

Enrolled Senate Bill 205

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CHAPTER

AN ACT

Relating to construction contractors; creating new provisions; and amending ORS 701.305, 701.310, 701.320, 701.330 and 701.335.

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

SECTION 1. ORS 701.305 is amended to read:

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

(2) The Construction Contractors Board shall adopt rules that require a contractor to use standard contractual terms in a construction contract for which subsection (1) of this section requires a written contract. The standard contractual terms shall be clear, use words of common understanding and shall include but need not be limited to:

- (a) A statement that the contractor is licensed by the board;
- (b) The name, license number, address and telephone number of the contractor as shown on board records on the date the contract is entered into;
- (c) An acknowledgment of a written offer of a warranty, if an offer is required by ORS 701.320, and indication of the acceptance or rejection of the offered warranty;
- (d) [*For a residential structure contract,*] A summary of the notices required under ORS 87.093 or under rules adopted under ORS 701.330 and 701.335 (2) on the contractor's bid proposal; **and**
- [*e*] *Acknowledgment of the receipt of the maintenance information required by the board under ORS 701.335; and*
- [*f*] **(e)** An explanation of the property owner's rights under the contract, including, but not limited to, the ability to file a claim with the board and the existence of any mediation or arbitration provision in the contract, set forth in a conspicuous manner as defined by the board by rule.

SECTION 2. ORS 701.310 is amended to read:

701.310. (1) A property owner who enters into an initial written contract for the construction, improvement or repair of a residential structure or zero-lot-line dwelling **on real property owned by the property owner** may cancel the contract by delivery of a written notice of cancellation

anytime prior to 12 midnight at the end of the next business day. The notice of cancellation may be delivered in any written form or by any means that can readily be converted to written form, including, but not limited to, facsimile, electronic mail and regular mail. The notice must state the intention of the property owner to cancel the contract.

(2) Subsection (1) of this section does not allow a property owner to cancel a contract:

(a) If both parties agree that work is to begin before the cancellation period has expired;

(b) After a contractor substantially begins the residential construction, improvement or repair;

or

(c) When an initial contract is being modified after expiration of the initial cancellation period.

SECTION 3. ORS 701.320 is amended to read:

701.320. (1) A [*licensee*] **contractor** that enters into a contract to construct a new residential structure or zero-lot-line dwelling, **or to sell a new residential structure or zero-lot-line dwelling constructed by the contractor**, shall make a written offer to the [*first purchaser or owner*] **property owner or original purchaser** of the structure or dwelling of a warranty against defects in materials and workmanship for the structure or dwelling. The [*first purchaser or owner*] **property owner or original purchaser** of the structure or dwelling may accept or refuse the offer of a warranty by the contractor. If a contractor makes the written offer of a warranty before the contractor and **the property** owner both sign a written construction contract and the **property** owner refuses the offered warranty, the contractor may withdraw the offer to construct the structure or dwelling.

(2) Subsection (1) of this section does not apply to a residential structure that is a manufactured dwelling as defined in ORS 446.003.

SECTION 4. ORS 701.330 is amended to read:

701.330. (1) The Construction Contractors Board shall adopt by rule a consumer notice form designed to inform a property owner **or original purchaser** of the actions the property owner **or original purchaser** should take to protect the **property** owner in a residential **structure or zero-lot-line dwelling** repair, remodel or construction project **or to protect the original purchaser in a residential structure or zero-lot-line dwelling construction project**. The form shall briefly describe and identify additional sources of information regarding:

(a) Contractor licensing standards;

(b) Contractor bond and insurance requirements;

(c) The requirement to offer a warranty under ORS 701.320; and

(d) Other information specified by the board.

(2) The board shall adopt by rule a notice of procedure form that briefly describes and identifies additional sources of information regarding the procedure described under ORS 701.560 to 701.595 and other information specified by the board.

(3) The consumer notice form and notice of procedure form adopted by the board shall include signature lines for the contractor and **for the property owner or original purchaser**.

(4) The board shall adopt rules specifying the time and manner for a contractor to deliver a consumer notice form and notice of procedure form [*to a property owner*].

(5) The board may adopt rules that require a contractor to maintain evidence of delivery of the consumer notice form and notice of procedure form and that specify the retention period for and the form of that evidence.

SECTION 5. ORS 701.335 is amended to read:

701.335. (1) A contractor that [*constructs*] **enters into a contract to construct** a new residential structure or zero-lot-line dwelling shall provide a recommended maintenance schedule to the [*first purchaser or owner*] **property owner or original purchaser** of the **proposed** structure or dwelling **at the time that the contractor makes a written offer of warranty under ORS 701.320**.

(2) The Construction Contractors Board shall adopt rules [*specifying*] **describing** the minimum information that a contractor shall provide to a [*first purchaser or owner*] **property owner or ori-**

ginal purchaser under subsection (1) of this section. The minimum information shall include, but need not be limited to, the following:

- (a) Definitions and descriptions of moisture intrusion and water damage.
- (b) An explanation of how moisture intrusion and water damage can occur.
- (c) A description and recommended schedule for maintenance to prevent moisture intrusion.
- (d) Advice on how to recognize the signs of water damage.
- (e) Appropriate steps to take when water damage is discovered.

[(3) The board shall make the information developed under this section available without charge to contractors that construct new residential structures or zero-lot-line dwellings.]

SECTION 6. The amendments to ORS 701.305, 701.320 and 701.335 by sections 1, 3 and 5 of this 2009 Act apply to written contracts that a contractor enters into on or after the effective date of this 2009 Act.

Passed by Senate March 2, 2009

Received by Governor:

Repassed by Senate June 5, 2009

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

Approved:

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Secretary of Senate

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

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President of Senate

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Governor

Passed by House June 2, 2009

Filed in Office of Secretary of State:

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

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Speaker of House

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Secretary of State