

Enrolled Senate Bill 207

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CHAPTER

AN ACT

Relating to applications for licensing by the Construction Contractors Board; creating new provisions; and amending ORS 701.005, 701.021, 701.035, 701.046, 701.081, 701.098 and 701.114.

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

SECTION 1. ORS 701.046 is amended to read:

701.046. (1) Except as provided in subsection (2) of this section, an applicant for a construction contractor license must submit the application on a form prescribed by the Construction Contractors Board. The application shall include, but not be limited to, the following information:

- (a) The endorsement being sought.
- (b) A list of construction debts involving the applicant, or an owner or officer of the applicant, if the order, award, penalty or judgment that establishes the debt was issued within the preceding five years.
- (c) For each person described in paragraphs (h), [and] (i) **and** (j) of this subsection, a Social Security number.
- (d) Workers' compensation insurance account number, if the applicant is required to have workers' compensation insurance.
- (e) Unemployment insurance account number, if the applicant is required to have unemployment insurance.
- (f) State withholding tax account number, if the applicant is required to withhold state income tax.
- (g) Federal employer identification number, if the applicant is required to have a federal employer identification number.
- (h) The name and address of:
 - (A) Each partner, if the applicant is a partnership, limited liability partnership or foreign limited liability partnership.
 - (B) The general partner, if the applicant is a limited partnership.
 - (C) Each joint venturer, if the applicant is a joint venture.
 - (D) The owner, if the applicant is a sole proprietorship.
 - (E) The officers, if the applicant is a corporation.
 - (F) The manager and each member, if the applicant is a manager-managed limited liability company.
 - (G) Each member, if the applicant is a member-managed limited liability company.

- (H) The responsible managing individual designated by the applicant.
- (I) Each trustee, if the applicant is a trust.
- (i) The name and address of the following if the applicant is a partnership, limited liability partnership, foreign limited liability partnership, joint venture, manager-managed limited liability company or member-managed limited liability company:
- (A) Each partner in a partnership, limited liability partnership or foreign limited liability partnership that is a partner, joint venturer or member of the applicant.
- (B) Each general partner in a limited partnership that is a partner, joint venturer or member of the applicant.
- (C) Each joint venturer in a joint venture that is a partner, joint venturer or member of the applicant.
- (D) The manager and each member of a manager-managed limited liability company that is a partner, joint venturer or member of the applicant.
- (E) Each member of a member-managed limited liability company that is a partner, joint venturer or member of the applicant.
- (F) Each officer of a corporation that is a partner, joint venturer or member of the applicant.
- [(G) The general partner in a limited partnership that is a partner, joint venturer or member of the applicant.]*
- [(H)]* (G) Each individual who has a controlling ownership interest in, or management authority over, the applicant and who meets criteria adopted by the board by rule.
- (j) The name and address of the following if the applicant is a limited partnership:**
- (A) Each partner of any partnership, limited liability partnership or foreign limited liability partnership that is the general partner of the applicant.**
- (B) Each general partner of any limited partnership that is the general partner of the applicant.**
- (C) Each joint venturer in any joint venture that is the general partner of the applicant.**
- (D) The manager and each member of any manager-managed limited liability company that is the general partner of the applicant.**
- (E) Each member of any member-managed limited liability company that is the general partner of the applicant.**
- (F) Each officer of any corporation that is the general partner of the applicant.**
- [(j)]* **(k)** For each person described in paragraphs (h), *[and]* (i) **and** (j) of this subsection, information as required by board rule regarding the following if related to construction activities:
- (A) A final judgment against the person by a court in any state entered within five years preceding the application date that requires the person to pay money to another person or to a public body if the judgment remains unsatisfied on the application date.
- (B) A final order against the person by an administrative agency in any state issued within five years preceding the application date that requires the person to pay money to another person or to a public body if the order remains unsatisfied on the application date.
- (C) A court action against the person in any state pending on the application date that alleges the person owes money to another person or to a public body.
- (D) An action by an administrative agency in any state pending on the application date that seeks an order that the person pay money to another person or to a public body.
- (E) A conviction for a crime listed in ORS 701.098 (1)(i) entered within five years preceding the application date.
- (F) An indictment for a crime listed in ORS 701.098 (1)(i) filed within five years preceding the application date.
- [(k)]* **(L)** The basis on which the applicant meets the standards for independent contractor status under ORS 670.600.
- (2) Subsection (1)(h), *[and]* (i) **and** (j) of this section does not apply if the applicant is a company that offers securities registered with the United States Securities and Exchange Commission for sale to the general public.

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

(a) Is in compliance with ORS 701.091.

(b) Has the legal capacity to enter into contracts.

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

(5) An applicant shall conform to the information provided by the applicant on the application and to the terms of the application.

SECTION 2. ORS 701.114 is amended to read:

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

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

SECTION 3. Sections 4, 5 and 5a of this 2013 Act are added to and made a part of ORS chapter 701.

SECTION 4. (1) A residential locksmith services contractor license authorizes the holder to operate a business providing the services of locksmiths as defined in ORS 701.475 for residential or small commercial structures, but does not authorize the holder to engage in other contractor activities.

(2) Notwithstanding ORS 701.126, the Construction Contractors Board may not impose a continuing education requirement for a residential locksmith services contractor. This subsection does not exempt a responsible managing individual for the business from compliance with any continuing education requirements established by the board under ORS 701.485 for a certified locksmith.

(3) Notwithstanding ORS 701.122, the board may not require a residential locksmith services contractor or the responsible managing individual for the business to take a test measuring the knowledge of the contractor or responsible managing individual regarding business practices and laws affecting construction contractors.

SECTION 5. (1) A home inspector services contractor license authorizes the holder to operate a business providing the services of home inspectors as defined in ORS 701.005, but does not authorize the holder to engage in other contractor activities.

(2) Notwithstanding ORS 701.126, the Construction Contractors Board may not impose a continuing education requirement for a home inspector services contractor. This subsection does not exempt a responsible managing individual for the business from compliance with any continuing education requirements established by the board under ORS 701.350 for a certified home inspector.

(3) Notwithstanding ORS 701.122, the board may not require a home inspector services contractor or the responsible managing individual for the business to take a test measuring the knowledge of the contractor or responsible managing individual regarding business practices and laws affecting construction contractors.

SECTION 5a. (1) As used in this section, "home" and "home service agreement" have the meanings given those terms in ORS 731.164.

(2) A home services contractor license authorizes the holder to operate a business providing service, repair or replacement for homes through a licensed contractor under a home service agreement.

(3) Notwithstanding ORS 701.126, the Construction Contractors Board may not impose a continuing education requirement for a home services contractor.

(4) Notwithstanding ORS 701.122, the board may not require a home services contractor to take a test measuring the knowledge of the contractor or responsible managing individual regarding business practices and laws affecting construction contractors.

SECTION 6. ORS 701.005 is amended to read:

701.005. As used in this chapter:

- (1) "Board" means the Construction Contractors Board.
- (2) "Commercial contractor" means a licensed contractor that holds an endorsement as a:
 - (a) Commercial general contractor level 1;
 - (b) Commercial specialty contractor level 1;
 - (c) Commercial general contractor level 2;
 - (d) Commercial specialty contractor level 2; or
 - (e) Commercial developer.
- (3) "Commercial developer" means a developer of property that is zoned for or intended for use compatible with a small commercial or large commercial structure.
- (4) "Construction debt" means an amount owed under:
 - (a) An order or arbitration award issued by the board that has become final by operation of law;
 - (b) A judgment, arbitration award or civil penalty that has become final by operation of law arising from construction activities within the United States; or
 - (c) A judgment or civil penalty that has become final by operation of law arising from a failure to comply with ORS 656.017.
- (5) "Contractor" means any of the following:
 - (a) A person that, for compensation or with the intent to sell, arranges or undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect, move, wreck or demolish, for another, a building, highway, road, railroad, excavation or other structure, project, development or improvement attached to real estate, or to do any part thereof.
 - (b) A person that purchases or owns property and constructs or for compensation arranges for the construction of one or more residential structures or small commercial structures with the intent of selling the structures.
 - (c) A school district, as defined in ORS 332.002, that permits students to construct a residential structure or small commercial structure as an educational experience to learn building techniques and sells the completed structure.
 - (d) A community college district, as defined in ORS 341.005, that permits students to construct a residential structure or small commercial structure as an educational experience to learn building techniques and sells the completed structure.
 - (e) A person except a landscape contracting business, nurseryman, gardener or person engaged in the commercial harvest of forest products, that is engaged as an independent contractor to remove trees, prune trees, remove tree limbs or stumps or to engage in tree or limb guying.
 - (f) A business that supplies the services of a home inspector certified under ORS 701.350 or a cross-connection inspector and backflow assembly tester certified under ORS 448.279.
 - (g) A person that for compensation arranges, undertakes, offers to undertake or submits a bid to clean or service chimneys.
- (6) "Developer" means a contractor that owns property or an interest in property and engages in the business of arranging for construction work or performing other activities associated with the improvement of real property, with the intent to sell the property.
- (7)(a) "General contractor" means a contractor whose business operations require the use of more than two unrelated building trades or crafts that the contractor supervises or performs in whole or part, whenever the sum of all contracts on any single property, including materials and labor, exceeds an amount established by rule by the board.
- (b) "General contractor" does not mean a specialty contractor or a residential limited contractor.

(8)(a) "Home improvement" means a renovation, remodel, repair or alteration by a residential contractor to an existing owner-occupied:

(A) Residence that is a site-built home;

(B) Condominium, rental residential unit or other residential dwelling unit that is part of a larger structure, if the property interest in the unit is separate from the property interest in the larger structure;

(C) Modular home constructed off-site;

(D) Manufactured dwelling; or

(E) Floating home, as defined in ORS 830.700.

(b) "Home improvement" does not include a renovation, remodel, repair or alteration by a residential contractor:

(A) To a structure that contains one or more dwelling units and is four stories or less above grade; or

(B) That the residential contractor performed in the course of constructing a new residential structure.

(9)(a) "Home inspector" means a person who, for a fee, inspects and provides written reports on the overall physical condition of a residential structure.

(b) "Home inspector" does not include persons certified under ORS chapter 455 to inspect new, repaired or altered structures for compliance with the state building code.

(10) "Key employee" means an employee or owner of a contractor who is a corporate officer, manager, superintendent, foreperson or lead person or any other employee the board identifies by rule.

(11) "Large commercial structure" means a structure that is not a residential structure or small commercial structure.

(12) "Officer" means any of the following persons:

(a) A president, vice president, secretary, treasurer or director of a corporation.

(b) A general partner in a limited partnership.

(c) A manager in a manager-managed limited liability company.

(d) A member of a member-managed limited liability company.

(e) A trustee.

(f) A person the board defines by rule as an officer. The definition of officer adopted by board rule may include persons not listed in this subsection who may exercise substantial control over a business.

(13) "Residential contractor" means a licensed contractor that holds an endorsement as a:

(a) Residential general contractor;

(b) Residential specialty contractor;

(c) Residential limited contractor; [or]

(d) Residential developer[.];

(e) Residential locksmith services contractor;

(f) Home inspector services contractor; or

(g) Home services contractor.

(14) "Residential developer" means a developer of property that is zoned for or intended for use compatible with a residential or small commercial structure.

(15)(a) "Residential structure" means:

(A) A residence that is a site-built home;

(B) A structure that contains one or more dwelling units and is four stories or less above grade;

(C) A condominium, rental residential unit or other residential dwelling unit that is part of a larger structure, if the property interest in the unit is separate from the property interest in the larger structure;

(D) A modular home constructed off-site;

(E) A manufactured dwelling;

(F) A floating home as defined in ORS 830.700; or

(G) An appurtenance to a home, structure, unit or dwelling described in subparagraphs (A) to (F) of this paragraph.

(b) "Residential structure" does not mean:

(A) Subject to paragraph (a)(C) of this subsection, a structure that contains both residential and nonresidential units;

(B) Transient lodging;

(C) A residential school or residence hall;

(D) A state or local correctional facility other than a local facility for persons enrolled in work release programs maintained under ORS 144.460;

(E) A youth correction facility as defined in ORS 420.005;

(F) A youth care center operated by a county juvenile department under administrative control of a juvenile court pursuant to ORS 420.855 to 420.885;

(G) A detention facility as defined in ORS 419A.004;

(H) A nursing home;

(I) A hospital; or

(J) A place constructed primarily for recreational activities.

(16) "Responsible managing individual" means an individual who:

(a) Is an owner described in ORS 701.094 or an employee of the business;

(b) Exercises management or supervisory authority, as defined by the board by rule, over the construction activities of the business; and

(c)(A) Successfully completed the training and testing required for licensing under ORS 701.122 within a period the board identifies by rule;

(B) Demonstrated experience the board requires by rule; or

(C) Complied with the licensing requirements of ORS 446.395.

(17) "Small commercial structure" means:

(a) A nonresidential structure that has a ground area of 10,000 square feet or less, including exterior walls, and a height of not more than 20 feet from the top surface of the lowest flooring to the highest interior overhead finish of the structure;

(b) A nonresidential leasehold, rental unit or other unit that is part of a larger structure, if the unit has a ground area of 12,000 square feet or less, excluding exterior walls, and a height of not more than 20 feet from the top surface of the lowest flooring to the highest interior overhead finish of the unit;

(c) A nonresidential structure of any size for which the contract price of all construction contractor work to be performed on the structure as part of a construction project does not total more than \$250,000; or

(d) An appurtenance to a structure or unit described in paragraphs (a) to (c) of this subsection.

(18) "Specialty contractor" means a contractor who performs work on a structure, project, development or improvement and whose operations as such do not fall within the definition of "general contractor." "Specialty contractor" includes a person who performs work regulated under ORS 446.395.

(19) "Worker leasing company" means a person licensed under ORS 656.850 (2) to perform the service of providing nontemporary workers by contract and for a fee to work for a client.

[(19)] (20) "Zero-lot-line dwelling" means a single-family dwelling unit constructed in a group of attached units in which:

(a) Each attached unit extends from foundation to roof with open space on two sides; and

(b) Each dwelling unit is separated by a property line.

SECTION 7. ORS 701.005, as amended by section 59, chapter 630, Oregon Laws 2011, is amended to read:

701.005. As used in this chapter:

(1) "Board" means the Construction Contractors Board.

(2) "Commercial contractor" means a licensed contractor that holds an endorsement as a:

(a) Commercial general contractor level 1;

- (b) Commercial specialty contractor level 1;
 - (c) Commercial general contractor level 2;
 - (d) Commercial specialty contractor level 2; or
 - (e) Commercial developer.
- (3) "Commercial developer" means a developer of property that is zoned for or intended for use compatible with a small commercial or large commercial structure.
- (4) "Construction debt" means an amount owed under:
- (a) An order or arbitration award issued by the board that has become final by operation of law;
 - (b) A judgment or civil penalty that has become final by operation of law arising from construction activities within the United States; or
 - (c) A judgment or civil penalty that has become final by operation of law arising from a failure to comply with ORS 656.017.
- (5) "Contractor" means any of the following:
- (a) A person that, for compensation or with the intent to sell, arranges or undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect, move, wreck or demolish, for another, a building, highway, road, railroad, excavation or other structure, project, development or improvement attached to real estate, or to do any part thereof.
 - (b) A person that purchases or owns property and constructs or for compensation arranges for the construction of one or more residential structures or small commercial structures with the intent of selling the structures.
 - (c) A school district, as defined in ORS 332.002, that permits students to construct a residential structure or small commercial structure as an educational experience to learn building techniques and sells the completed structure.
 - (d) A community college district, as defined in ORS 341.005, that permits students to construct a residential structure or small commercial structure as an educational experience to learn building techniques and sells the completed structure.
 - (e) A person except a landscape contracting business, nurseryman, gardener or person engaged in the commercial harvest of forest products, that is engaged as an independent contractor to remove trees, prune trees, remove tree limbs or stumps or to engage in tree or limb guying.
 - (f) A business that supplies the services of a home inspector certified under ORS 701.350 or a cross-connection inspector and backflow assembly tester certified under ORS 448.279.
 - (g) A person that for compensation arranges, undertakes, offers to undertake or submits a bid to clean or service chimneys.
- (6) "Developer" means a contractor that owns property or an interest in property and engages in the business of arranging for construction work or performing other activities associated with the improvement of real property, with the intent to sell the property.
- (7)(a) "General contractor" means a contractor whose business operations require the use of more than two unrelated building trades or crafts that the contractor supervises or performs in whole or part, whenever the sum of all contracts on any single property, including materials and labor, exceeds an amount established by rule by the board.
- (b) "General contractor" does not mean a specialty contractor or a residential limited contractor.
- (8)(a) "Home improvement" means a renovation, remodel, repair or alteration by a residential contractor to an existing owner-occupied:
- (A) Residence that is a site-built home;
 - (B) Condominium, rental residential unit or other residential dwelling unit that is part of a larger structure, if the property interest in the unit is separate from the property interest in the larger structure;
 - (C) Modular home constructed off-site;
 - (D) Manufactured dwelling; or
 - (E) Floating home, as defined in ORS 830.700.

(b) "Home improvement" does not include a renovation, remodel, repair or alteration by a residential contractor:

(A) To a structure that contains one or more dwelling units and is four stories or less above grade; or

(B) That the residential contractor performed in the course of constructing a new residential structure.

(9)(a) "Home inspector" means a person who, for a fee, inspects and provides written reports on the overall physical condition of a residential structure.

(b) "Home inspector" does not include persons certified under ORS chapter 455 to inspect new, repaired or altered structures for compliance with the state building code.

(10) "Key employee" means an employee or owner of a contractor who is a corporate officer, manager, superintendent, foreperson or lead person or any other employee the board identifies by rule.

(11) "Large commercial structure" means a structure that is not a residential structure or small commercial structure.

(12) "Officer" means any of the following persons:

(a) A president, vice president, secretary, treasurer or director of a corporation.

(b) A general partner in a limited partnership.

(c) A manager in a manager-managed limited liability company.

(d) A member of a member-managed limited liability company.

(e) A trustee.

(f) A person the board defines by rule as an officer. The definition of officer adopted by board rule may include persons not listed in this subsection who may exercise substantial control over a business.

(13) "Residential contractor" means a licensed contractor that holds an endorsement as a:

(a) Residential general contractor;

(b) Residential specialty contractor;

(c) Residential limited contractor; [or]

(d) Residential developer[.];

(e) Residential locksmith services contractor;

(f) Home inspector services contractor; or

(g) Home services contractor.

(14) "Residential developer" means a developer of property that is zoned for or intended for use compatible with a residential or small commercial structure.

(15)(a) "Residential structure" means:

(A) A residence that is a site-built home;

(B) A structure that contains one or more dwelling units and is four stories or less above grade;

(C) A condominium, rental residential unit or other residential dwelling unit that is part of a larger structure, if the property interest in the unit is separate from the property interest in the larger structure;

(D) A modular home constructed off-site;

(E) A manufactured dwelling;

(F) A floating home as defined in ORS 830.700; or

(G) An appurtenance to a home, structure, unit or dwelling described in subparagraphs (A) to (F) of this paragraph.

(b) "Residential structure" does not mean:

(A) Subject to paragraph (a)(C) of this subsection, a structure that contains both residential and nonresidential units;

(B) Transient lodging;

(C) A residential school or residence hall;

(D) A state or local correctional facility other than a local facility for persons enrolled in work release programs maintained under ORS 144.460;

- (E) A youth correction facility as defined in ORS 420.005;
 - (F) A youth care center operated by a county juvenile department under administrative control of a juvenile court pursuant to ORS 420.855 to 420.885;
 - (G) A detention facility as defined in ORS 419A.004;
 - (H) A nursing home;
 - (I) A hospital; or
 - (J) A place constructed primarily for recreational activities.
- (16) "Responsible managing individual" means an individual who:
- (a) Is an owner described in ORS 701.094 or an employee of the business;
 - (b) Exercises management or supervisory authority, as defined by the board by rule, over the construction activities of the business; and
 - (c)(A) Successfully completed the training and testing required for licensing under ORS 701.122 within a period the board identifies by rule;
 - (B) Demonstrated experience the board requires by rule; or
 - (C) Complied with the licensing requirements of ORS 446.395.
- (17) "Small commercial structure" means:
- (a) A nonresidential structure that has a ground area of 10,000 square feet or less, including exterior walls, and a height of not more than 20 feet from the top surface of the lowest flooring to the highest interior overhead finish of the structure;
 - (b) A nonresidential leasehold, rental unit or other unit that is part of a larger structure, if the unit has a ground area of 12,000 square feet or less, excluding exterior walls, and a height of not more than 20 feet from the top surface of the lowest flooring to the highest interior overhead finish of the unit;
 - (c) A nonresidential structure of any size for which the contract price of all construction contractor work to be performed on the structure as part of a construction project does not total more than \$250,000; or
 - (d) An appurtenance to a structure or unit described in paragraphs (a) to (c) of this subsection.

(18) "Specialty contractor" means a contractor who performs work on a structure, project, development or improvement and whose operations as such do not fall within the definition of "general contractor." "Specialty contractor" includes a person who performs work regulated under ORS 446.395.

(19) "Worker leasing company" means a person licensed under ORS 656.850 (2) to perform the service of providing nontemporary workers by contract and for a fee to work for a client.

[(19)] (20) "Zero-lot-line dwelling" means a single-family dwelling unit constructed in a group of attached units in which:

- (a) Each attached unit extends from foundation to roof with open space on two sides; and
- (b) Each dwelling unit is separated by a property line.

SECTION 8. ORS 701.021 is amended to read:

701.021. (1) Except as provided in ORS 701.010, a person or joint venture that undertakes, offers to undertake or submits a bid to do work as a contractor must have a current license issued by the Construction Contractors Board and possess an appropriate endorsement as provided in this section. For purposes of offering to undertake or submitting a bid to do work, a partnership or joint venture is licensed and endorsed if any partner or joint venturer whose name appears in the business name of the partnership or joint venture has a current license issued by the board and possesses an appropriate endorsement.

(2) A person or joint venture that undertakes, offers to undertake or submits a bid to do work as a contractor in preparation for or in connection with a residential structure must have one of the following endorsements:

- (a) Residential general contractor.
- (b) Residential specialty contractor.
- (c) Residential limited contractor.
- (d) Residential developer.

- (e) **Residential locksmith services contractor.**
- (f) **Home inspector services contractor.**
- (g) **Home services contractor.**

(3) A person or joint venture that undertakes, offers to undertake or submits a bid to do work as a contractor in preparation for or in connection with a small commercial structure must have one of the following endorsements:

- (a) Residential general contractor.
- (b) Residential specialty contractor.
- (c) Residential limited contractor.
- (d) Residential developer.
- (e) **Residential locksmith services contractor.**
- [(e)] (f) Commercial general contractor level 1.
- [(f)] (g) Commercial specialty contractor level 1.
- [(g)] (h) Commercial general contractor level 2.
- [(h)] (i) Commercial specialty contractor level 2.
- [(i)] (j) Commercial developer.

(4) A person or joint venture that undertakes, offers to undertake or submits a bid to do work as a contractor in preparation for or in connection with a large commercial structure must have one of the following endorsements:

- (a) Commercial general contractor level 1.
- (b) Commercial specialty contractor level 1.
- (c) Commercial general contractor level 2.
- (d) Commercial specialty contractor level 2.
- (e) Commercial developer.

SECTION 9. ORS 701.081 is amended to read:

701.081. (1) A residential general contractor shall:

- (a) Obtain a surety bond under ORS 701.068 in the amount of \$20,000;
- (b) Obtain general liability insurance under ORS 701.073 in an amount of not less than \$500,000;

and

- (c) Have a responsible managing individual who meets the requirements of ORS 701.091.
- (2) A residential specialty contractor shall:

- (a) Obtain a surety bond under ORS 701.068 in the amount of \$15,000;
- (b) Obtain general liability insurance under ORS 701.073 in an amount not less than \$300,000;

and

- (c) Have a responsible managing individual who meets the requirements of ORS 701.091.
- (3) A residential limited contractor shall:

- (a) Obtain a surety bond under ORS 701.068 in the amount of \$10,000;
- (b) Obtain general liability insurance under ORS 701.073 in an amount not less than \$100,000;

and

- (c) Have a responsible managing individual who meets the requirements of ORS 701.091.
- (4) A residential developer shall:

- (a) Obtain a surety bond under ORS 701.068 in the amount of \$20,000; and
- (b) Obtain general liability insurance under ORS 701.073 in an amount not less than \$500,000.

(5) A residential locksmith services contractor shall:

- (a) Obtain a surety bond under ORS 701.068 in the amount of \$10,000;
- (b) Obtain general liability insurance under ORS 701.073 in an amount of not less than \$100,000; and

(c) Have a responsible managing individual for the business who is certified as a locksmith under ORS 701.485.

(6) A home inspector services contractor shall:

- (a) Obtain a surety bond under ORS 701.068 in the amount of \$10,000;

(b) Obtain general liability insurance under ORS 701.073 in an amount of not less than \$100,000; and

(c) Have a responsible managing individual for the business who is certified as a home inspector under ORS 701.350.

(7) A home services contractor shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of \$10,000; and

(b) Obtain general liability insurance under ORS 701.073 in an amount of not less than \$100,000.

SECTION 10. ORS 701.035 is amended to read:

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

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

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

(A) Sole proprietorships, partnerships, corporations[,] and limited liability companies:

(i) With one or more employees; [and] or

(ii) That utilize one or more workers supplied by a worker leasing company.

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

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

(3) If a person who is licensed as exempt under subsection (2)(b) of this section hires one or more employees, **utilizes one or more workers supplied by a worker leasing company** or falls into any of the categories set out in subsection (2)(a)(B) of this section, the person is subject to penalties under ORS 701.992 for improper licensing. If a person who is licensed as exempt under subsection (2)(b) of this section hires one or more employees, **or utilizes one or more workers supplied by a worker leasing company**, the person is also subject to licensing sanctions under ORS 701.098. The person must reapply to the board in the correct class.

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

(5) A person that is within the exempt class described in subsection (2)(b) of this section and is licensed as a commercial contractor shall procure and maintain workers' compensation insurance as authorized by ORS 656.128.

SECTION 11. ORS 701.098 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

- (A) Murder;
- (B) Assault in the first degree;
- (C) Kidnapping;
- (D) Rape, sodomy or unlawful sexual penetration;
- (E) Sexual abuse;
- (F) Arson in the first degree;
- (G) Robbery in the first degree;
- (H) Theft in the first degree; or
- (I) Theft by extortion.

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

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

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

(m) That the contractor has hired employees while licensed as exempt under ORS 701.035.

(n) That the contractor has utilized one or more workers supplied by a worker leasing company while licensed as exempt under ORS 701.035;

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

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

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

- (A) Lack of a surety bond required by ORS 701.068;
- (B) Lack of liability insurance required by ORS 701.073;
- (C) Hiring employees while classed as exempt under ORS 701.035;

(D) Utilizing one or more workers supplied by a worker leasing company while classed as exempt under ORS 701.035;

[(D)] (E) Conduct as a construction contractor that is dishonest or fraudulent; or

[(E)] (F) Failure to pay a construction debt.

(b) If the licensee or applicant demands a hearing within 90 days after the date of notice to the licensee or applicant of the suspension or refusal to renew, then a hearing must be granted to the licensee or applicant as soon as practicable after the demand, and the administrator shall issue, pursuant to the hearing as required by ORS chapter 183, an order confirming, altering or revoking the administrator's earlier order. Notwithstanding ORS 670.325, a hearing need not be held where

the order of suspension or refusal to renew is accompanied by or is pursuant to a citation for violation that is subject to judicial determination in any court of this state, and the order by its terms will terminate in case of final judgment in favor of the licensee or applicant.

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

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

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

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

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

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

(7) A certified copy of the record of conviction shall be conclusive evidence of a conviction under subsection (1)(i) of this section.

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

SECTION 12. The amendments to ORS 701.046 and 701.114 by sections 1 and 2 of this 2013 Act apply to license applications received by the Construction Contractors Board on or after the effective date of this 2013 Act.

SECTION 13. The amendments to ORS 701.035 and 701.098 by sections 10 and 11 of this 2013 Act apply to the utilization of workers that are supplied by a worker leasing company 90 or more days after the effective date of this 2013 Act.

Passed by Senate March 21, 2013

Repassed by Senate May 28, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 22, 2013

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Tina Kotek, Speaker of House

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.....M,....., 2013

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John Kitzhaber, Governor

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.....M,....., 2013

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Kate Brown, Secretary of State