

Senate Bill 206

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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 personal identifier information contained in license or certificate application to Construction Contractors Board confidential. Prohibits board from disclosing personal identifier information contained in application. Creates exceptions.

Exempts construction contractor from submitting certain information to board if contractor offers securities registered with United States Securities and Exchange Commission for sale to public. Exempts contractor that is partnership or joint venture offering securities registered with commission for sale to public from obtaining new contractor license upon withdrawal of partner or joint venturer. Makes contractor submission of false information to commission grounds for sanctions by board.

A BILL FOR AN ACT

1
2 Relating to persons regulated by the Construction Contractors Board; creating new provisions; and
3 amending ORS 701.046, 701.098, 701.102, 701.114 and 701.131.

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

5 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 701.**

6 **SECTION 2. (1) Social Security numbers, driver license numbers, dates of birth and other**
7 **personal identifier information included in a license or certificate application filed under this**
8 **chapter are confidential. Except as provided in this section, the Construction Contractors**
9 **Board may not disclose personal identifier information contained in a license or certificate**
10 **application.**

11 **(2) Subsection (1) of this section does not prohibit the board from making the following**
12 **disclosures:**

13 **(a) Disclosures made with the written consent of the person to whom the personal iden-**
14 **tifier information pertains.**

15 **(b) Disclosures of information that a license or certificate holder is required by law or**
16 **rule to disclose to the public, including but not limited to board-issued license or certificate**
17 **numbers.**

18 **(c) Disclosures for the purpose of causing, conducting or assisting an investigation into**
19 **possible violations of law, rules or regulations, including but not limited to disclosures to an**
20 **administrative agency, law enforcement agency or district attorney office. A public body re-**
21 **ceiving information from the board under this paragraph may not disclose the information**
22 **except as necessary to an investigation or as necessary to criminal, civil or contested case**
23 **proceedings.**

24 **SECTION 3. ORS 701.046 is amended to read:**

25 **701.046. (1) Except as provided in subsection (2) of this section, an applicant for a con-**
26 **struction contractor license must submit the application on a form prescribed by the Construction**

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 Contractors Board. The application shall include, but not be limited to, the following information:
- 2 (a) The endorsement being sought.
- 3 (b) A list of construction debts involving the applicant, or an owner or officer of the applicant,
4 if the order, award, penalty or judgment that establishes the debt was issued within the preceding
5 five years.
- 6 (c) For each person described in paragraphs (h) and (i) of this subsection, a Social Security
7 number.
- 8 (d) Workers' compensation insurance account number, if the applicant is required to have
9 workers' compensation insurance.
- 10 (e) Unemployment insurance account number, if the applicant is required to have unemployment
11 insurance.
- 12 (f) State withholding tax account number, if the applicant is required to withhold state income
13 tax.
- 14 (g) Federal employer identification number, if the applicant is required to have a federal em-
15 ployer identification number.
- 16 (h) The name and address of:
- 17 (A) Each partner, if the applicant is a partnership, limited liability partnership or foreign limited
18 liability partnership.
- 19 (B) The general partner, if the applicant is a limited partnership.
- 20 (C) Each joint venturer, if the applicant is a joint venture.
- 21 (D) The owner, if the applicant is a sole proprietorship.
- 22 (E) The officers, if the applicant is a corporation.
- 23 (F) The manager and each member, if the applicant is a manager-managed limited liability com-
24 pany.
- 25 (G) Each member, if the applicant is a member-managed limited liability company.
- 26 (H) The responsible managing individual designated by the applicant.
- 27 (I) Each trustee, if the applicant is a trust.
- 28 (i) The name and address of the following if the applicant is a partnership, limited liability
29 partnership, foreign limited liability partnership, joint venture, manager-managed limited liability
30 company or member-managed limited liability company:
- 31 (A) Each partner in a partnership, limited liability partnership or foreign limited liability part-
32 nership that is a partner, joint venturer or member of the applicant.
- 33 (B) Each general partner in a limited partnership that is a partner, joint venturer or member
34 of the applicant.
- 35 (C) Each joint venturer in a joint venture that is a partner, joint venturer or member of the
36 applicant.
- 37 (D) The manager and each member of a manager-managed limited liability company that is a
38 partner, joint venturer or member of the applicant.
- 39 (E) Each member of a member-managed limited liability company that is a partner, joint
40 venturer or member of the applicant.
- 41 (F) Each officer of a corporation that is a partner, joint venturer or member of the applicant.
- 42 (G) The general partner in a limited partnership that is a partner, joint venturer or member of
43 the applicant.
- 44 (H) Each individual who has a controlling ownership interest in, or management authority over,
45 the applicant and who meets criteria adopted by the board by rule.

1 (j) For each person described in paragraphs (h) and (i) of this subsection, information as required
 2 by board rule regarding the following if related to construction activities:

3 (A) A final judgment against the person by a court in any state entered within five years pre-
 4 ceding the application date that requires the person to pay money to another person or to a public
 5 body if the judgment remains unsatisfied on the application date.

6 (B) A final order against the person by an administrative agency in any state issued within five
 7 years preceding the application date that requires the person to pay money to another person or to
 8 a public body if the order remains unsatisfied on the application date.

9 (C) A court action against the person in any state pending on the application date that alleges
 10 the person owes money to another person or to a public body.

11 (D) An action by an administrative agency in any state pending on the application date that
 12 seeks an order that the person pay money to another person or to a public body.

13 (E) A conviction for a crime listed in ORS 701.098 (1)(i) entered within five years preceding the
 14 application date.

15 (F) An indictment for a crime listed in ORS 701.098 (1)(i) filed within five years preceding the
 16 application date.

17 (k) The basis on which the applicant meets the standards for independent contractor status un-
 18 der ORS 670.600.

19 **(2) Subsection (1)(h) and (i) of this section does not apply if the applicant is a company**
 20 **that offers securities registered with the United States Securities and Exchange Commission**
 21 **for sale to the general public.**

22 [(2)] (3) The application described in subsection (1) of this section must be accompanied by proof
 23 satisfactory to the board that the applicant:

- 24 (a) Is in compliance with ORS 701.091.
- 25 (b) Has the legal capacity to enter into contracts.

26 [(3)] (4) Subsection [(2)(a)] (3)(a) of this section does not apply to an applicant for licensing with
 27 endorsement solely as a residential or commercial developer.

28 [(4)] (5) An applicant shall conform to the information provided by the applicant on the appli-
 29 cation and to the terms of the application.

30 **SECTION 4.** ORS 701.098 is amended to read:

31 701.098. (1) The Construction Contractors Board may revoke, suspend or refuse to issue or re-
 32 issue a license and the board may assess a civil penalty as provided in ORS 701.992 if the board
 33 determines after notice and opportunity for hearing:

34 (a) That the licensee or applicant has violated a provision of ORS 701.026, 701.091, 701.114,
 35 701.305, 701.320, 701.325 (1), 701.335 or 701.345 or a rule adopted under ORS 701.330 (4).

36 (b) That the licensee has violated a rule or order of the board.

37 (c) That the licensee has knowingly assisted an unlicensed person to act in violation of this
 38 chapter.

39 (d) That a lien was filed on a structure under ORS 87.010 to 87.060 and 87.075 to 87.093 because
 40 the licensee or applicant wrongfully failed to perform a contractual duty to pay money to the person
 41 claiming the lien.

42 (e) That the licensee has knowingly provided false information to the board.

43 (f) That the licensee has worked without a construction permit where a permit is required and
 44 the work resulted in a complaint being filed with the board under ORS 701.139. For purposes of this
 45 paragraph, "construction permit" includes a building permit, electrical permit, mechanical permit

1 or plumbing permit.

2 (g) That the number of licensed contractors working together on the same task on the same job
3 site, where one of the contractors is licensed as exempt under ORS 701.035 (2)(b), exceeded the fol-
4 lowing:

- 5 (A) Two sole proprietors;
- 6 (B) One partnership;
- 7 (C) One corporation; or
- 8 (D) One limited liability company.

9 (h) Consistent with the provisions of ORS 670.280, that the licensee or applicant, or an owner
10 or officer of the licensee or applicant has been convicted of one of the following crimes in this state
11 or an equivalent crime in another state:

- 12 (A) Murder;
- 13 (B) Assault in the first degree;
- 14 (C) Kidnapping;
- 15 (D) Rape, sodomy or unlawful sexual penetration;
- 16 (E) Sexual abuse;
- 17 (F) Arson in the first degree;
- 18 (G) Robbery in the first degree;
- 19 (H) Theft in the first degree; or
- 20 (I) Theft by extortion.

21 (i) That the licensee or applicant has not, within 90 days after the date when payment was re-
22 ceived from the public contracting agency, or contractor in the case of a subcontractor, made pay-
23 ment to any person for supplying labor or materials contracted for with a public contract for a
24 public improvement plus the amount of interest due.

25 (j) That the licensee or applicant has repeatedly reported bad faith or false complaints of non-
26 payment against contractors or subcontractors.

27 (k) That the licensee or applicant has engaged in conduct as a contractor that is dishonest or
28 fraudulent and that the board finds injurious to the welfare of the public.

29 (2) The board may revoke, suspend or refuse to issue or reissue a license if the board determines
30 after notice and opportunity for hearing that an applicant or licensee is unfit for licensure based
31 upon information submitted **to the board** under ORS 701.046, **submitted in a registration of se-**
32 **curities described in ORS 701.046 (2)** or discovered by a board investigation under ORS 701.225.

33 (3) The board may assess a civil penalty as provided in ORS 701.992 if the board determines
34 after notice and opportunity for hearing that any person has violated ORS 701.026 (1).

35 (4)(a) The administrator of the board, in accordance with administrative rules adopted by the
36 board and after setting forth specific reasons for the findings, may suspend or refuse to renew a li-
37 cense without hearing in any case where the administrator finds a serious danger to the public
38 welfare, including but not limited to:

- 39 (A) Lack of a surety bond required by ORS 701.068;
- 40 (B) Lack of liability insurance required by ORS 701.073;
- 41 (C) Hiring employees while licensed as exempt under ORS 701.035;
- 42 (D) Conduct as a construction contractor that is dishonest or fraudulent; or
- 43 (E) Failure to pay a construction debt.

44 (b) If the licensee or applicant demands a hearing within 90 days after the date of notice to the
45 licensee or applicant of the suspension or refusal to renew, then a hearing must be granted to the

1 licensee or applicant as soon as practicable after the demand, and the administrator shall issue,
 2 pursuant to the hearing as required by ORS chapter 183, an order confirming, altering or revoking
 3 the administrator's earlier order. Notwithstanding ORS 670.325, a hearing need not be held where
 4 the order of suspension or refusal to renew is accompanied by or is pursuant to a citation for vio-
 5 lation that is subject to judicial determination in any court of this state, and the order by its terms
 6 will terminate in case of final judgment in favor of the licensee or applicant.

7 (5)(a) In addition to all other remedies, if the board has reason to believe that a person is en-
 8 gaging in an act, practice or transaction that violates this chapter or a board rule, the board may
 9 issue an order directing the person to cease the act or to take corrective action.

10 (b) The board shall mail a copy of an order issued under this subsection to the person by first
 11 class mail with certificate of mailing. The board shall include with the order a notice informing the
 12 person of the right to request a hearing concerning the order. The notice shall inform the person
 13 that any hearing request must be received by the board no later than 21 days after the date the
 14 order was mailed by the board.

15 (c) If the board receives a timely request for a hearing concerning an order issued under this
 16 subsection, the board shall schedule the hearing no later than 30 days after receiving the request.
 17 The board shall mail written notice of the hearing to the person by first class mail with certificate
 18 of mailing no later than seven days before the scheduled hearing date.

19 (d) An order described in this subsection becomes final if the person does not file a timely re-
 20 quest for a hearing concerning the order or fails to appear at the requested hearing as scheduled.

21 (e) The issuance of a board order under this subsection is subject to ORS 183.413 to 183.497.

22 (6) In addition to all other remedies, if it appears to the board that a person has engaged in,
 23 or is engaging in, any act, practice or transaction that violates the provisions of this chapter, the
 24 board may direct the Attorney General or the district attorney of the county in which the act,
 25 practice or transaction occurs, to apply to the court for an injunction restraining the person from
 26 violating the provisions of this chapter. An injunction may not issue for failure to maintain the list
 27 provided for in ORS 701.345, unless the court determines that the failure is intentional.

28 (7) A certified copy of the record of conviction shall be conclusive evidence of a conviction un-
 29 der subsection (1)(h) of this section.

30 (8) If the board suspends or revokes the license of an individual contractor or contractor busi-
 31 ness for a violation of subsection (1)(g) of this section, the board may not restore or reissue the li-
 32 cense unless the individual contractor or a responsible managing individual for the contractor
 33 business has successfully completed the training and testing described in ORS 701.122.

34 **SECTION 5.** ORS 701.098, as amended by section 63, chapter 836, Oregon Laws 2007, is
 35 amended to read:

36 701.098. (1) The Construction Contractors Board may revoke, suspend or refuse to issue or re-
 37 issue a license and the board may assess a civil penalty as provided in ORS 701.992 if the board
 38 determines after notice and opportunity for hearing:

39 (a) That the licensee or applicant has violated a provision of this chapter.

40 (b) That the licensee has violated a rule or order of the board.

41 (c) That the licensee has knowingly assisted an unlicensed person to act in violation of this
 42 chapter.

43 (d) That the licensee has knowingly assisted a licensed contractor to perform work for which
 44 the contractor is not properly endorsed.

45 (e) That a lien was filed on a structure under ORS 87.010 to 87.060 and 87.075 to 87.093 because

1 the licensee or applicant wrongfully failed to perform a contractual duty to pay money to the person
2 claiming the lien.

3 (f) That the licensee has knowingly provided false information to the board.

4 (g) That the licensee has worked without a construction permit where a permit is required and
5 the work resulted in a complaint being filed with the board under ORS 701.139. For purposes of this
6 paragraph, "construction permit" includes a building permit, electrical permit, mechanical permit
7 or plumbing permit.

8 (h) That the number of licensed contractors working together on the same task on the same job
9 site, where one of the contractors is classed as exempt under ORS 701.035 (2)(b), exceeded the fol-
10 lowing:

11 (A) Two sole proprietors;

12 (B) One partnership;

13 (C) One corporation; or

14 (D) One limited liability company.

15 (i) Consistent with the provisions of ORS 670.280, that the licensee or applicant, or an owner
16 or officer of the licensee or applicant has been convicted of one of the following crimes in this state
17 or an equivalent crime in another state:

18 (A) Murder;

19 (B) Assault in the first degree;

20 (C) Kidnapping;

21 (D) Rape, sodomy or unlawful sexual penetration;

22 (E) Sexual abuse;

23 (F) Arson in the first degree;

24 (G) Robbery in the first degree;

25 (H) Theft in the first degree; or

26 (I) Theft by extortion.

27 (j) That the licensee or applicant has not, within 90 days after the date when payment was re-
28 ceived from the public contracting agency, or contractor in the case of a subcontractor, made pay-
29 ment to any person for supplying labor or materials contracted for with a public contract for a
30 public improvement plus the amount of interest due.

31 (k) That the licensee or applicant has repeatedly reported bad faith or false complaints of non-
32 payment against contractors or subcontractors.

33 (L) That the licensee or applicant has engaged in conduct as a contractor that is dishonest or
34 fraudulent and that the board finds injurious to the welfare of the public.

35 (2) The board may revoke, suspend or refuse to issue or reissue a license if the board determines
36 after notice and opportunity for hearing that an applicant or licensee is unfit for licensure based
37 upon information submitted **to the board** under ORS 701.046, **submitted in a registration of se-**
38 **curities described in ORS 701.046 (2)** or discovered by a board investigation under ORS 701.225.

39 (3) The board may assess a civil penalty as provided in ORS 701.992 if the board determines
40 after notice and opportunity for hearing that any person has violated ORS 701.021.

41 (4)(a) The administrator of the board, in accordance with administrative rules adopted by the
42 board and after setting forth specific reasons for the findings, may suspend or refuse to renew a li-
43 cense without hearing in any case where the administrator finds a serious danger to the public
44 welfare, including but not limited to:

45 (A) Lack of a surety bond required by ORS 701.068;

- 1 (B) Lack of liability insurance required by ORS 701.073;
- 2 (C) Hiring employees while classed as exempt under ORS 701.035;
- 3 (D) Conduct as a construction contractor that is dishonest or fraudulent; or
- 4 (E) Failure to pay a construction debt.

5 (b) If the licensee or applicant demands a hearing within 90 days after the date of notice to the
 6 licensee or applicant of the suspension or refusal to renew, then a hearing must be granted to the
 7 licensee or applicant as soon as practicable after the demand, and the administrator shall issue,
 8 pursuant to the hearing as required by ORS chapter 183, an order confirming, altering or revoking
 9 the administrator's earlier order. Notwithstanding ORS 670.325, a hearing need not be held where
 10 the order of suspension or refusal to renew is accompanied by or is pursuant to a citation for vio-
 11 lation that is subject to judicial determination in any court of this state, and the order by its terms
 12 will terminate in case of final judgment in favor of the licensee or applicant.

13 (5)(a) In addition to all other remedies, if the board has reason to believe that a person is en-
 14 gaging in an act, practice or transaction that violates this chapter or a board rule, the board may
 15 issue an order directing the person to cease the act or to take corrective action.

16 (b) The board shall mail a copy of an order issued under this subsection to the person by first
 17 class mail with certificate of mailing. The board shall include with the order a notice informing the
 18 person of the right to request a hearing concerning the order. The notice shall inform the person
 19 that any hearing request must be received by the board no later than 21 days after the date the
 20 order was mailed by the board.

21 (c) If the board receives a timely request for a hearing concerning an order issued under this
 22 subsection, the board shall schedule the hearing no later than 30 days after receiving the request.
 23 The board shall mail written notice of the hearing to the person by first class mail with certificate
 24 of mailing no later than seven days before the scheduled hearing date.

25 (d) An order described in this subsection becomes final if the person does not file a timely re-
 26 quest for a hearing concerning the order or fails to appear at the requested hearing as scheduled.

27 (e) The issuance of a board order under this subsection is subject to ORS 183.413 to 183.497.

28 (6) In addition to all other remedies, if it appears to the board that a person has engaged in,
 29 or is engaging in, any act, practice or transaction that violates the provisions of this chapter, the
 30 board may direct the Attorney General or the district attorney of the county in which the act,
 31 practice or transaction occurs, to apply to the court for an injunction restraining the person from
 32 violating the provisions of this chapter. An injunction may not issue for failure to maintain the list
 33 provided for in ORS 701.345, unless the court determines that the failure is intentional.

34 (7) A certified copy of the record of conviction shall be conclusive evidence of a conviction un-
 35 der subsection (1)(i) of this section.

36 (8) If the board suspends or revokes the license of an individual contractor or contractor busi-
 37 ness for a violation of subsection (1)(h) of this section, the board may not restore or reissue the li-
 38 cense unless the individual contractor or a responsible managing individual for the contractor
 39 business has successfully completed the training and testing described in ORS 701.122.

40 **SECTION 6.** ORS 701.102 is amended to read:

41 701.102. (1) As used in this section, "construction contractor license" means a license issued
 42 within the United States to engage in the business of construction contracting.

43 (2) The Construction Contractors Board may revoke, suspend or refuse to issue a license re-
 44 quired under this chapter to a business if:

- 45 (a) The business owes a construction debt or has had a construction contractor license revoked

1 or suspended;

2 (b) An owner, officer or responsible managing individual of the business owes a construction
3 debt or has had a construction contractor license revoked or suspended;

4 (c) An owner, officer or responsible managing individual of the business was an owner, officer
5 or responsible managing individual of another business at the time the other business incurred a
6 construction debt that is owing or at the time of an event that resulted in the revocation or sus-
7 pension of the other business's construction contractor license; or

8 (d) The board determines that an owner, officer or responsible managing individual of the busi-
9 ness is not fit for licensure, based upon information submitted **to the board** under ORS 701.046,
10 **submitted in a registration of securities described in ORS 701.046 (2)** or discovered by a board
11 investigation under ORS 701.225.

12 (3) The board may place a contractor on probation if a total of three or more complaints are
13 filed with the board under ORS 701.139 within a 12-month period against the contractor or a former
14 licensed construction contracting business in which the contractor held at least a 10 percent own-
15 ership interest, measured as determined by board rule. A contractor may not be placed on probation
16 unless the board determines after investigation that it is likely that the contractor has caused harm
17 to the complainants. The board may require a contractor that is placed on probation to develop a
18 corrective action plan, to attend specific classes and to resolve outstanding complaints. The board
19 may require a contractor that is placed on probation to take training and pass a test, both as de-
20 scribed in ORS 701.122. The board shall take action to terminate the contractor's license if the
21 contractor is unwilling or unable to comply with the conditions of probation.

22 **SECTION 7.** ORS 701.114 is amended to read:

23 701.114. (1) **Except as provided in this subsection,** a contractor licensed under this chapter
24 shall immediately notify the Construction Contractors Board of any change in the identity, name or
25 address of a person who holds a position with the contractor that is described in ORS 701.046 (1)(h)
26 or (i) or of a responsible managing individual for the contractor as defined in ORS 701.091. **A con-**
27 **tractor described in ORS 701.046 (2) is not required to report a change in the identity, name**
28 **or address of a person described in ORS 701.046 (1)(h) or (i).**

29 (2) **Except as provided in this subsection,** if a partner or joint venturer departs from a con-
30 tractor that is a partnership or joint venture, the contractor must obtain a new license before con-
31 tinuing to conduct activities that require a license under this chapter. **A contractor described in**
32 **ORS 701.046 (2) that is a partnership or joint venture is not required to obtain a new license**
33 **upon departure of a partner or joint venturer.**

34 **SECTION 8.** ORS 701.131 is amended to read:

35 701.131. (1) Except as provided in subsection (2) of this section, a contractor may not perfect a
36 construction lien, file a complaint with the Construction Contractors Board or commence an arbi-
37 tration or a court action for compensation for the performance of any work or for the breach of any
38 contract for work that is subject to this chapter, unless the contractor had a valid license issued
39 by the board:

40 (a) At the time the contractor bid or entered into the contract for performance of the work; and
41 (b) Continuously while performing the work for which compensation is sought.

42 (2) The board, arbitrator or court may not apply the provisions of subsection (1) of this section
43 to a contractor if the board, arbitrator or court determines that:

44 (a) The contractor either did not have a valid license at any time required under subsection (1)
45 of this section, or had an initial issuance of a valid license, and:

1 (A) The contractor was not aware of the requirement that the contractor be licensed, and the
 2 contractor submitted a completed application for a license within a number of days established by
 3 the board, but not more than 90 days, of the date the contractor became aware of the requirement;

4 (B) At the time the contractor perfected a construction lien or commenced any proceeding sub-
 5 ject to the provisions of subsection (1) of this section, the contractor was licensed by the board; and

6 (C) Enforcement of the provisions of subsection (1) of this section would result in substantial
 7 injustice to the contractor;

8 (b) The contractor was licensed by the board for some but not all of the times required under
 9 subsection (1) of this section and had a lapse in the license and:

10 (A) The contractor was not aware of the lapse in the license for more than a number of days
 11 established by the board, but not to exceed 90 days, before submitting a completed application for
 12 license renewal with the board;

13 (B) Except for perfection of a construction lien and a court action to foreclose the lien, at the
 14 time the contractor commenced any proceeding subject to the provisions of subsection (1) of this
 15 section the contractor's license was renewed under ORS 701.063 to include the entire time period
 16 for which a license was required under subsection (1) of this section; and

17 (C) For perfection of a construction lien and a court action to foreclose the lien, the contractor's
 18 license was renewed under ORS 701.063 for the entire time period for which a license was required
 19 under subsection (1) of this section, but not later than 90 days following perfection of the lien;

20 (c)(A) The contractor is a licensed developer and did not have a valid license during all or part
 21 of the period described in subsection (1) of this section;

22 (B) The licensed developer was unaware of the license requirement and obtained a license
 23 within a time established by the board, not to exceed 90 days after the licensed developer learned
 24 of the requirement;

25 (C) The licensed developer was licensed at the time the licensed developer perfected the lien
 26 or commenced the proceeding; and

27 (D) Enforcement of subsection (1) of this section would result in substantial injustice to the li-
 28 censed developer; or

29 (d) The proceeding:

30 (A) Is directed against a person or entity that:

31 (i) Is subject to this chapter or ORS chapter 671 or 672;

32 (ii) Provides construction or design labor or services of any kind; or

33 (iii) Manufactures, distributes, rents or otherwise provides materials, supplies, equipment, sys-
 34 tems or products; and

35 (B) Arises out of defects, deficiencies or inadequate performance in the construction, design,
 36 labor, services, materials, supplies, equipment, systems or products provided.

37 (3) *[If]* A contractor **that** falsely swears to information *[provided]* **submitted to the board** un-
 38 der ORS 701.046 **or submitted in a registration of securities described in ORS 701.046 (2)**, or
 39 **that** knowingly violates the provisions of ORS 656.029, 670.600 or 701.046, *[the contractor]* may not
 40 perfect a construction lien, file a complaint with the board or commence an arbitration or a court
 41 action for compensation for the performance of any work on a residential structure or for the breach
 42 of any contract for work on a residential structure that is subject to this chapter.

43 **SECTION 9.** ORS 701.131, as amended by section 58, chapter 836, Oregon Laws 2007, is
 44 amended to read:

45 701.131. (1) Except as provided in subsection (2) of this section, a contractor may not perfect a

1 construction lien, file a complaint with the Construction Contractors Board or commence an arbi-
 2 tration or a court action for compensation for the performance of any work or for the breach of any
 3 contract for work that is subject to this chapter, unless the contractor had a valid license issued
 4 by the board and properly endorsed for the work performed:

5 (a) At the time the contractor bid or entered into the contract for performance of the work; and

6 (b) Continuously while performing the work for which compensation is sought.

7 (2) The board, arbitrator or court may not apply the provisions of subsection (1) of this section
 8 to a contractor if the board, arbitrator or court determines that:

9 (a) The contractor either did not have a valid license with a proper endorsement at any time
 10 required under subsection (1) of this section, or had an initial issuance of a valid license, and:

11 (A) The contractor was not aware of the requirement that the contractor be licensed or properly
 12 endorsed for the work performed, and the contractor submitted a completed application for a license
 13 within a number of days established by the board, but not more than 90 days, of the date the con-
 14 tractor became aware of the requirement;

15 (B) At the time the contractor perfected a construction lien or commenced any proceeding sub-
 16 ject to the provisions of subsection (1) of this section, the contractor was licensed by the board and
 17 properly endorsed for the work performed; and

18 (C) Enforcement of the provisions of subsection (1) of this section would result in substantial
 19 injustice to the contractor;

20 (b) The contractor was licensed by the board for some but not all of the times required under
 21 subsection (1) of this section and had a lapse in the license and:

22 (A) The contractor was not aware of the lapse in the license for more than a number of days
 23 established by the board, but not to exceed 90 days, before submitting a completed application for
 24 license renewal with the board;

25 (B) Except for perfection of a construction lien and a court action to foreclose the lien, at the
 26 time the contractor commenced any proceeding subject to the provisions of subsection (1) of this
 27 section the contractor's license was renewed under ORS 701.063 to include the entire time period
 28 for which a license was required under subsection (1) of this section; and

29 (C) For perfection of a construction lien and a court action to foreclose the lien, the contractor's
 30 license was renewed under ORS 701.063 for the entire time period for which a license was required
 31 under subsection (1) of this section, but not later than 90 days following perfection of the lien; or

32 (c) The proceeding:

33 (A) Is directed against a person or entity that:

34 (i) Is subject to this chapter or ORS chapter 671 or 672;

35 (ii) Provides construction or design labor or services of any kind; or

36 (iii) Manufactures, distributes, rents or otherwise provides materials, supplies, equipment, sys-
 37 tems or products; and

38 (B) Arises out of defects, deficiencies or inadequate performance in the construction, design,
 39 labor, services, materials, supplies, equipment, systems or products provided.

40 (3) *[If]* A contractor **that** falsely swears to information *[provided]* **submitted to the board** un-
 41 der ORS 701.046 **or submitted in a registration of securities described in ORS 701.046 (2)**, or
 42 **that** knowingly violates the provisions of ORS 656.029, 670.600 or 701.046, *[the contractor]* may not
 43 perfect a construction lien, file a complaint with the board or commence an arbitration or a court
 44 action for compensation for the performance of any work on a residential structure or for the breach
 45 of any contract for work on a residential structure that is subject to this chapter.

1 **SECTION 10.** (1) Section 2 of this 2009 Act applies to the disclosure on or after the ef-
2 fective date of this 2009 Act of information that the Construction Contractors Board receives
3 before, on or after the effective date of this 2009 Act.

4 (2) The amendments to ORS 701.046 by section 3 of this 2009 Act apply to applications
5 submitted on or after the effective date of this 2009 Act.

6 (3) The amendments to ORS 701.098, 701.102 and 701.131 by sections 4 to 6, 8 and 9 of this
7 2009 Act apply to information submitted in a registration of securities before, on or after the
8 effective date of this 2009 Act.

9 (4) The amendments to ORS 701.114 by section 7 of this 2009 Act apply to changes in
10 identity, name or address, and to withdrawals of partners or joint venturers, occurring on
11 or after the effective date of this 2009 Act.

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