

Senate Bill 203

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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 **as introduced**.

Makes construction contractor obligation to provide Construction Lien Law information notice to owner applicable only for construction that requires written contract.

A BILL FOR AN ACT

1
2 Relating to construction contractors; creating new provisions; and amending ORS 87.093.

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

4 **SECTION 1.** ORS 87.093 is amended to read:

5 87.093. (1) The Construction Contractors Board shall adopt by rule a form entitled "Information
6 Notice to Owner" which shall describe, in nontechnical language and in a clear and coherent man-
7 ner using words in their common and everyday meanings, the pertinent provisions of the Con-
8 struction Lien Law of this state and the rights and responsibilities of an owner of property and an
9 original contractor under that law. The "Information Notice to Owner" shall include signature lines
10 for the contractor and the property owner. The rights and responsibilities described in the form
11 shall include, but not be limited to:

12 (a) Methods by which an owner may avoid multiple payments for the same materials and labor;

13 (b) The right to file a complaint against a licensed contractor with the board and, if appropriate,
14 to be reimbursed from the contractor's bond filed under ORS chapter 701; and

15 (c) The right to receive, upon written request therefor, a statement of the reasonable value of
16 materials, equipment, services or labor provided from the persons providing the materials, equip-
17 ment, services or labor at the request of an original contractor and who have also provided notices
18 of right to a lien.

19 [(2)(a)] **(2)** Each original contractor shall deliver a copy of the "Information Notice to Owner"
20 adopted by the board under this section to:

21 [(A)] **(a)** The first purchaser of residential property constructed by the contractor and sold be-
22 fore or within the 75-day period immediately following the completion of construction; and

23 [(B)] **(b)** The owner or an agent of the owner, other than an original contractor, at the time of
24 signing a [written] residential construction or improvement contract with the owner.

25 [(b) *If the residential construction or improvement contract is an oral contract, the original con-*
26 *tractor shall mail or otherwise deliver the "Information Notice to Owner" not later than five days after*
27 *the contract is made.*]

28 (3) The contractor shall deliver the "Information Notice to Owner" personally, by registered or
29 certified mail or by first class mail with certificate of mailing.

30 (4) This section applies only to a residential construction or improvement contract for which the

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 aggregate contract price exceeds [~~\$1,000~~] **\$2,000**. If the price of a residential **construction or im-**
 2 **provement** contract was initially less than [~~\$1,000~~] **\$2,000**, but during the course of the performance
 3 of the contract exceeds that amount, the original contractor shall mail or otherwise deliver the
 4 “Information Notice to Owner” not later than five days after the contractor knows or should rea-
 5 sonably know that the contract price will exceed [~~\$1,000~~] **\$2,000**.

6 (5) Notwithstanding subsections (2) and (4) of this section, the original contractor need not send
 7 the owner an “Information Notice to Owner” if the owner is a contractor licensed with the board
 8 under ORS chapter 701.

9 (6) Notwithstanding ORS 87.010 and 87.030, if an original contractor does not deliver an owner
 10 or agent with an “Information Notice to Owner” as required under subsections (2) to (4) of this
 11 section, the original contractor may not claim any lien created under ORS 87.010 upon any im-
 12 provement, lot or parcel of land of the owner for labor, services or materials supplied under the
 13 residential construction or improvement contract for which the original contractor failed to deliver
 14 the required “Information Notice to Owner”.

15 (7) If an original contractor does not deliver an “Information Notice to Owner” to an owner or
 16 agent as required under subsection (2) of this section, the board may suspend the license of the or-
 17 iginal contractor for any period of time that the board considers appropriate or impose a civil pen-
 18 alty of not more than \$5,000 upon the original contractor as provided in ORS 701.992.

19 (8) As used in this section:

20 (a) “Residential construction or improvement” means the original construction of residential
 21 property and [~~constructing, repairing, remodeling or altering residential property and includes, but is~~
 22 ~~not limited to, the construction, repair, replacement or improvement of driveways, swimming pools,~~
 23 ~~terraces, patios, fences, porches, garages, basements and other structures or land adjacent to a resi-~~
 24 ~~dential dwelling~~] **the repair, replacement, remodeling, alteration or improvement of residential**
 25 **property**.

26 (b) “Residential construction or improvement contract” means [~~an~~] **a written** agreement[, *oral*
 27 *or written,*] between an original contractor and an owner for the performance of a [~~home improve-~~
 28 ~~ment~~] **residential construction or improvement** and [~~includes~~] all labor, services and materials
 29 furnished and performed [~~thereunder~~] **under the agreement**.

30 (c) “Residential property” **includes, but is not limited to, a residential dwelling and the**
 31 **driveways, swimming pools, terraces, patios, fences, porches, garages, basements, other**
 32 **structures and land that are adjacent or appurtenant to a residential dwelling**.

33 **SECTION 2. The amendments to ORS 87.093 by section 1 of this 2009 Act apply to resi-**
 34 **dential construction or improvement contracts that a contractor enters into on or after the**
 35 **effective date of this 2009 Act.**