

Senate Bill 205

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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**.

Expands consumer notice requirement to include original purchaser of residential structure or zero-lot-line dwelling.

Makes standard contractual term requirement regarding notice summary applicable to zero-lot-line dwelling contracts.

Specifies time for contractor to provide recommended maintenance schedule to property owner or original purchaser. Eliminates requirement that provision of maintenance schedule be acknowledged in contract. Eliminates requirement that Construction Contractors Board make minimum information required for recommended maintenance schedule available to construction contractors without charge.

Makes warranty offer requirement applicable to newly constructed residential structure or zero-lot-line dwelling sold by contractor.

Identifies types of work subject to requirement for written contract. Revises terminology.

A BILL FOR AN ACT

1
2 Relating to construction contractors; creating new provisions; and amending ORS 701.305, 701.310,
3 701.320, 701.330 and 701.335.

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

5 **SECTION 1.** ORS 701.305 is amended to read:

6 701.305. (1) A contractor may not perform work [*subject to this section for an owner of*] **to con-**
7 **struct, improve or repair** a residential structure or zero-lot-line dwelling **for a property owner**
8 without a written contract if the aggregate contract price exceeds \$2,000. If the price of a contract
9 was initially less than \$2,000, but during the course of performance the contract exceeds that
10 amount, the contractor shall mail or otherwise deliver a written contract to the **property** owner
11 not later than five days after the contractor knows or should reasonably know that the contract
12 price will exceed \$2,000. Failure to have a written contract will not void the contract.

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

17 (a) A statement that the contractor is licensed by the board;

18 (b) The name, license number, address and telephone number of the contractor as shown on
19 board records on the date the contract is entered into;

20 (c) An acknowledgment of a written offer of a warranty, if an offer is required by ORS 701.320,
21 and indication of the acceptance or rejection of the offered warranty;

22 (d) [*For a residential structure contract,*] A summary of the notices required under ORS 87.093
23 or under rules adopted under ORS 701.330 and 701.335 (2) on the contractor's bid proposal; **and**

24 [*e*] *Acknowledgment of the receipt of the maintenance information required by the board under*

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 *ORS 701.335; and]*

2 [(f)] (e) An explanation of the property owner’s rights under the contract, including, but not
 3 limited to, the ability to file a claim with the board and the existence of any mediation or arbitration
 4 provision in the contract, set forth in a conspicuous manner as defined by the board by rule.

5 **SECTION 2.** ORS 701.310 is amended to read:

6 701.310. (1) A property owner who enters into an initial written contract for the construction,
 7 improvement or repair of a residential structure or zero-lot-line dwelling **on real property owned**
 8 **by the property owner** may cancel the contract by delivery of a written notice of cancellation
 9 anytime prior to 12 midnight at the end of the next business day. The notice of cancellation may
 10 be delivered in any written form or by any means that can readily be converted to written form,
 11 including, but not limited to, facsimile, electronic mail and regular mail. The notice must state the
 12 intention of the property owner to cancel the contract.

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

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

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

16 or

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

18 **SECTION 3.** ORS 701.320 is amended to read:

19 701.320. (1) A [*licensee*] **contractor** that enters into a contract to construct a new residential
 20 structure or zero-lot-line dwelling, **or to sell a new residential structure or zero-lot-line dwelling**
 21 **constructed by the contractor**, shall make a written offer to the [*first purchaser or owner*] **prop-**
 22 **erty owner or original purchaser** of the structure or dwelling of a warranty against defects in
 23 materials and workmanship for the structure or dwelling. The [*first purchaser or owner*] **property**
 24 **owner or original purchaser** of the structure or dwelling may accept or refuse the offer of a
 25 warranty by the contractor. If a contractor makes the written offer of a warranty before the con-
 26 tractor and **the property** owner both sign a written construction contract and the **property** owner
 27 refuses the offered warranty, the contractor may withdraw the offer to construct the structure or
 28 dwelling.

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

31 **SECTION 4.** ORS 701.330 is amended to read:

32 701.330. (1) The Construction Contractors Board shall adopt by rule a consumer notice form
 33 designed to inform a property owner **or original purchaser** of the actions the property owner **or**
 34 **original purchaser** should take to protect the **property** owner in a residential **structure or**
 35 **zero-lot-line dwelling** repair, remodel or construction project **or to protect the original pur-**
 36 **chaser in a residential structure or zero-lot-line dwelling construction project.** The form shall
 37 briefly describe and identify additional sources of information regarding:

38 (a) Contractor licensing standards;

39 (b) Contractor bond and insurance requirements;

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

41 (d) Other information specified by the board.

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

45 (3) The consumer notice form and notice of procedure form adopted by the board shall include

1 signature lines for the contractor and **for** the property owner **or original purchaser**.

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

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

7 **SECTION 5.** ORS 701.335 is amended to read:

8 701.335. (1) A contractor that constructs a new residential structure or zero-lot-line dwelling
 9 shall, **upon completion of the structure or dwelling**, provide a recommended maintenance sched-
 10 ule to the [*first purchaser or owner*] **property owner or original purchaser** of the structure or
 11 dwelling.

12 (2) The Construction Contractors Board shall adopt rules [*specifying*] **describing** the minimum
 13 information that a contractor shall provide to a [*first purchaser or owner*] **property owner or ori-**
 14 **ginal purchaser** under subsection (1) of this section. The minimum information shall include, but
 15 need not be limited to, the following:

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

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

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

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