

Enrolled Senate Bill 142

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 Board of Examiners for Engineering and Land Surveying)

CHAPTER

AN ACT

Relating to professions regulated by the State Board of Examiners for Engineering and Land Surveying; amending ORS 30.788, 59.015, 92.097, 100.655, 224.330, 276.915, 446.003, 450.260, 450.270, 536.032, 537.797, 537.798, 672.002, 672.007, 672.028, 672.045, 672.047, 672.060, 672.095, 672.118, 672.123, 672.148, 672.153, 672.155, 672.170, 672.180, 672.200, 672.240, 672.255, 672.310 and 701.010; and repealing ORS 672.050 and 672.190.

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

SECTION 1. ORS 672.002 is amended to read:

672.002. As used in ORS 672.002 to 672.325, unless the context requires otherwise:

- (1) "Board" means the State Board of Examiners for Engineering and Land Surveying.
- (2) "Engineer," ["*licensed engineer,*"] "professional engineer[,]" ["*registered engineer*"] or "registered professional engineer" means [*a person*] **an individual** who is registered in this state and holds a valid certificate to practice engineering in this state as provided under ORS 672.002 to 672.325.
- (3) "Engineering intern" means [*a person*] **an individual** enrolled by the board as having passed an examination in the fundamental engineering subjects.
- (4) "Geodetic survey" means a determination of the size and shape of the earth or the position of any point on the earth.
- (5) "Land surveyor," ["*surveyor,*" "*licensed surveyor,*" "*professional surveyor,*"] "professional land surveyor[,]" ["*registered land surveyor*"] or "registered professional land surveyor" means [*a person*] **an individual** who is registered in this state and holds a valid certificate to practice surveying in this state as provided by ORS 672.002 to 672.325.
- (6) "Land surveying intern" means [*a person*] **an individual** enrolled by the board as having passed an examination in the fundamental land surveying subjects.
- (7) "Photogrammetric mapping" means an evaluating and measuring of land that is limited to the determination of the topography, area, contours and location of planimetric features, by using photogrammetric methods or similar remote sensing technology, including but not limited to using existing ground control points incidental to the photogrammetric or remote sensing mapping process.
- (8) "Photogrammetrist" means [*a person*] **an individual** registered with the board and holding a valid certificate to practice photogrammetric mapping.
- (9) "Responsible charge" means to have supervision and control of:
 - (a) The engineering design of works with responsibility for design decisions; or

(b) Land surveying work for the purpose of ensuring conformance to the relevant requirements of law and sound surveying practice.

(10) "Supervision and control" means establishing the nature of, directing and guiding the preparation of, and approving the work product and accepting responsibility that the work product is in conformance with standards of professional practice.

SECTION 2. ORS 672.007 is amended to read:

672.007. [(1) *Within the meaning of ORS 672.002 to 672.325, a person shall be considered*] **For purposes of ORS 672.002 to 672.325:**

(1) A person is practicing or offering to practice engineering [who] if the person:

(a) By verbal claim, sign, advertisement, letterhead, card or in any other way implies that the person is or purports to be a registered professional engineer;

(b) Through the use of some other title implies that the person is an engineer or a registered professional engineer; or

(c) Purports to be able to perform, or who does perform, any service or work that is defined by ORS 672.005 as the practice of engineering.

(2) [Within the meaning of ORS 672.002 to 672.325,] A person is practicing or offering to practice land surveying [who] if the person:

(a) By verbal claim, sign, advertisement, letterhead, card or in any other way implies that the person is or purports to be a land surveyor;

(b) Through the use of some other title implies that the person is a land surveyor; or

(c) Purports to be able to perform, or who does perform, any land surveying service or work or any other service that is defined by ORS 672.005 as the practice of land surveying.

(3) A person is practicing or offering to practice photogrammetric mapping if the person:

(a) By verbal claim, sign, advertisement, letterhead, card or in any other way implies that the person is or purports to be a photogrammetrist;

(b) Through the use of some other title implies that the person is a photogrammetrist;
or

(c) Purports to be able to perform, or who does perform, any photogrammetric service or work or any other service that is defined by ORS 672.002 as photogrammetric mapping.

SECTION 3. ORS 672.028 is amended to read:

672.028. (1) A person may not practice photogrammetric mapping in this state unless the person is registered and has a valid certificate to practice land surveying, engineering or photogrammetric mapping issued under ORS 672.002 to 672.325.

(2) A photogrammetrist shall, upon registration, obtain a seal of the design authorized by the State Board of Examiners for Engineering and Land Surveying. The registrant shall sign and stamp with the seal of the registrant each final document, including drawings, specifications, designs, reports, narratives and maps issued by the registrant. The signature and stamp of a registrant constitute a certification that the document was prepared by the registrant or under the registrant's supervision and control.

[(2)] **(3) A photogrammetrist may perform services defined as photogrammetric mapping under ORS 672.002. A photogrammetrist may not engage or offer to engage in an act constituting the practice of land surveying other than photogrammetric mapping.**

SECTION 4. ORS 672.045 is amended to read:

672.045. A person [shall] **may** not:

(1) Engage in the practice of engineering, [or] land surveying **or photogrammetric mapping** without having a valid certificate or permit to so practice issued in accordance with ORS 672.002 to 672.325.

(2) Falsely represent, by any means, that the person is authorized to practice engineering, [or] land surveying **or photogrammetric mapping**.

(3) Present or attempt to use the certificate or permit of another or the seal of another.

(4) Attempt to use an expired or revoked certificate or permit.

(5) Falsely impersonate any registrant of like or different name.

(6) Practice engineering, [or] land surveying **or photogrammetric mapping** when not qualified.
(7) Buy, sell or fraudulently obtain any certificate or permit required by [this chapter] **ORS 672.002 to 672.325**.

(8) Aid or abet the buying, selling or fraudulently obtaining of any certificate or permit required by ORS 672.002 to 672.325.

(9) Engage in the practice of engineering, [or] land surveying **or photogrammetric mapping** under cover of a certificate or permit obtained or issued fraudulently or unlawfully or under fraudulent representations or mistake of fact in a material regard.

(10) Give any false or forged evidence of any kind to the State Board of Examiners for Engineering and Land Surveying or to any member [thereof] **of the board** in obtaining or attempting to obtain a certificate or permit required by ORS 672.002 to 672.325.

SECTION 5. ORS 672.047 is amended to read:

672.047. (1) Subject to subsection (4) of this section, a registered professional land surveyor, or any employee or agent of the **land** surveyor, may enter on foot, where practicable, upon any land for the purpose of surveying or performing any survey work and may establish permanent survey monuments as allowed by rule of the State Board of Examiners for Engineering and Land Surveying.

(2) Any person exercising the right of entry granted under subsection (1) of this section shall do so with no unnecessary damage to the land entered upon. Damages to trees, shrubs and other vegetation intentionally caused by the **land** surveyor shall be subject to compensation and penalties as provided in ORS 105.810. The **land** surveyor shall compensate the landowner for all other actual monetary damages, or \$100, whichever is greater. Actual monetary damages may include but are not limited to all costs in time, labor and materials incurred by the property owner to return the property to the condition it was in prior to the damage.

(3) If a request is made in writing in a timely manner, a copy of the survey shall be provided in a timely manner to any landowner who owns property that is outside an urban growth boundary and is affected by subsection (4) of this section.

(4) A registered professional land surveyor, or any employee or agent of the **land** surveyor, [shall] **may** not enter upon or establish any permanent survey monument upon any land without first attempting to provide notice to the landowner or occupant of the property in person. [When] **If** the landowner or occupant is not available, written notice shall be posted in a conspicuous place where [it] **the notice** is most likely to be seen. The posted notice shall give the professional land surveyor's name, address, telephone number, purpose, availability of the survey and the presence of any temporary or permanent monuments or other markers left on the property.

(5) A registered professional land surveyor, or any employee or agent of the **land** surveyor, who enters land as allowed under this section is owed no greater duty of care than that owed by a landowner to a trespasser.

(6) Notwithstanding the provisions of subsection (1) of this section, a registered professional land surveyor, or any employee or agent of the **land** surveyor, may use a vehicle to enter upon land provided that the vehicle remains on existing roadways where practicable.

(7) The **land** surveyor shall remove all flagging, stakes and other temporary materials that are above ground if leaving [them] **the materials** in place creates an unreasonable risk of harm to persons or property. Except for forestland as defined in ORS 527.620, the **land** surveyor shall remove all temporary above ground materials within 60 days of placement unless written authorization to leave the materials in place is received from the landowner or occupant.

SECTION 6. ORS 672.060 is amended to read:

672.060. ORS 672.002 to 672.325 do not apply to:

(1) A registered architect practicing architecture.

(2) A registered environmental health specialist or registered environmental health specialist trainee working under the supervision of a registered environmental health specialist practicing environmental sanitation, or a registered waste water specialist or registered waste water specialist trainee working under the supervision of a registered waste water specialist practicing waste water sanitation.

- (3) A person working as an employee or a subordinate of a registered professional engineer if:
- (a) The work of the person does not include final engineering designs or decisions;
 - (b) The work of the person is done under the supervision and control of and is verified by a registered professional engineer; and
 - (c) The person does not purport to be an engineer or registered professional engineer by any verbal claim, sign, advertisement, letterhead, card or title.
- (4) A person practicing land surveying under the supervision of a registered professional land surveyor or registered professional engineer. The exemption in this subsection does not allow an engineer to supervise a land surveying activity the engineer could not personally perform under ORS 672.025.
- (5) An individual, firm, partnership or corporation practicing engineering or land surveying:
- (a) On property owned or leased by the individual, firm, partnership or corporation, or on property in which the individual, firm, partnership or corporation has an interest, estate or possessory right; and
 - (b) That affects exclusively the property or interests of the individual, firm, partnership or corporation, unless the safety or health of the public, including employees and visitors, is involved.
- (6) The performance of engineering work by a person, [*firm or corporation,*] or by full-time employees [*thereof*] **of the person**, provided:
- (a) The work is in connection with or incidental to the operations of the [*persons, firms or corporations*] **person**; and
 - (b) The engineering work is not offered directly to the public.
- (7) A person executing engineering work designed by a professional engineer or supervising the construction of engineering work as a foreman or superintendent.
- (8) A landowner performing land surveying within the boundaries of the landowner's land or the landowner's regular employee performing land surveying services as part of the employee's official duties within the boundaries of the land of the employer.
- (9) An individual, firm, partnership or corporation offering to practice engineering or land surveying if:
- (a) The individual, firm, partnership or corporation holds a certificate of registration to engage in the practice of professional engineering or land surveying issued by the proper authority of any other state, a territory or possession of the United States, or a foreign country; and
 - (b) The offer includes a written statement that the offeror is not registered to practice engineering or land surveying in the State of Oregon, but will comply with ORS 672.002 to 672.325 by having [*a person*] **an individual** holding a valid certificate of registration in this state in responsible charge of the work prior to performing any engineering or land surveying work within this state.
- (10) A person making plans or specifications for, or supervising the erection, enlargement or alteration of, a building, or an appurtenance thereto, if the building is to be used for a single family residential dwelling or farm building or is a structure used in connection with or auxiliary to a single family residential dwelling or farm building, including but not limited to a three-car garage, barn or shed or a shelter used for the housing of domestic animals or livestock. ORS 672.002 to 672.325 do not prevent a person from making plans or specifications for, or supervising the erection, enlargement or alteration of, a building, or an appurtenance thereto, if the building has a ground area of 4,000 square feet or less and is not more than 20 feet in height from the top surface of lowest flooring to the highest interior overhead finish of the structure.
- (11) A construction contractor licensed under ORS chapter 701 that offers services constituting the practice of engineering if:
- (a) The services are appurtenant to construction services to be provided by the contractor;
 - (b) The services constituting the practice of engineering are performed by an engineer or engineers registered under ORS 672.002 to 672.325; and
 - (c) The offer by the construction contractor discloses in writing that the contractor is not an engineer and identifies the [*registered*] engineer or engineers that will perform the services constituting the practice of engineering.

(12) A person transcribing existing georeferenced data into a Geographic Information System or Land Information System format by manual or electronic means, and the maintenance of that data, if the data are clearly not intended to indicate the authoritative location of property boundaries, the precise shape or contour of the earth or the precise location of fixed works of humans.

(13) A person carrying out activities under ORS 306.125 or 308.245. This exemption applies to the transcription of tax maps, zoning maps and other public data records into Geographic Information System or Land Information System formatted cadastre and the maintenance of those cadastre, if:

- (a) The data are not modified for other than graphical purposes; and
- (b) The data are clearly not intended to authoritatively represent property boundaries.

(14) A person preparing maps or compiling databases depicting the distribution of natural or cultural resources, features or phenomena, if the maps or data are not intended to indicate the authoritative location of property boundaries, the precise shape or contour of the earth or the precise location of fixed works by humans.

(15) A federal agency or its contractors, in the preparation of military maps, quadrangle topographic maps, satellite imagery or other maps or images that do not define real property boundaries.

(16) A federal agency or its contractors, in the preparation or transcription of documents or databases into a Geographical Information System or Land Information System format, including but not limited to the preparation or transcription of federal census and other demographic data.

(17) A law enforcement agency or its contractors, in the preparation of documents or maps for traffic accidents, crime scenes or similar purposes depicting physical features or events or generating or using georeferenced data involving crime statistics or criminal activities.

(18) A peace officer, as defined in ORS 161.015, or a fire service professional, as defined in ORS 181.610, conducting, reporting on or testifying about or otherwise performing duties regarding an official investigation.

(19) A person creating general maps prepared for private firms or governmental agencies:

- (a) For use as guides to motorists, boaters, aviators or pedestrians;
- (b) For publication in a gazetteer or an atlas as an educational tool or reference publication;
- (c) For use in the curriculum of any course of study;
- (d) If produced by any electronic or print media, for use as an illustrative guide to the geographic location of any event; or
- (e) If prepared for conversational or illustrative purposes, including but not limited to for use as advertising material or user guides.

SECTION 7. ORS 672.095 is amended to read:

672.095. (1) If an applicant has the qualifications for examination prescribed by the State Board of Examiners for Engineering and Land Surveying under ORS 672.255, upon payment of the required examination fee, the board shall examine the applicant for registration on qualifications to practice engineering, [or] land surveying **or photogrammetric mapping**.

(2) The board shall specify on the certificate to practice, when issued to the applicant, the branch or branches of engineering, **land surveying or photogrammetric mapping** in which the applicant is especially qualified.

SECTION 8. ORS 672.118 is amended to read:

672.118. (1) As minimum evidence of qualification for the fundamentals examination in land surveying, an applicant shall provide evidence of graduation in an approved land surveying **or photogrammetric mapping** curriculum of four years or more from a school or college approved by the State Board of Examiners for Engineering and Land Surveying.

(2) Notwithstanding the provisions of subsection (1) of this section, the board shall adopt rules to consider an applicant's work experience, or other relevant factors, in lieu of a degree [*in land surveying*] as qualification for the fundamentals in land surveying examination.

(3) The fundamentals in land surveying examination shall be prescribed by the board and shall be devoted to basic land surveying subjects. The examination shall be written, or written and oral.

SECTION 9. ORS 672.123 is amended to read:

672.123. *[To qualify for a certificate of]* **As minimum evidence of qualification for** registration as a photogrammetrist, *[a person]* **an individual** must:

- (1) Pass the fundamentals of land surveying examination;
- (2) Pass a professional photogrammetric mapping examination administered by the State Board of Examiners for Engineering and Land Surveying; and
- (3) Have four or more years of experience acceptable to the board as an active practitioner of photogrammetric mapping.

SECTION 10. ORS 672.148 is amended to read:

672.148. (1) The State Board of Examiners for Engineering and Land Surveying~~],~~ *[without examination,]* may issue a certificate of registration to practice engineering to an applicant *[who]* **without examination if the applicant:**

- (a) Pays the required fee;
- (b) Meets the other necessary qualifications for registration under ORS 672.002 to 672.325;
- (c) Holds a certificate of registration to engage in the practice of professional engineering, issued by the proper authority of a state, territory or possession of the United States, the District of Columbia or a foreign country; and
- (d) Was issued the certificate of registration by the other authority under requirements for certification that were substantially equivalent to the requirements provided in this state at the time of issue.

[(2) The board may refuse to certify an applicant who has been found to have violated ethical or professional standards by a court or administrative body in another state for committing or omitting acts which, if committed or omitted in this state, would be a violation of ethical or professional standards established pursuant to ORS 672.002 to 672.325.]

[(3)] **(2)** The board may issue a certificate of registration to practice land surveying to an applicant *[who]* **without examination if the applicant:**

- (a) Pays the required fee;
- (b) Meets the other necessary qualifications for registration under ORS 672.002 to 672.325;
- (c) Holds a certificate of registration to engage in the practice of land surveying, issued by the proper authority of a state, territory or possession of the United States, the District of Columbia or a foreign country;
- (d) Was issued the certificate of registration by the other authority under requirements for certification that were substantially equivalent to the requirements provided in this state at the time of issue as determined by the board; and
- (e) Satisfactorily passes an examination covering questions on laws, procedures and practices pertaining to practice in this state.

(3) The board may issue a certificate of registration to practice photogrammetric mapping to an applicant without examination if the applicant:

- (a) Pays the required fee;
- (b) Meets the other necessary qualifications for registration under ORS 672.002 to 672.325;
- (c) Holds a certificate of registration to engage in the practice of photogrammetric mapping, issued by the proper authority of a state, territory or possession of the United States, the District of Columbia or a foreign country; and
- (d) Was issued the certificate of registration by the other authority under requirements for certification that were substantially equivalent to the requirements provided in this state at the time of issue as determined by the board.

(4) The board may refuse to certify an applicant who has been found to have violated ethical or professional standards by a court or administrative body in another state for committing or omitting acts that, if committed or omitted in this state, would be a violation of ethical or professional standards established under ORS 672.002 to 672.325.

SECTION 11. ORS 672.153 is amended to read:

672.153. If the State Board of Examiners for Engineering and Land Surveying specifies a new branch of engineering, [or] land surveying **or photogrammetric mapping** for examination and registration under ORS 672.002 to 672.325, the board may issue a certificate to an individual in the new branch without examination if the individual:

(1) Is [a] **already** registered **as an** [professional] engineer[, if] **and** the new branch is a branch of engineering;

(2) Is [a] **already** registered **as an** engineer or land surveyor [if] **and** the new branch is a branch of land surveying;

(3) Is already registered as an engineer, land surveyor or photogrammetrist and the new branch is a branch of photogrammetric mapping;

[(3)] **(4)** Establishes to the satisfaction of the board that the [person] **individual** has four years' experience in the new branch specified by the board;

[(4)] **(5)** Pays the fee established under ORS 672.155 for certification in a newly established branch, without examination, based on experience; and

[(5)] **(6)** Submits an application to the board for issuance of the certificate in the new branch within one year after the date the board first gives an examination in the new branch.

SECTION 12. ORS 672.155 is amended to read:

672.155. The State Board of Examiners for Engineering and Land Surveying shall establish fees by rule, including but not limited to fees for the following:

(1) Examination in the fundamentals of engineering.

(2) Examination for registration as a [registered] professional engineer.

(3) Examination in the fundamentals of land surveying.

[(4) *Reexamination in any portion of the land surveyor's examination, if required.*]

[(5)] **(4)** Examination for registration as [registered] **a** professional land surveyor.

[(6) *Issuance or renewal of a registered professional land surveyor certificate.*]

[(7) *Issuance or renewal of a registered professional engineer certificate.*]

[(8) *Issuance or renewal of a registered photogrammetrist certificate.*]

[(9) *Registration of nonresident engineer without examination under ORS 672.148.*]

[(10) *Registration of a nonresident land surveyor under ORS 672.148.*]

(5) Examination for registration as a photogrammetrist.

(6) Any reexamination.

(7) Registration or renewal of a certificate of registration as a professional engineer.

(8) Registration or renewal of a certificate of registration as a professional land surveyor.

(9) Registration or renewal of a certificate of registration as a photogrammetrist.

(10) Registration under ORS 672.148.

(11) Issuance of a temporary permit under ORS 672.109 or 672.127.

[(12) *Reissuance of a lost or mutilated certificate.*]

(12) Issuance of a certificate document.

(13) Issuance of a certificate of registration **under ORS 672.153**, without examination, based on experience in a branch of engineering, [or] land surveying **or photogrammetric mapping** newly established by the board [under ORS 672.255].

SECTION 13. ORS 672.170 is amended to read:

672.170. (1) Renewal of a certificate may be effected at any time prior to the renewal date by paying the required renewal fee to the secretary of the State Board of Examiners for Engineering and Land Surveying.

(2) Subject to subsection (4) of this section, the failure of a registrant to renew the certificate before the renewal date does not deprive the registrant of the right of renewal thereafter.

(3) The amount to be paid for the renewal of a certificate after the renewal date shall be the renewal fee plus a late-payment charge **determined by the board.**

(4) [No certificate shall be renewed that has been delinquent for more than five years.] **A certificate may not be renewed if the certificate has been retired for more than five years or delinquent for more than five years.**

SECTION 14. ORS 672.180 is amended to read:

672.180. A registered professional engineer, [or a] registered professional land surveyor **or photogrammetrist** who has [reached the age of 65 years and has] retired from the active practice of engineering, [or] land surveying **or photogrammetric mapping** may, upon application and at the discretion of the State Board of Examiners for Engineering and Land Surveying, be exempted from payment of annual **registration** renewal fees thereafter.

SECTION 15. ORS 672.200 is amended to read:

672.200. The State Board of Examiners for Engineering and Land Surveying may refuse to issue, restore or renew, or may suspend or revoke a certificate or permit, or reprimand any [person] **individual** enrolled as an intern or holding a certificate or permit:

(1) For violation of any provision of ORS 672.045;

(2) For gross negligence, negligence or incompetence in the practice of engineering, [or] land surveying **or photogrammetric mapping**;

(3) For conviction of a felony, or of a misdemeanor involving the practice of engineering, [or the practice of] land surveying **or photogrammetric mapping**; or

(4) For any violation of the rules of professional conduct prescribed by the board.

SECTION 16. ORS 672.240 is amended to read:

672.240. (1) The State Board of Examiners for Engineering and Land Surveying shall operate as a semi-independent state agency subject to ORS 182.456 to 182.472 for the purpose of carrying out ORS 672.002 to 672.325. The board shall consist of 11 members appointed by the Governor as follows:

(a) Two members shall be members of the general public.

(b) Two members shall be registered professional land surveyors.

(c) Six members shall be registered professional engineers.

(d) One member shall be registered both as a [registered] professional engineer and as a [registered] professional land surveyor. However, if a qualified [person] **individual** is not available, the Governor may appoint either [an] **a registered professional** engineer or a **registered professional land** surveyor.

(2) The Governor shall appoint members to the board so that there is at least one member of the board from each congressional district in this state.

(3) Each engineer and land surveyor member of the board shall have been:

(a) A resident of this state for at least three years immediately preceding appointment; and

(b) Practicing as a registered professional engineer or as a registered professional land surveyor for at least five years since the date of the [person's] **individual's** initial registration.

(4) The board shall elect biennially from among its members a president and vice president for the ensuing biennial term.

SECTION 17. ORS 672.255 is amended to read:

672.255. (1) The State Board of Examiners for Engineering and Land Surveying shall adopt rules:

(a) Establishing fees as provided in ORS 672.155 **and late-payment charges under ORS 672.170.**

(b) Providing a procedure for the issuance, denial, suspension or revocation of certificates, enrollments and permits.

(c) Prescribing standards of professional conduct for professional engineers, professional land surveyors, photogrammetrists, engineering interns and land surveying interns.

(d) Specifying branches of engineering, [and] land surveying **and photogrammetric mapping** in which examinations are offered.

(e) For registering individuals and issuing certificates of registration and temporary permits to individuals under ORS 672.002 to 672.325.

(f) Prescribing standards and intellectual, educational and technical qualifications for examination, [and certificate] **registration and** renewal in addition to the qualifications and conditions prescribed in ORS 672.105, 672.118, 672.123 and 672.170.

(g) Prescribing standards and guidelines for retired or inactive status of registrants, including provisions to allow the return to active status.

(h) Defining the scope of practice for *[persons]* **individuals** holding a certificate issued by the board to practice **engineering, land surveying or photogrammetric mapping** or a *[certificate or]* temporary permit issued by the board to perform **engineering or photogrammetric mapping**.

(2) In adopting rules under subsection (1)(c) to (h) of this section, the board shall give consideration to national practices as well as local practices. Adoption of rules shall be in accordance with ORS chapter 183.

SECTION 18. ORS 672.310 is amended to read:

672.310. The State Board of Examiners for Engineering and Land Surveying may inquire into the identity of any person claiming to be a registered professional engineer, *[or a]* registered professional land surveyor **or photogrammetrist** and, after due service of a notice in writing, require the person to prove to the satisfaction of the board that the person is the person authorized to practice engineering, *[or]* land surveying¹*[, as the case may be,]* **or photogrammetric mapping** under the certificate of registration by virtue of which the person claims to be *[such a professional]* **authorized**. When the board finds that a person making such a claim is not in fact the person to whom the certificate of registration was issued, *[it]* **the board** shall reduce *[its]* **the** findings to writing and file *[them in its office]* **the findings in the office of the board**. The findings are prima facie evidence that the person mentioned therein is falsely impersonating another of a like or different name.

SECTION 19. ORS 30.788 is amended to read:

30.788. (1) An action for damages arising out of the practice of architecture, as defined in ORS 671.010, may not be maintained by any person against an architect for services rendered by the architect under the provisions of this section.

(2) An action for damages arising out of the practice of engineering, as described in ORS 672.007, may not be maintained by any person against an engineer for structural engineering services rendered by the engineer under the provisions of this section.

(3) An action for damages arising out of the provision of building code inspections, plan reviews or post-disaster building evaluations may not be maintained by any person against a certified inspector or certified building evaluator if the inspector or building evaluator is providing building code inspections, plan reviews or post-disaster building evaluations under the provisions of this section and the inspector or building evaluator is operating within the scope of the certification.

(4) The immunity provided by this section applies only to services that meet all of the following requirements:

(a) The services are rendered without compensation.

(b) The services are rendered within 60 days after the Governor declares a state of emergency under the provisions of ORS 401.055.

(c) The services are rendered to assist in relief efforts arising out of the emergency giving rise to the declaration of emergency.

(5) This section does not affect the liability of any architect, engineer, inspector or building evaluator for gross negligence or intentional torts.

(6) The immunity provided by this section applies only to:

(a) Inspectors certified under ORS 455.715 to 455.740;

(b) Building evaluators certified for post-disaster building evaluation by the Department of Consumer and Business Services;

(c) Architects who are licensed under ORS 671.010 to 671.220;

(d) Engineers who are *[licensed]* **registered** under ORS 672.002 to 672.325; and

(e) Architects and engineers who are licensed **or registered** under the laws of another state.

SECTION 20. ORS 59.015 is amended to read:

59.015. As used in the Oregon Securities Law, unless the context otherwise requires:

(1) “Broker-dealer” means a person who engages, all or part of the time, in effecting transactions in securities for the account of others or for the person’s own account. “Broker-dealer” does not include:

(a) An issuer effecting sales in its own securities;

(b) The following institutions:

- (A) A financial institution or trust company, as defined in ORS 706.008; or
- (B) A financial holding company or a bank holding company, as defined in ORS 706.008, holding an institution described in subparagraph (A) of this paragraph; a savings and loan holding company as defined in section 408 of the National Housing Act, 12 U.S.C. section 1730a, holding an association described in subparagraph (A) of this paragraph; the subsidiaries and affiliates of the financial holding company, bank holding company or savings and loan holding company; or subsidiaries and affiliates of institutions described in subparagraph (A) of this paragraph, if the appropriate statutory regulatory authority is exercising control over, or is regulating or supervising the person in the sale of securities in accord with the purposes of the Oregon Securities Law;
- (c) A person who has no place of business in this state effecting transactions in this state exclusively with broker-dealers;
- (d) A person effecting sales exempted by ORS 59.035;
- (e) A salesperson;
- (f) A person effecting sales of securities owned by the person registered for sale pursuant to ORS 59.065;
- (g) A person effecting sales of securities exempted by ORS 59.025 (7);
- (h) A person licensed as a mortgage banker or a mortgage broker under ORS 59.840 to 59.980 when effecting sales of securities involving real estate paper registered for sale pursuant to ORS 59.065; or
- (i) A person designated by rule or order by the director.
- (2) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.
- (3) "Director" means the Director of the Department of Consumer and Business Services.
- (4) "Federal covered investment adviser" means a person who is registered as an investment adviser pursuant to section 203 of the Investment Advisers Act of 1940, as amended.
- (5) "Federal covered security" means any security that is a covered security under section 18 of the Securities Act of 1933, as amended, and for which such Act provides that the director may require filing of a notice and payment of a fee.
- (6) "Fraud," "deceit" and "defraud" are not limited to common-law deceit.
- (7) "Guaranteed" means guaranteed as to payment of principal, interest or dividends.
- (8)(a) "Investment adviser representative" means any partner, officer, director or person occupying a similar status or performing a similar function, or other individual, except clerical or ministerial personnel, who is employed by or associated with:
- (A) A state investment adviser that is licensed or required to be licensed in this state and who does any of the following:
- (i) Makes any recommendations or otherwise renders advice regarding securities;
 - (ii) Manages accounts or portfolios of clients;
 - (iii) Determines which recommendation or advice regarding securities should be given;
 - (iv) Solicits, offers or negotiates for the sale of or sells investment advisory services; or
 - (v) Supervises employees acting under this subparagraph; or
- (B) A federal covered investment adviser, subject to the limitations of section 203A of the Investment Advisers Act of 1940, as amended, as the director may designate by rule or order.
- (b) "Investment adviser representative" does not include a person designated by rule or order of the director.
- (9) "Issuer" means a person who issues, proposes to issue or has issued a security and includes an issuer to be formed. With respect to certificates of deposit, voting-trust certificates or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted management or unit type, the "issuer" is the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other instrument or agreement under which the security is issued.

(10) "License" means a license as provided under the Oregon Securities Law.

(11) "Mortgage banker" means a mortgage banker as defined in ORS 59.840.

(12) "Mortgage broker" means a mortgage broker as defined in ORS 59.840.

(13) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(14) "Person" includes an individual, a joint venture, a partnership, a cooperative, a limited liability company, an association, a joint stock company, a corporation, a trust, an unincorporated organization or a government or political subdivision of a government.

(15) "Real estate paper" means any obligation secured or purportedly secured by an interest in real property. Real estate paper includes, but is not limited to, mortgage-backed securities, collateralized mortgage obligations, and real estate mortgage investment conduits.

(16) "Registered" means registered as provided in the Oregon Securities Law.

(17)(a) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, a purchase of securities or any other thing shall constitute a part of the subject of the purchase and shall have been offered and sold for value. A gift of assessable stock by or for any issuer or promoter shall constitute a sale.

(b) For purposes of the authority of the director under ORS 59.245 and 59.255, the terms "sale" and "sell" include the terms "offer" and "offer to sell."

(c) "Sale" and "sell" do not include:

(A) A bona fide pledge or loan of securities;

(B) A bona fide security dividend, whether the corporation distributing the dividend is the issuer of the security or not, if nothing of value is given by the recipients for the dividend other than payments in connection with the elimination of fractional shares; or

(C) An act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims or property interests, or partly in such exchange and partly for cash.

(18)(a) "Salesperson" means a person, other than a broker-dealer, who represents or purports to represent a broker-dealer, issuer or owner of securities in effecting or attempting to effect in any manner transactions in securities.

(b) "Salesperson" does not include:

(A) A person who represents an issuer in effecting sales in a security exempted by ORS 59.025;

(B) A person who represents an issuer in effecting sales exempted by ORS 59.035;

(C) A person who represents an issuer in effecting sales with existing partners or directors of the issuer, if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state;

(D) An employee of an institution or organization described in subsection (1)(b) of this section to the extent the employee is not a dual employee of the institution and a broker-dealer;

(E) A person effecting transactions in this state limited to those transactions described in section 15(h)(2) and (3) of the Securities Exchange Act of 1934, as amended; or

(F) A person designated by rule or order by the director.

(c) A person who is a partner, director or officer of a broker-dealer, issuer or owner of securities, or a person who occupies a similar status or performing similar functions, is a "salesperson" only if the person otherwise comes within this definition.

(19)(a) "Security" means a note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in a pension plan or profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, variable annuity, certificate of deposit for a security, certificate of interest

or participation in an oil, gas, or mining title or lease or in payments out of production under such title or lease, real estate paper sold by a broker-dealer, mortgage banker, mortgage broker or a person described in subsection (1)(b) of this section to persons other than persons enumerated in ORS 59.035 (4), or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificates for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.

(b) "Security" does not include:

(A) An insurance or endowment policy or annuity contract, other than a variable annuity contract, under which an insurance company promises to pay a fixed or variable sum of money either in a lump sum or periodically for life or some other specified period;

(B) A beneficial interest in a voluntary inter vivos trust unless the trust is created solely for the purpose of voting or is part of an attempt to evade the provisions of ORS 59.005 to 59.451; or

(C) A beneficial interest in a testamentary trust.

(20)(a) "State investment adviser" means a person who, for compensation:

(A) Engages all or part of the time of the person, in this state, in the business of advising others, either directly or by mail or through publication or writing, as to the value of securities or as to the advisability of investing in, purchasing or selling securities;

(B) Engages all or part of the time of the person, in this state, in the business of managing an investment or trading account in securities for other persons; or

(C) Issues or promulgates, as part of a regular business in this state, analyses or reports concerning securities.

(b) "State investment adviser" does not include:

(A) An investment adviser representative;

(B) An institution or organization described in subsection (1)(b) of this section;

(C) A licensed broker-dealer whose performance of investment advisory services is solely incidental to the conduct of business as a broker-dealer and who receives no special compensation for such services;

(D) A salesperson licensed to a broker-dealer whose performance of investment advisory services is solely incidental to that person's activities as a salesperson and who receives no special compensation for such services;

(E) A publisher of or contributor to a bona fide newspaper, newsmagazine, investment manual or service, or business or financial publication of general, regular and paid circulation;

(F) A person whose only clients are federal covered investment advisers, state investment advisers, broker-dealers, mortgage bankers, mortgage brokers, banks, savings institutions or trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, as amended, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees;

(G) A duly licensed **or registered** lawyer, engineer or accountant whose performance of investment advisory services is solely incidental to the practice of the profession;

(H) A person whose advice, analyses or reports relate only to securities exempted by ORS 59.025 (1);

(I) A federal covered investment adviser in compliance with ORS 59.165 (7);

(J) A person, advising others, that has no place of business in this state and during the preceding 12-month period has had fewer than six clients, other than those persons included in subparagraph (F) of this paragraph, who are residents of this state; or

(K) Such other persons as the director may by rule or order designate.

SECTION 21. ORS 92.097 is amended to read:

92.097. (1) [No] **A** city, county or special district [shall] **may not** prohibit the employment by a developer of a [licensed] **registered** engineer to design or supervise the installation of the improvements of streets, water and sewer lines or other public improvements that are to be installed in conjunction with the development of land using private funds.

(2) When design or supervision of installation of improvements is performed by a [licensed] **registered** engineer under subsection (1) of this section, the city, county or special district may elect to establish standards for such improvements, review and approve plans and specifications and inspect the installation of improvements. The city, county or special district may collect a fee for inspection and any other services provided in an amount not to exceed the actual cost of performing the inspection or other services provided.

SECTION 22. ORS 100.655 is amended to read:

100.655. (1) The disclosure statement submitted to the Real Estate Commissioner as part of a filing under ORS 100.635 shall contain the following information:

(a) The name and address of the condominium, and the name, address and telephone number of the developer;

(b) A general narrative description of the condominium stating the total number of units, a description of the types of units, the total number of units that may be included in the condominium pursuant to ORS 100.105 (2), and a precise statement of the nature of the interest which is being offered;

(c) If at the time of filing:

(A) The construction of the project is not completed, general disclosure of the status of construction and the actual or scheduled dates of completion of buildings, recreational facilities and other common elements, including a statement describing any recreational facilities or improvements to the common elements that the developer reserves the right to develop or promises to develop, or a statement that there are no such facilities or improvements; or

(B) The construction of the project is completed, the actual dates of completion of buildings, recreational facilities and other common elements if known by the developer;

(d) The nature and significant terms of any financing offered by the developer to purchasers of the condominium units;

(e) Copies of any warranties for structural elements and mechanical and other systems or a brief description of such warranties;

(f)(A) A current or projected budget of the association of unit owners for the operation and maintenance and any other common expenses of the condominium, including an amount for a subsidy of the association by the declarant, if any, by a contribution of funds, goods or services;

(B) A brief statement of the method of determining liability for common expenses and the right to common profits; and

(C) The following notice in at least 12-point type that is either all capitals or boldface:

NOTICE TO PROSPECTIVE PURCHASERS

THE PROJECTION OF THE BUDGET OF THE ASSOCIATION OF UNIT OWNERS FOR THE OPERATION AND MAINTENANCE AND OTHER COMMON EXPENSES OF THE CONDOMINIUM IS ONLY AN ESTIMATE, PREPARED WITH DUE CARE.

(g) If a provision for reserves under ORS 100.175 is included in the budget disclosed under paragraph (f) of this subsection:

(A) A statement identifying the information constituting the basis for the reserve assessment under ORS 100.175; and

(B) A statement that the information constituting the basis for the reserve assessment identified under ORS 100.175 is available for review upon written request to the declarant or the designated person, unless included in the disclosure statement;

(h) In the case of a conversion condominium, a statement of:

(A) The present condition of all structural components and major mechanical and utility installations in the condominium, including the approximate date of construction and a reasonable esti-

mate of the remaining useful life of, at a minimum, the roof, siding, plumbing, electrical, HVAC system, asphalt, sidewalks and decks;

(B) Whether or not the assessment of conditions under subparagraph (A) of this paragraph, which shall be in at least 12-point type that is all capitals or boldface, was prepared by a *[licensed]* **registered** engineer, **registered** architect or **certified** home inspector; and

(C) The statutory procedure required to create a conversion condominium;

(i) A cross-reference to the portions of the declaration, any supplemental declaration and bylaws containing the general power and authority of the board of directors, the method of apportionment of voting rights among the members of the association of unit owners and a statement of the nature and extent of control of the board of directors retained by the developer by voting rights or otherwise;

(j) A list of the documents by which purchasers may be bound, including the declaration, bylaws, ground leases, management agreement, easements, covenants, restrictions and conditions;

(k) A statement of whether there are any restrictions on alienation of units or any use or occupancy restrictions, such as limitations on residential or commercial use, pets, age of occupants or number of occupants, and a cross-reference to those portions of the declaration, any supplemental declaration, bylaws or any other document containing the principal provisions relating to those restrictions; and

(L) If the condominium is a staged condominium:

(A) Whether the declarant reserves the right to annex additional property to the condominium pursuant to ORS 100.125 and, if so:

(i) The maximum number of units;

(ii) The date after which annexation right terminates;

(iii) The description of additional common elements declarant reserves right to annex to the property and whether such common elements might substantially increase the proportionate amount of common expenses by current unit owners; and

(iv) The effect of annexation of additional units on allocation of interest in the common elements and voting rights.

(B) If the condominium or any stage being filed under ORS 100.635 contains or may contain any variable property, a statement of the rights reserved by the declarant under ORS 100.150 (1) and the results specified in ORS 100.155 if such rights are not exercised.

(2) In lieu of the disclosure statement required under subsection (1) of this section, the commissioner may accept a disclosure report issued or approved by another state or governmental agency.

(3) No disclosure statement is required for condominiums described in ORS 100.660.

(4) The declarant is not liable to the association or the owners with respect to a statement of condition or estimate of useful life contained in the disclosure statement if:

(a) The declarant did not have actual knowledge of any inaccuracies in the statement at the time of delivery of the disclosure statement to the purchaser; and

(b) The declarant relied upon reports prepared by *[licensed]* **registered** engineers or **registered** architects in making the statement or, if the condominium has four or fewer units, reports prepared by *[licensed]* **registered** engineers, **registered** architects or **certified** home inspectors.

SECTION 23. ORS 224.330 is amended to read:

224.330. A municipality shall not apply to the State Treasurer for financing under ORS 224.320 unless:

(1) It submits to the State Treasurer plans and specifications prepared by competent *[licensed]* **registered** engineers setting forth the type or character of sewer system or sewerage facilities proposed for the particular municipality and the estimated cost of the system and of the appurtenances thereto.

(2) It submits to the State Treasurer the proposed plan of the municipality for liquidation of indebtedness to be incurred for financing the cost of such system or facilities.

SECTION 24. ORS 276.915, as amended by section 3, chapter 26, Oregon Laws 2008, is amended to read:

276.915. (1) An authorized state agency may construct or renovate a facility only if the authorized state agency determines that the design incorporates all reasonable cost-effective energy conservation measures and alternative energy systems. The determination by the authorized state agency shall include consideration of indoor air quality issues and operation and maintenance costs.

(2) Whenever an authorized state agency determines that a major facility is to be constructed or renovated, the authorized state agency shall cause to be included in the design phase of the construction or renovation a provision that requires an energy consumption analysis to be prepared for the facility under the direction of a professional engineer or licensed architect or under the direction of a person that is prequalified in accordance with this section. The authorized state agency and the State Department of Energy shall agree to the list of energy conservation measures and alternative energy systems that the energy consumption analysis will include. The energy consumption analysis and facility design shall be delivered to the State Department of Energy during the design development phase of the facility design. The State Department of Energy shall review the energy consumption analysis and forward its findings to the authorized state agency within 10 working days after receiving the energy consumption analysis, if practicable.

(3) The State Department of Energy, in consultation with authorized state agencies, shall adopt rules to carry out the provisions of ORS 276.900 to 276.915. These rules shall:

(a) Include a simplified and usable method for determining which energy conservation measures and alternative energy systems are cost-effective. The method shall reflect the energy costs of the utility serving the facility.

(b) Prescribe procedures for determining if a facility design incorporates all reasonable cost-effective energy conservation measures and alternative energy systems.

(c) Establish fees through which an authorized state agency will reimburse the State Department of Energy for the department's review of energy consumption analyses and facility designs and the department's reporting tasks. The fees imposed may not exceed 0.2 percent of the capital construction cost of the facility and must be included in the energy consumption analysis required in subsection (2) of this section. The State Department of Energy may provide for a waiver of fees and reviews if the authorized state agency demonstrates that the facility will be designed and constructed in a manner that incorporates only cost-effective energy conservation measures or in a manner that exceeds the energy conservation provisions of the state building code by 20 percent or more.

(d) Periodically define highly efficient facilities. A facility constructed or renovated after June 30, 2001, shall exceed the energy conservation provisions of the state building code by 20 percent or more, unless otherwise required by rules adopted under this section.

(e) Establish guidelines for implementing subsection (4) of this section.

(f) Establish guidelines for incorporating energy efficiency requirements into lease agreements of 10 or more years to be phased in as current lease agreements expire or as new lease agreements are entered into, allowing reasonable time for the owner to implement the requirements of this section.

(g) Establish criteria by which the State Department of Energy determines that a person is prequalified to perform work in accordance with this section.

(4) Before June 30, 2015, an authorized state agency shall reduce the total amount of energy the authorized state agency uses in the authorized state agency's owned facilities by at least 20 percent from a baseline amount the State Department of Energy determines by rule based on usage in calendar year 2000.

(5) An authorized state agency shall report annually to the State Department of Energy concerning energy use in the authorized state agency's facilities. The State Department of Energy shall specify by rule the form and content of and deadlines for the reports.

(6) An authorized state agency that fails to achieve and maintain a 20 percent reduction in energy use on and after June 30, 2015, shall submit biennial energy conservation plans to the State

Department of Energy. The State Department of Energy shall specify by rule the form and content of and deadlines for the energy conservation plans.

(7) The State Department of Energy by rule may require mandatory prequalification as a condition for a person to submit a bid or proposal to perform the following work for an authorized state agency:

(a) Direct an energy consumption analysis for an authorized state agency under subsection (2) of this section, unless the person is a [*licensed*] professional engineer or architect;

(b) Enter into an energy savings performance contract; or

(c) Perform energy audits, building commissioning, monitoring and verification services and other services related to the operation and management of a facility's energy systems, except for architectural, engineering and land surveying services as defined in ORS 279C.100.

(8) The State Department of Energy may recover from authorized state agencies the costs associated with administering the provisions of this section, including costs associated with adopting rules, maintaining a state energy use database and prequalifying a person under this section.

(9) The State Department of Energy, the Oregon Department of Administrative Services and the Oregon University System shall jointly prepare a biennial report summarizing the progress toward achieving the goals of this section. The biennial report shall be made available to the public.

SECTION 25. ORS 446.003 is amended to read:

446.003. As used in ORS 446.003 to 446.200 and 446.225 to 446.285, and for the purposes of ORS chapters 195, 196, 197, 215 and 227, the following definitions apply, unless the context requires otherwise, or unless administration and enforcement by the State of Oregon under the existing or revised National Manufactured Housing Construction and Safety Standards Act would be adversely affected, and except as provided in ORS 446.265:

(1) "Accessory building or structure" means any portable, demountable or permanent structure established for use of the occupant of the manufactured structure and as further defined by rule by the Director of the Department of Consumer and Business Services.

(2)(a) "Alteration" means any change, addition, repair, conversion, replacement, modification or removal of any equipment or installation that may affect the operation, construction or occupancy of a manufactured structure.

(b) "Alteration" does not include:

(A) Minor repairs with approved component parts;

(B) Conversion of listed fuel-burning appliances in accordance with the terms of their listing;

(C) Adjustment and maintenance of equipment; or

(D) Replacement of equipment or accessories in kind.

(3) "Approved" means approved, licensed or certified by the Department of Consumer and Business Services or its designee.

(4) "Board" means the Manufactured Structures and Parks Advisory Board.

(5) "Cabana" means a stationary, lightweight structure that may be prefabricated, or demountable, with two or more walls, used adjacent to and in conjunction with a manufactured structure to provide additional living space.

(6) "Certification" means an evaluation process by which the department verifies a manufacturer's ability to produce manufactured structures to the department rules and to the department approved quality control manual.

(7) "Conversion" or "to convert" means the process of changing a manufactured structure in whole or in part from one type of vehicle or structure to another.

(8) "Dealer" means any person engaged in selling or distributing manufactured structures or equipment, or both, primarily to persons who in good faith purchase or lease manufactured structures or equipment, or both, for purposes other than resale.

(9) "Department" means the Department of Consumer and Business Services.

(10) "Director" means the Director of the Department of Consumer and Business Services.

(11) "Distributor" means any person engaged in selling and distributing manufactured structures or equipment for resale.

(12) "Equipment" means materials, appliances, subassembly, devices, fixtures, fittings and apparatuses used in the construction, plumbing, mechanical and electrical systems of a manufactured structure.

(13) "Federal manufactured housing construction and safety standard" means a standard for construction, design and performance of a manufactured dwelling promulgated by the Secretary of Housing and Urban Development pursuant to the federal National Manufactured Housing Construction and Safety Standards Act of 1974 (Public Law 93-383).

(14) "Fire Marshal" means the State Fire Marshal.

(15) "Imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury.

(16) "Insignia of compliance" means:

(a) For a manufactured dwelling built to HUD standards for such dwellings, the HUD label; or

(b) For all other manufactured structures, the insignia issued by this state indicating compliance with state law.

(17) "Inspecting authority" or "inspector" means the Director of the Department of Consumer and Business Services or representatives as appointed or authorized to administer and enforce provisions of ORS 446.111, 446.160, 446.176, 446.225 to 446.285, 446.310 to 446.350, 446.990 and this section.

(18) "Installation" in relation to:

(a) Construction means the arrangements and methods of construction, fire and life safety, electrical, plumbing and mechanical equipment and systems within a manufactured structure.

(b) Siting means the manufactured structure and cabana foundation support and tiedown, the structural, fire and life safety, electrical, plumbing and mechanical equipment and material connections and the installation of skirting and temporary steps.

(19) "Installer" means any individual licensed by the director to install, set up, connect, hook up, block, tie down, secure, support, install temporary steps for, install skirting for or make electrical, plumbing or mechanical connections to manufactured dwellings or cabanas or who provides consultation or supervision for any of these activities, except architects licensed under ORS 671.010 to 671.220 or engineers [*licensed*] **registered** under ORS 672.002 to 672.325.

(20) "Listed" means equipment or materials included in a list, published by an organization concerned with product evaluation acceptable to the department that maintains periodic inspection of production of listed equipment or materials, and whose listing states either that the equipment or materials meets appropriate standards or has been tested and found suitable in a specified manner.

(21) "Lot" means any space, area or tract of land, or portion of a manufactured dwelling park, mobile home park or recreation park that is designated or used for occupancy by one manufactured structure.

(22)(a) "Manufactured dwelling" means a residential trailer, mobile home or manufactured home.

(b) "Manufactured dwelling" does not include any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the Low-Rise Residential Dwelling Code adopted pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer.

(23) "Manufactured dwelling park" means any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190.

(24)(a) "Manufactured home," except as provided in paragraph (b) of this subsection, means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

(b) For purposes of implementing any contract pertaining to manufactured homes between the department and the federal government, "manufactured home" has the meaning given the term in the contract.

(25)(a) "Manufactured structure" means a recreational vehicle, manufactured dwelling or recreational structure.

(b) "Manufactured structure" does not include any building or structure regulated under the State of Oregon Structural Specialty Code or the Low-Rise Residential Dwelling Code.

(26) "Manufacturer" means any person engaged in manufacturing, building, rebuilding, altering, converting or assembling manufactured structures or equipment.

(27) "Manufacturing" means the building, rebuilding, altering or converting of manufactured structures that bear or are required to bear an Oregon insignia of compliance.

(28) "Minimum safety standards" means the plumbing, mechanical, electrical, thermal, fire and life safety, structural and transportation standards prescribed by rules adopted by the director.

(29) "Mobile home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

(30) "Mobile home park" means any place where four or more manufactured structures are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Mobile home park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the municipality unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190.

(31) "Municipality" means a city, county or other unit of local government otherwise authorized by law to enact codes.

(32) "Recreational structure" means a campground structure with or without plumbing, heating or cooking facilities intended to be used by any particular occupant on a limited-time basis for recreational, seasonal, emergency or transitional housing purposes and may include yurts, cabins, fabric structures or similar structures as further defined, by rule, by the director.

(33) "Recreational vehicle" means a vehicle with or without motive power, that is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes and as further defined, by rule, by the director.

(34) "Residential trailer" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.

(35) "Sale" means rent, lease, sale or exchange.

(36) "Skirting" means a weather resistant material used to enclose the space below the manufactured structure.

(37) "Tiedown" means any device designed to anchor a manufactured structure securely to the ground.

(38) "Transitional housing accommodations" means accommodations described under ORS 446.265.

(39) "Utilities" means the water, sewer, gas or electric services provided on a lot for a manufactured structure.

SECTION 26. ORS 450.260 is amended to read:

450.260. A district shall not apply to the State Treasurer for financing under ORS 450.250 to 450.300 unless:

(1) It submits to the State Treasurer plans and specifications prepared by competent [*licensed*] **registered** engineers setting forth the type or character of sewer system or sewerage facilities proposed for the particular district and the estimated cost of the system and of the appurtenances thereto.

(2) It submits to the State Treasurer the proposed plan of the district for liquidation of indebtedness to be incurred for financing the cost of such system or facilities.

SECTION 27. ORS 450.270 is amended to read:

450.270. (1) The State Treasurer shall be the sole judge as to whether state funds shall be invested in the bonds of a district and as to which undertakings shall first be financed. The decision of the State Treasurer on the subject of investment and priority shall be final.

(2) The State Treasurer may enlist the technical services of any state officer or department in a study of the feasibility and cost of the sewerage project. The State Treasurer further may employ [*licensed*] **registered** engineers, at the cost of the district, to make such a study for the district and for the State Treasurer.

(3) The State Treasurer, in the discretion of the State Treasurer, may purchase with moneys from the revolving fund provided by ORS 450.250 to 450.300, general obligation sewerage system bonds of any district, issued under authority of ORS 450.250 to 450.300. If the State Treasurer deems it expedient in the acquisition and construction of a sewerage system for a district to furnish sewerage service for territory that is contiguous to or outside the boundaries of the district, the State Treasurer may authorize the district to furnish such service and to construct part of its system outside its boundaries for such purpose.

(4) The State Treasurer may authorize districts to issue sewerage system bonds with the right reserved to them to redeem bonds at par value and accrued interest prior to the final maturity dates of the bonds.

(5) The State Treasurer, in the discretion of the State Treasurer, may authorize deferment of payment of interest upon the sewerage bonds of the district for a period not exceeding three years, and may provide for the issuance of such bonds with graduated rates of interest.

(6) The State Treasurer may specify the procedure to be followed by a district in availing itself of the provisions of ORS 450.250 to 450.300.

SECTION 28. ORS 536.032 is amended to read:

536.032. Subject to confirmation by the Senate in the manner provided in section 4, Article III, Oregon Constitution, the Governor shall appoint a Water Resources Director. The director shall be an individual qualified by training and experience and shall serve for a term of four years at the pleasure of the Governor. The director or a principal assistant must be a [*licensed*] **registered** engineer experienced in water-related engineering.

SECTION 29. ORS 537.797 is amended to read:

537.797. The Water Resources Commission by rule shall establish criteria for the certification of registered, professional **land** surveyors and engineers and geologists practicing as defined in ORS 672.005 and 672.505, respectively, to conduct surveys to determine whether a permittee has completed all work necessary to perfect an appropriation of water under ORS 537.230, 537.630 and 540.530.

SECTION 30. ORS 537.798 is amended to read:

537.798. (1) In accordance with criteria established by the Water Resources Commission, the State Board of Examiners for Engineering and Land Surveying shall:

(a) Conduct examinations for certification of registered, professional **land** surveyors, engineers and geologists to conduct surveys to determine whether or not a permittee has completed all work necessary to perfect an appropriation of water under ORS 537.230, 537.630 and 540.530.

(b) Issue certificates to any land surveyor, engineer or geologist qualifying for certification under paragraph (a) of this subsection.

(c) Collect fees for the examination and certification of water right examiners under this subsection.

(2) In accordance with the provisions of ORS chapter 183 relating to contested cases, the State Board of Examiners for Engineering and Land Surveying may revoke, suspend or modify certificates issued under subsection (1) of this section.

(3) The State Board of Examiners for Engineering and Land Surveying shall establish fees for the examination, certification and renewal of certification of water right examiners. The fees shall be based upon the expenses of the board in conducting a program to certify water right examiners and the expenses of the Water Resources Department in providing for examination of water right appropriations by water right examiners.

(4) The board shall pay into the State Treasury all moneys received as fees under subsection (1) of this section. The State Treasurer shall credit such money to the State Board of Examiners for Engineering and Land Surveying. The moneys are continuously appropriated to the board to be used by the board in conjunction with the Water Resources Department for any expenses incurred by the board and, if approved by the Governor, any expenses incurred by the Water Resources Department in the certification, examination and review of activities of water right examiners.

SECTION 31. ORS 701.010 is amended to read:

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

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

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

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

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

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

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

(7) A person performing work on a property that person owns or performing work as the owner's employee, whether the property is occupied by the owner or not, or a person performing work on that person's residence, whether or not that person owns the residence. This subsection does not apply to a person performing work on a structure owned by that person or the owner's employee, if the work is performed in the pursuit of an independent business with the intent of offering the structure for sale before, upon or after completion.

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

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

(b) A [*registered*] professional engineer [*licensed*] **registered** by the State Board of Examiners for Engineering and Land Surveying.

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

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

(e) A landscape contracting business licensed under ORS 671.510 to 671.760 that constructs fences, decks, arbors, patios, landscape edging, driveways, walkways or retaining walls and that meets the applicable bonding requirements under ORS 671.690.

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

(g) An appraiser certified or licensed under ORS chapter 674 or an appraiser assistant registered under ORS chapter 674 by the Appraiser Certification and Licensure Board.

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

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

(11) A person involved in the movement of:

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

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

(12) A commercial lending institution or surety company that arranges for the completion, repair or remodeling of a structure. As used in this subsection, "commercial lending institution" means any bank, mortgage banking company, trust company, savings bank, savings and loan association, credit union, national banking association, federal savings and loan association, insurance company or federal credit union maintaining an office in this state.

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

(14) Units of government other than those specified in ORS 701.005 (5)(c) and (d).

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

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

(17) City or county inspectors acting under ORS 701.225 or inspectors described in ORS 455.715.

SECTION 32. ORS 672.050 and 672.190 are repealed.

Passed by Senate February 16, 2009

.....
Secretary of Senate

.....
President of Senate

Passed by House May 28, 2009

.....
Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2009

.....
Secretary of State