

Enrolled Senate Bill 91

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CHAPTER

AN ACT

Relating to construction contractors; creating new provisions; and amending ORS 701.055 and 701.075 and section 7, chapter 114, Oregon Laws 2007 (Enrolled House Bill 2109).

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

SECTION 1. ORS 701.055 is amended to read:

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

(2) [*A licensed partnership or corporation shall notify the board immediately upon any change in licensed partners or corporate officers. If a partnership no longer has a licensed partner, the partnership may not conduct*] **A contractor licensed under this chapter shall immediately notify the board of any change in the identity, name or address of a person who holds a position with the contractor that is described in ORS 701.075 (1)(h) or (i) or of a responsible managing individual for the contractor as defined in ORS 701.078. If a partner or joint venturer departs from a contractor that is a partnership or joint venture, the contractor must obtain a new license before continuing to conduct** activities that require a license under this chapter.

(3) A city, county or the State of Oregon may not issue a building permit to any person required to be licensed under this chapter that does not have a current, valid license. A county, city or state agency that requires the issuance of a permit as a condition precedent to construction, alteration, improvement, demolition, movement or repair of any building or structure or the appurtenances to the structure shall, as a condition for issuing the permit, require that the applicant for a permit file a written statement, subscribed by the applicant. The statement must affirm that the applicant is licensed under this chapter, give the license number and state that the license is in full force and effect, or, if the applicant is exempt from licensing under this chapter, list the basis for the exemption. The city, county or state agency shall list the contractor's license number on the permit obtained by that contractor.

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

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

(b) I own, reside in or will reside in the completed dwelling. My general contractor is _____, Construction Contractors Board license no. _____, license expiration date _____. I will instruct my general contractor that all subcontractors who work on this dwelling must be licensed with the Construction Contractors Board; or

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

(d) I will be my own general contractor and, if I hire subcontractors, I will hire only subcontractors licensed with the Construction Contractors Board.

(e) If I change my mind and do hire a general contractor, I will contract with a general contractor who is licensed with the Construction Contractors Board and I will immediately notify the office issuing this building permit of the name of the general contractor _____.

(5) The board shall adopt by rule a form entitled "Information Notice to Property Owners About Construction Responsibilities" that shall describe, in nontechnical language and in a clear and coherent manner using words in their common and everyday meaning, the responsibilities property owners are undertaking by acting as their own general contractor and the problems that could develop. The responsibilities described in the form shall include, but not be limited to:

(a) Compliance with state and federal laws regarding Social Security tax, income tax and unemployment tax.

(b) Workers' compensation insurance on workers.

(c) Liability and property damage insurance.

(6) The board shall develop and furnish to city, county and state building permit offices, at no cost to the offices, the Information Notice to Property Owners About Construction Responsibilities and the statement to be signed by the permit applicant.

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

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

(9) Licensure under this chapter is prima facie evidence that the licensee conducts a separate, independent business.

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

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

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

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

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

(A) Names and addresses.

(B) License numbers.

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

(12) A contractor may not hire any subcontractor or other contractor to perform work unless the subcontractor or contractor is licensed under this chapter or exempt from licensure under ORS 701.010.

(13) A consumer notification form designed to specifically inform a property owner what the property owner should do to protect themselves in a residential repair, remodel or construction project shall be prepared by the board and provided at no cost to all licensed contractors. The contractor shall deliver the form to the property owner when the contractor submits a bid or proposal for work on a residential structure. The form shall include an explanation of the meaning of licensure, including a statement that licensure is not an endorsement of a contractor's work, and an explanation of the bond and insurance levels required of contractors for the benefit of property owners. The form must not be larger than one side of a sheet of paper that is 8-1/2 inches by 11 inches. The contractor may reproduce the form on the contractor's bid proposal.

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

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

SECTION 1a. If House Bill 2109 becomes law, section 1 of this 2007 Act (amending ORS 701.055) is repealed and section 7, chapter 114, Oregon Laws 2007 (Enrolled House Bill 2109), is amended to read:

Sec. 7. *[A partnership or corporation licensed under this chapter shall notify the Construction Contractors Board immediately upon any change in licensed partners or corporate officers. If a partnership no longer has a licensed partner, the partnership may not conduct activities that require a license under this chapter.]* **A contractor licensed under this chapter shall immediately notify the Construction Contractors Board of any change in the identity, name or address of a person who holds a position with the contractor that is described in ORS 701.075 (1)(h) or (i) or of a responsible managing individual for the contractor as defined in ORS 701.078. If a partner or joint venturer departs from a contractor that is a partnership or joint venture, the contractor must obtain a new license before continuing to conduct activities that require a license under this chapter.**

SECTION 2. ORS 701.075 is amended to read:

701.075. (1) An applicant for a construction contractor license must submit the application on a form prescribed by the Construction Contractors Board. The application shall include, but not be limited to, the following information regarding the applicant:

(a) Classification of the license being sought.

(b) A list of construction debts involving the applicant, or an owner or officer of the applicant, if the order, award, penalty or judgment that establishes the debt was issued within the preceding five years.

(c) Social Security number.

(d) Workers' compensation insurance account number, if the applicant is required to have workers' compensation insurance.

(e) Unemployment insurance account number, if the applicant is required to have unemployment insurance.

(f) State withholding tax account number, if the applicant is required to withhold state income tax.

(g) Federal employer identification number, if the applicant is required to have a federal employer identification number.

(h) The name and address of:

(A) Each partner, if the applicant is a partnership, limited liability partnership or foreign limited liability partnership.

(B) The general partner, if the applicant is a limited partnership.

(C) Each joint venturer, if the applicant is a joint venture.

(D) The owner, if the applicant is a sole proprietorship.

(E) The officers, if the applicant is a corporation.

(F) The manager and each member, if the applicant is a manager-managed limited liability company.

(G) Each member, if the applicant is a member-managed limited liability company.

(H) Each trustee, if the applicant is a trust.

(i) The name and address of the following if the applicant is a partnership, limited liability partnership, foreign limited liability partnership, joint venture, manager-managed limited liability company or member-managed limited liability company:

(A) Each partner in a partnership, limited liability partnership or foreign limited liability partnership that is a partner, joint venturer or member of the applicant.

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

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

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

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

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

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

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

(j) The basis on which the applicant meets the standards for independent contractor status under ORS 670.600.

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

(a) Is in compliance with ORS 701.078.

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

(3) Subsection (2)(a) of this section does not apply to a licensed developer.

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

SECTION 3. (1) The amendments to ORS 701.055 by section 1 of this 2007 Act requiring the reporting of identity, name or address changes apply to identity, name and address changes occurring on or after January 1, 2008. The amendments to ORS 701.055 by section 1 of this 2007 Act restricting contractor activity following the departure of a partner or joint venturer apply if the departure of the partner or joint venturer occurs on or after January 1, 2008.

(2) The amendments to ORS 701.075 by section 2 of this 2007 Act apply to license applications received by the Construction Contractors Board on or after January 1, 2008.

SECTION 3a. If House Bill 2109 becomes law, section 3 of this 2007 Act is amended to read:

Sec. 3. (1) The amendments to [ORS 701.055 by section 1 of this 2007 Act] **section 7, chapter 114, Oregon Laws 2007 (Enrolled House Bill 2109), by section 1a of this 2007 Act** requiring the reporting of identity, name or address changes apply to identity, name and address changes occurring on or after January 1, 2008. The amendments to [ORS 701.055 by section 1 of this 2007 Act] **section 7, chapter 114, Oregon Laws 2007 (Enrolled House Bill 2109), by section 1a of this 2007 Act** restricting contractor activity following the departure of a partner or joint venturer apply if the departure of the partner or joint venturer occurs on or after January 1, 2008.

(2) The amendments to ORS 701.075 by section 2 of this 2007 Act apply to license applications received by the Construction Contractors Board on or after January 1, 2008.

Passed by Senate February 19, 2007

Received by Governor:

Repassed by Senate June 6, 2007

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

Approved:

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Secretary of Senate

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

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President of Senate

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Governor

Passed by House June 4, 2007

Filed in Office of Secretary of State:

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Speaker of House

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

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Secretary of State