



**Construction Contractors Board (CCB)
Testimony SB 207
Before the 77th Oregon Legislative Assembly
Senate Business and Transportation Committee
February 4, 2013 at 3:00 p.m.
Hearing Room B**

Committee Members:

Senator Lee Beyer, Chair

Senator Bruce Starr, Vice-Chair

Senator Chris Edwards

Senator Fred Girod

Senator Rod Monroe

Senator Chuck Thomsen

Committee Administrator

Patrick Brennan

(503) 986-1674

I. INTRODUCTION:

Appearing Before Committee

- Craig P. Smith, Administrator, CCB

II. PURPOSE OF THE BILL:

SB 207 requires limited partnerships seeking a contractor license to include the names, addresses and Social Security numbers of “downstream” (second and third tier) principals.

III. BACKGROUND ON LIMITED PARTNERSHIPS:

- A. Limited partnerships are similar to general or ordinary partnerships, except that, in addition to one or more general partners, there are one or more limited partners.
- B. The general partners are in the same legal position as partners in a conventional firm – they have management control, share the right to use partnership property, share the profits, and are jointly and severally liable for partnership debts.
- C. Like shareholders in a corporation, limited partners have limited liability. The general partners pay the limited partners a return on their investment (similar to a corporate dividend), as defined in the partnership agreement.
- D. A limited partnership is distinguishable from a limited liability partnership (LLP). LLPs have both general and limited partners. Unlike the limited partnership, however, the general partners in LLPs are liable for the debts of the LLP only to the extent of their capital contribution.

IV. PROBLEM (see attached business organization chart):

- A. By way of example, assume Jones Limited Partnership [red] has four members. These members include: (1) an ordinary partnership; (2) a limited partnership; (3) a limited liability company (LLC); and (4) a corporation [purple].



- B. Jones Limited Partnership applies for a contractor license. For any business entity *other than* a limited partnership, CCB requires the applicant to disclose the name, address and Social Security number of the principal individuals involved in the businesses [turquoise].
1. For an ordinary partnership, these principals are its partners.
 2. For a limited partnership, these principals are its general partners.
 3. For an LLC, these principals are the manager (if it is manager-managed) or members (if it is member-managed).
 4. For a corporation, these principals are the corporate officers (e.g., a president and secretary).
- C. Because of the way ORS 701.046(1)(i) is written, there is no similar requirement to disclose the principals of limited partnership applicants.
1. CCB believes that the legislature intended to include limited partnerships in the introductory phrase in ORS 701.046(1)(i). Otherwise, there was no reason to include subparagraph (G), which lists “the general partner in a limited partnership that is a partner, joint venture or member of the applicant.”
 2. As a practical matter, CCB has treated limited partnerships the same as other applicants. However, the law – as written – is not clear on this matter.
- D. Obtaining this information about the principals of a business is important. CCB may deny licensure if an individual involved with the applicant (even at a third tier level) has been convicted of certain crimes or has outstanding construction debts.

V. PROPOSED SOLUTION:

The solution is to add language (here, new paragraph (j)), which clarifies that limited partnerships are covered by the same laws that cover other business entities.

VI. The agency asks the committee to support SB 207 by voting to move it to the floor of the Senate with a do-pass recommendation.

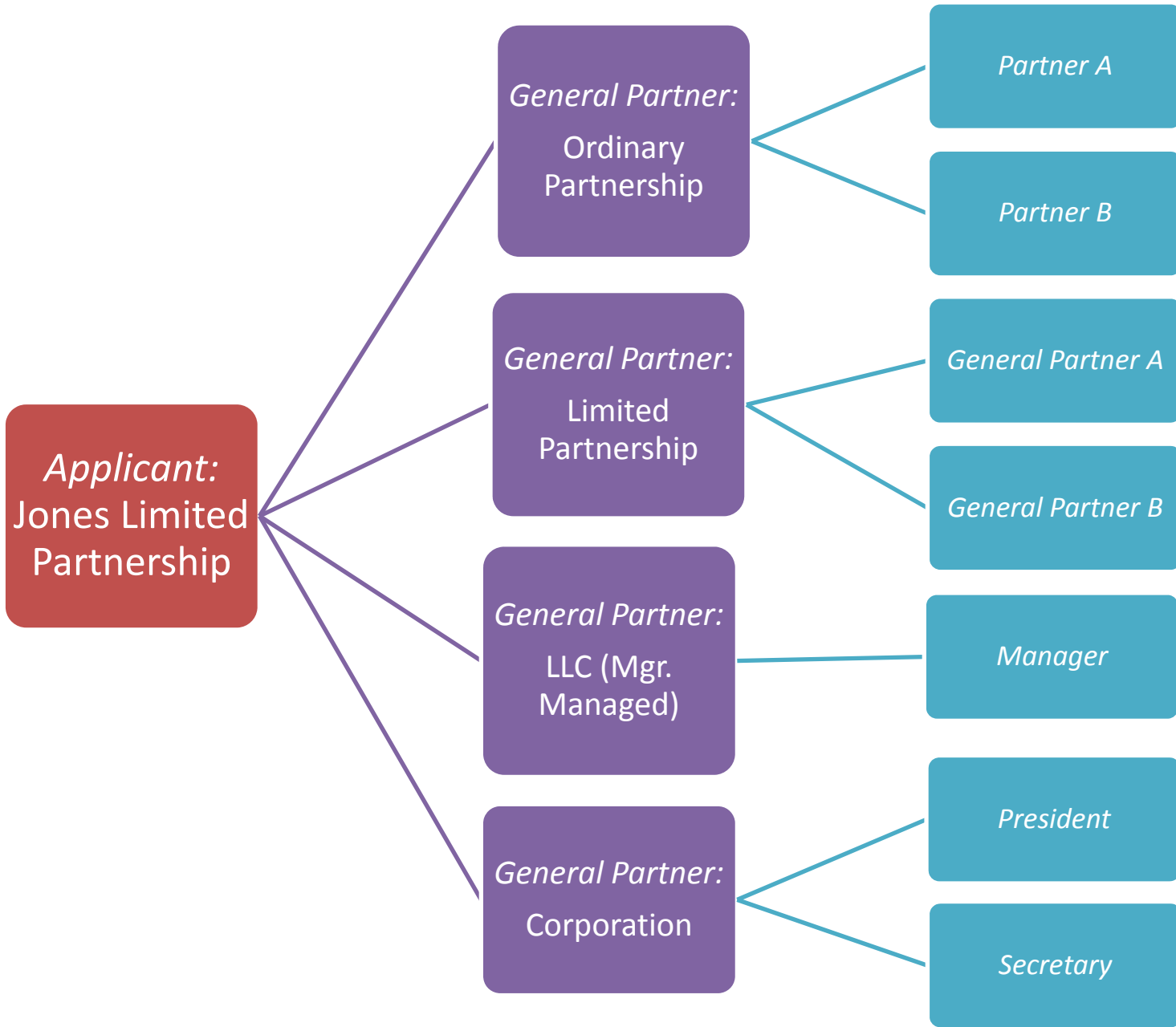
VII. ATTACHMENTS:

Business Organization Chart
Agency Program Summary

First Tier
CCB Applicant

Second Tier
Owners of the CCB Applicant

Third Tier
Owners of Owners of CCB Applicant



Agency Program Summary

A. Agency Overview:

1. Regulation:

The Construction Contractors Board (CCB) is the state agency that regulates construction contractors in Oregon through its licensing requirements.

2. Financial Accountability:

The agency holds contractors financially accountable for their business practices through its licensing, enforcement, and dispute resolution programs.

3. Mission Statement:

The Construction Contractors Board protects the public's interest relating to improvements to real property. The Board regulates construction contractors and promotes a competitive business environment through education, contractor licensing, dispute resolution, and law enforcement.

B. Agency Programs and Services Summary

1. Consumer Education: To educate consumers about their rights and responsibilities when engaging in construction transactions.

- Home shows, business fairs and other events
- Web page license records inquiry
- FAQ and consumer information
- News releases
- Printed materials
- Phone calls
- Online newsletters
- Speeches to consumer groups

2. CCB Contractor Education: To ensure new contractors have business skills necessary to operate an Oregon construction business.

- Business education for new contractors
- Test for new contractors (2,676 for FY ending 6/30/12/businesses—education and testing are outsourced)
- Newsletters (on-line)
- Home shows and speeches to contractor associations
- Education testing and continuing education for home inspectors

3. Licensing/Customer Service Unit: To efficiently process contractor license information and ensure all contractor records are accurate.

- 34,126 licensed contractors as of 6/30/12
 - Certified Home Inspectors approximately 431
 - Lead-Based Paint Renovation (4,964 as of 6/30/12)
 - Certified Locksmiths (432 as of 6/30/12)
- Class of independent contractor:
 - Non-exempt (15,846 as of 6/30/12) (employers)
 - Exempt (18,260 as of 6/30/12)

- Endorsements:
 - Residential General Contractor (RGC)
 - Residential Specialty Contractor (RSC)
 - Residential Limited Contractor (RLC)
 - Residential Developer (RD)
 - Commercial General Contractor level 1 (CGC1)
 - Commercial Specialty Contractor level 1 (CSC1)
 - Commercial General Contractor level 2 (CGC2)
 - Commercial Specialty Contractor level 2 (CSC2)
 - Commercial Developer (CD)
 - Application and renewals
 - Surety bonds
 - Liability insurance
 - Tax ID numbers
 - Suspend contractors that lose bond or insurance coverage (3,293 for FY ending 6/30/12)
- 4. Enforcement/Field Investigations:** To provide an effective deterrent to illegal (unlicensed) construction activity.
- Investigation of license law violations. Special Investigations of contractor fraud and dishonest activity (administrative, civil and criminal).
 - Investigations (4,797 for FY ending 6/30/12)
 - Administrative warnings (832 for FY ending 6/30/12)
 - Craigslist warnings (860 for FY ending 6/30/12)
 - Civil penalties \$1,452,800 for FY ending 6/30/12)
 - Suspensions/revocations (389 for FY ending 6/30/12)
 - Random job site license inspections (4,693 for FY ending 6/30/12)
 - Lead-based paint enforcement partnership with Oregon Department of Human Services
 - **Special Investigations Unit (SIU):** Works with Department of Justice (DOJ) and local law enforcement to combat construction fraud; puts worst offenders into the criminal justice system.
- 5. Dispute Resolution:** To provide contractor accountability by providing an alternative dispute resolution system as an alternative to the Oregon court system.
- Complaints (claims) resolved through negotiation and mediation
 - Complaints (claims) received (1,018 for FY ending 6/30/12)
 - Homeowners
 - Material suppliers
 - Generals/subcontractors
 - Employees
 - Alternative Dispute Resolution Program:
 - Notification
 - On-site investigation/settlement
 - Arbitrations/contested case hearings (for complaints filed prior to 7/1/11)
 - Final adjudication:
 - Licensee ordered to pay
 - Bond company payment
 - Failure to pay results in license suspension
 - \$2,997,929 awarded to complainants for FY ending 6/30/12