

**A-Engrossed**  
**Senate Bill 63**

Ordered by the Senate March 14  
Including Senate Amendments March 14

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for State Landscape Contractors Board)

**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.

*[Requires landscape contractors and landscaping businesses to notify State Landscape Contractors Board of judgments entered, and arbitration awards or agency final orders issued, against contractor or business that arise out of performance of, or contract for, landscaping services.]*

**Requires applicant for issuance or renewal of landscape contractor or landscape business license to notify State Landscape Contractors Board of any unpaid court judgment, arbitration award or administrative agency final order that requires applicant to pay damages arising out of performance of, or contract for, landscaping work.**

**A BILL FOR AN ACT**

1  
2 Relating to landscaping; creating new provisions; and amending ORS 671.610.

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

4 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS 671.510 to**  
5 **671.710.**

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

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

16 **SECTION 4. ORS 671.610 is amended to read:**

17 671.610. (1) In addition to any civil penalty assessed under ORS 671.997, the State Landscape  
18 Contractors Board may suspend, revoke or refuse to issue or renew the license of a landscape con-  
19 tractor or landscaping business that does any of the following:

20 (a) Obtains or attempts to obtain a license under ORS 671.510 to 671.710 by fraud or material  
21 misrepresentation.

22 (b) Makes a material misrepresentation about the quality of any material or service the person  
23 provides.

24 (c) Performs defective work.

**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 (d) Furnishes defective materials.
- 2 (e) Makes misleading statements when advertising services or materials.
- 3 (f) Violates a provision of ORS 671.510 to 671.710.
- 4 (g) Fails to have a replacement bond, letter of credit or deposit on file at the time of a termi-  
5 nation, cancellation, reduction or withdrawal of the bond, letter of credit or deposit required by ORS  
6 671.690.
- 7 (h) Fails to maintain public liability, personal injury and property damage insurance as required  
8 by ORS 671.565 throughout a licensing period.
- 9 (i) Violates a voluntary compliance agreement entered into under ORS 646.605 to 646.652.
- 10 (j) Performs work for which a permit is required under the state building code without obtaining  
11 the required permit, if the work results in the filing of a claim with the board.
- 12 (k) Violates a rule or order of the board.
- 13 (L) Refuses to comply with a subpoena issued by the board.
- 14 (m) Fails to pay in full any amount owed to a claimant under a final order of the board or an  
15 arbitration award, or under a judgment rendered in this or any other state.
- 16 (n) Does not make payment, including any interest due, for labor or materials contracted for by  
17 the person pursuant to a contract for a public improvement within 90 days after the date the person  
18 receives payment from a public contracting agency or, if the person is a subcontractor, from the  
19 contractor.
- 20 (o) Engages in conduct as a landscape contractor or landscaping business that is dishonest or  
21 fraudulent or that the board finds injurious to the welfare of the public.
- 22 (p) Fails to comply with the requirements of ORS 652.120.
- 23 (q) Is convicted of a crime under ORS 163.115, 163.185, 163.225, 163.235, 163.355, 163.365, 163.375,  
24 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 164.055, 164.075, 164.325 or  
25 164.415, provided that the facts supporting the conviction and all intervening circumstances make  
26 the determination to suspend, revoke or refuse to issue or renew the license consistent with ORS  
27 670.280.
- 28 (2) The board may suspend or refuse to renew the license of a landscape contractor or land-  
29 scaping business without prior hearing if, after investigating and setting forth in writing the facts  
30 supporting the action, the board determines that continued activity by the landscape contractor or  
31 landscaping business poses an imminent threat of serious harm to the public welfare. Facts sufficient  
32 to support a suspension or refusal to renew under this subsection include, but are not limited to:
  - 33 (a) The lack of a surety bond, letter of credit or deposit required under ORS 671.690;
  - 34 (b) The lack of public liability, personal injury or property damage insurance required under  
35 ORS 671.565;
  - 36 (c) The hiring of employees while registered as exempt under ORS 671.525;
  - 37 (d) Conduct as a landscape contractor or a landscaping business that is dishonest; *[or]*
  - 38 (e) Operation of a landscaping business that does not employ at least one licensed landscape  
39 contractor; **or**
  - 40 **(f) The failure to notify the board of any unpaid court judgment, arbitration award or**  
41 **administrative agency final order as required by section 2 of this 2007 Act.**
- 42 (3) A person whose license is suspended or refused renewal under subsection (2) of this section  
43 may request a hearing within 90 days after receiving the notice of the suspension or refusal to re-  
44 new. Except as provided in this subsection, the board shall give a contested case hearing requested  
45 under this subsection priority over other hearings and schedule the hearing for the earliest practi-

1 cable date. If a citation is issued to the person and the order of suspension or refusal to renew will  
2 terminate by its terms if a court renders a final judgment regarding the citation in favor of the  
3 person, the person may request that the board hold the requested contested case hearing in abey-  
4 ance until after the court has rendered a final judgment.

5 (4) A person whose license is revoked under this section is not eligible to apply for a license  
6 under ORS 671.510 to 671.710 until two years after the effective date of the revocation.

7 (5) The board may suspend, revoke or refuse to reissue the license of a landscaping business,  
8 and may impose a civil penalty, all as provided under ORS 671.997 (4), if the board determines, after  
9 notice and opportunity for a hearing, that the landscaping business was working with other land-  
10 scaping businesses on the same task and work site where one of the landscaping businesses is reg-  
11 istered as an exempt independent contractor under ORS 671.525 (2)(b) and the total number of  
12 landscaping businesses working on the task exceeded:

- 13 (a) Two sole proprietors;
  - 14 (b) One partnership;
  - 15 (c) One corporation; or
  - 16 (d) One limited liability company.
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