board.
 - (k) Violates a rule or order of the board.
 - (L) Refuses to comply with a subpoena issued by the board.
 - (m) Fails to pay in full any amount owed to a claimant under a final order of the board or an arbitration award, or under a judgment rendered in this or any other state.
 - (n) Does not make payment, including any interest due, for labor or materials contracted for by the person pursuant to a contract for a public improvement within 90 days after the date the person receives payment from a public contracting agency or, if the person is a subcontractor, from the contractor.
 - (o) Engages in conduct as a landscape contractor or landscaping business that is dishonest or fraudulent or that the board finds injurious to the welfare of the public.
 - (p) Fails to comply with the requirements of ORS 652.120.
 - (q) Is convicted of a crime under ORS 163.115, 163.185, 163.225, 163.235, 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 164.055, 164.075, 164.325 or 164.415, provided that the facts supporting the conviction and all intervening circumstances make the determination to suspend, revoke or refuse to issue or renew the license consistent with ORS 670.280.
- (2) The board may suspend or refuse to renew the license of a landscape contractor or landscaping business without prior hearing if, after investigating and setting forth in writing the facts supporting the action, the board determines that continued activity by the landscape contractor or landscaping business poses an imminent threat of serious harm to the public welfare. Facts sufficient to support a suspension or refusal to renew under this subsection include, but are not limited to:
- (a) The lack of a surety bond, letter of credit or deposit required under ORS 671.690;
 - (b) The lack of public liability, personal injury or property damage insurance required under ORS 671.565;
 - (c) The hiring of employees while registered as exempt under ORS 671.525;
 - (d) Conduct as a landscape contractor or a landscaping business that is dishonest; [or]
 - (e) Operation of a landscaping business that does not employ at least one licensed landscape contractor; **or**
 - (f) The failure to notify the board of any unpaid court judgment, arbitration award or administrative agency final order as required by section 2 of this 2007 Act.**
- (3) A person whose license is suspended or refused renewal under subsection (2) of this section may request a hearing within 90 days after receiving the notice of the suspension or refusal to renew. Except as provided in this subsection, the board shall give a contested case hearing requested under this subsection priority over other hearings and schedule the hearing for the earliest practicable date. If a citation is issued to the person and the order of suspension or refusal to renew will terminate by its terms if a court renders a final judgment regarding the citation in favor of the person, the person may request that the board hold the requested contested case hearing in abeyance until after the court has rendered a final judgment.
- (4) A person whose license is revoked under this section is not eligible to apply for a license under ORS 671.510 to 671.710 until two years after the effective date of the revocation.
- (5) The board may suspend, revoke or refuse to reissue the license of a landscaping business, and may impose a civil penalty, all as provided under ORS 671.997 (4), if the board determines, after notice and opportunity for a hearing, that the landscaping business was working with other landscaping businesses on the same task and work site where one of the landscaping businesses is registered as an exempt independent contractor under ORS 671.525 (2)(b) and the total number of landscaping businesses working on the task exceeded:
- (a) Two sole proprietors;
 - (b) One partnership;
 - (c) One corporation; or

(d) One limited liability company.

Passed by Senate March 20, 2007

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Secretary of Senate

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President of Senate

Passed by House May 14, 2007

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Speaker of House

Received by Governor:

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Approved:

.....M,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State