

# House Bill 4094

Sponsored by Representative CONGER (Pre-session filed.)

## 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**.

Replaces requirement that person licensed by Construction Contractors Board as exempt commercial contractor procure workers' compensation coverage with requirement that person make statement verifying workers' compensation coverage. Allows person alternative of stating that person has procured and will maintain personal health insurance and personal disability insurance and that to best knowledge of person all other owners, partners, corporate officers or limited liability company managers or members of construction contractor have procured and will maintain personal health insurance and personal disability insurance.

Makes person knowingly providing false statement regarding insurance coverage subject to penalty of \$6,250 fine, one year's imprisonment, or both.

Requires subject person holding license on effective date of Act to make initial filing of statement by July 1, 2012.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to construction contractor insurance coverage; creating new provisions; amending ORS  
3 701.035; and declaring an emergency.

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

5 **SECTION 1.** ORS 701.035 is amended to read:

6 701.035. (1) An applicant must qualify as an independent contractor under ORS 670.600 to be  
7 eligible for a license with the Construction Contractors Board.

8 (2) The board shall establish two classes of independent contractor:

9 (a) The nonexempt class is composed of the following entities:

10 (A) Sole proprietorships, partnerships, corporations, limited liability companies with one or more  
11 employees; and

12 (B) Partnerships, corporations and limited liability companies with more than two partners,  
13 corporate officers or members, if any of the partners, corporate officers or members are not part of  
14 the same family and related as parents, spouses, sisters, brothers, daughters or sons, daughters-in-  
15 law or sons-in-law or grandchildren.

16 (b) The exempt class is composed of all sole proprietorships, partnerships, corporations and  
17 limited liability companies that do not qualify as nonexempt.

18 (3) If a person who is licensed as exempt under subsection (2)(b) of this section hires one or  
19 more employees or falls into any of the categories set out in subsection (2)(a)(B) of this section, the  
20 person is subject to penalties under ORS 701.992 for improper licensing. If a person who is licensed  
21 as exempt under subsection (2)(b) of this section hires one or more employees, the person is also  
22 subject to licensing sanctions under ORS 701.098. The person must reapply to the board in the  
23 correct class.

24 (4) The decision of the board that a person is an independent contractor applies only when the  
25 person is performing work of the nature described in ORS 701.021.

**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 (5) A person that is within the exempt class described in subsection (2)(b) of this section and is  
2 licensed as a commercial contractor shall [*procure and maintain*] **verify under oath, subject to the**  
3 **criminal penalties for false swearing provided under ORS 162.075, that:**

4 (a) **The person has procured** workers' compensation insurance as authorized by ORS  
5 656.128[.]; **or**

6 (b)(A) **The person has procured and shall maintain personal health insurance and per-**  
7 **sonal disability insurance; and**

8 (B) **To the best of the person's knowledge, all other owners, partners, corporate officers**  
9 **or limited liability company managers or members for the construction contractor have**  
10 **procured and will be maintaining personal health insurance and personal disability insurance.**

11 **SECTION 2. A person described in ORS 701.035 (5) that holds a license as a commercial**  
12 **construction contractor on the effective date of this 2012 Act shall file an initial statement**  
13 **under ORS 701.035 (5) on or before July 1, 2012. Prior to July 1, 2012, the Construction Con-**  
14 **tractors Board may not impose a sanction against a person for failure to file a statement**  
15 **under ORS 701.035 (5) if the person is maintaining workers' compensation coverage.**

16 **SECTION 3. This 2012 Act being necessary for the immediate preservation of the public**  
17 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**  
18 **on its passage.**