

A-Engrossed
Senate Bill 202

Ordered by the Senate March 9
Including Senate Amendments dated March 9

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 Construction Contractors Board)

SUMMARY

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

[Removes minimum contract amount provision from definition of general contractor.] Repositions reference to cleaning and servicing of chimneys within definition of contractor.

A BILL FOR AN ACT

1
2 Relating to construction contractors; amending ORS 701.005.

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

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

5 701.005. As used in this chapter:

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

7 (2) "Commercial contractor" means a licensed contractor that holds an endorsement as a:

8 (a) Commercial general contractor level 1;

9 (b) Commercial specialty contractor level 1;

10 (c) Commercial general contractor level 2;

11 (d) Commercial specialty contractor level 2; or

12 (e) Commercial developer.

13 (3) "Commercial developer" means a developer of property that is zoned for or intended for use
14 compatible with a small commercial or large commercial structure.

15 (4) "Construction debt" means an amount owed under:

16 (a) An order or arbitration award issued by the board that has become final by operation of law;

17 (b) A judgment or civil penalty that has become final by operation of law arising from con-
18 struction activities within the United States; or

19 (c) A judgment or civil penalty that has become final by operation of law arising from a failure
20 to comply with ORS 656.017.

21 (5) "Contractor" means any of the following:

22 (a) A person [*who*] **that**, for compensation or with the intent to sell, arranges or undertakes or
23 offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, in-
24 spect, move, wreck or demolish, for another, any building, highway, road, railroad, excavation or
25 other structure, project, development or improvement attached to real estate, [*or to clean or service*
26 *chimneys,*] or to do any part thereof.

27 (b) A person that purchases or owns property and constructs or for compensation arranges for

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

1 the construction of one or more residential structures or small commercial structures with the in-
2 tent of selling the structures.

3 (c) A school district, as defined in ORS 332.002, that permits students to construct a residential
4 structure or small commercial structure as an educational experience to learn building techniques
5 and sells the completed structure.

6 (d) A community college district, as defined in ORS 341.005, that permits students to construct
7 a residential structure or small commercial structure as an educational experience to learn building
8 techniques and sells the completed structure.

9 (e) Any person except a landscape contracting business, nurseryman, gardener or person en-
10 gaged in the commercial harvest of forest products, that is engaged as an independent contractor
11 to remove trees, prune trees, remove tree limbs or stumps or to engage in tree or limb guying.

12 (f) A business that supplies the services of a home inspector certified under ORS 701.350, a
13 lead-based paint inspector licensed under ORS 701.515 or a cross connection inspector and backflow
14 assembly tester certified under ORS 448.279.

15 **(g) A person that for compensation arranges, undertakes, offers to undertake or submits**
16 **a bid to clean or service chimneys.**

17 (6) “Developer” means a contractor that owns property or an interest in property and engages
18 in the business of arranging for construction work or performing other activities associated with the
19 improvement of real property, with the intent to sell the property.

20 (7) “General contractor”:

21 (a) Means a contractor whose business operations require the use of more than two unrelated
22 building trades or crafts that the contractor supervises or performs in whole or part, whenever the
23 sum of all contracts on any single property, including materials and labor, exceeds an amount es-
24 tablished by rule by the board.

25 (b) Does not mean a specialty contractor or a residential limited contractor.

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

30 (9) “Key employee” means an employee or owner of a contractor who is a corporate officer,
31 manager, superintendent, foreperson or lead person or any other employee identified by the board
32 by rule.

33 (10) “Large commercial structure” means a structure that is not a residential structure or small
34 commercial structure.

35 (11) “Officer” means any of the following persons:

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

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

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

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

40 (e) A trustee.

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

44 (12) “Residential contractor” means a licensed contractor that holds an endorsement as a:

45 (a) Residential general contractor;

- 1 (b) Residential specialty contractor;
- 2 (c) Residential limited contractor; or
- 3 (d) Residential developer.

4 (13) "Residential developer" means a developer of property that is zoned for or intended for use
5 compatible with a residential or small commercial structure.

6 (14) "Residential structure":

7 (a) Means:

8 (A) A residence that is a site-built home;

9 (B) A structure that contains one or more dwelling units and is four stories or less above grade;

10 (C) A condominium, rental residential unit or other residential dwelling unit that is part of a
11 larger structure, if the property interest in the unit is separate from the property interest in the
12 larger structure;

13 (D) A modular home constructed off-site;

14 (E) A manufactured dwelling; or

15 (F) A floating home as defined in ORS 830.700.

16 (b) Does not mean:

17 (A) Subject to paragraph (a)(C) of this subsection, a structure that contains both residential and
18 nonresidential units;

19 (B) Transient lodging;

20 (C) A residential school or residence hall;

21 (D) A state or local correctional facility other than a local facility for persons enrolled in work
22 release programs maintained under ORS 144.460;

23 (E) A youth correction facility as defined in ORS 420.005;

24 (F) A youth care center operated by a county juvenile department under administrative control
25 of a juvenile court pursuant to ORS 420.855 to 420.885;

26 (G) A detention facility as defined in ORS 419A.004;

27 (H) A nursing home;

28 (I) A hospital; or

29 (J) A place constructed primarily for recreational activities.

30 (15) "Responsible managing individual" means an individual who:

31 (a) Is an owner described in ORS 701.094 or an employee of the business;

32 (b) Exercises management or supervisory authority, as defined by the board by rule, over the
33 construction activities of the business; and

34 (c)(A) Has successfully completed the training and testing required for licensing under ORS
35 701.122 within a period identified by the board by rule;

36 (B) Has demonstrated experience required by the board by rule; or

37 (C) Has complied with the licensing requirements of ORS 446.395.

38 (16) "Small commercial structure" means:

39 (a) A nonresidential structure that has a ground area of 10,000 square feet or less, including
40 exterior walls, and a height of not more than 20 feet from the top surface of the lowest flooring to
41 the highest interior overhead finish of the structure;

42 (b) A nonresidential leasehold, rental unit or other unit that is part of a larger structure, if the
43 unit has a ground area of 12,000 square feet or less, excluding exterior walls, and a height of not
44 more than 20 feet from the top surface of the lowest flooring to the highest interior overhead finish
45 of the unit; or

1 (c) A nonresidential structure of any size for which the contract price of all construction con-
2 tractor work to be performed on the structure as part of a construction project does not total more
3 than \$250,000.

4 (17) "Specialty contractor" means a contractor who performs work on a structure, project, de-
5 velopment or improvement and whose operations as such do not fall within the definition of "general
6 contractor." "Specialty contractor" includes a person who performs work regulated under ORS
7 446.395.

8 (18) "Zero-lot-line dwelling" means a single-family dwelling unit constructed in a group of at-
9 tached units in which:

10 (a) Each attached unit extends from foundation to roof with open space on two sides; and

11 (b) Each dwelling unit is separated by a property line.

12