



Oregon

John A. Kitzhaber, MD, Governor

Construction Contractors Board

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January 24, 2014

The Honorable Senator Richard Devlin, Co-Chair
The Honorable Representative Peter Buckley, Co-Chair
Joint Committee on Ways and Means
900 Court Street NE Rm. H-178
Salem OR 97301-4048

Re: Oregon Construction Contractors Board Process Improvement Plan (Phase II) Report to the 2014 Legislature

Dear Co-Chairpersons:

NATURE OF THE REQUEST:

The 2013 legislature passed Senate Bill (SB) 5513 adopting a budget for the Construction Contractors Board (CCB) for fiscal years 2013 – 2015. SB 5513 included the following Budget Note.

In accordance with the work plan presented to the Subcommittee, the Construction Contractors Board is directed to provide a progress report to the interim joint committee on Ways and Means and the appropriate interim policy committees during the September 2013 legislative days and to the Joint Committee on Ways and Means during the 2014 legislative session.

AGENCY ACTION:

a. *Agency Process Improvement Plan*

On April 15, 2013, the CCB submitted to the Joint Committee on Ways and Means, Subcommittee on General Government, a Process Improvement Plan. A copy of the Process Improvement Plan is attached as Attachment A.

b. *Agency Progress Report*

On September 18, 2013, the CCB appeared before the Interim Joint Committee on Ways and Means to provide a preliminary progress report. A copy of the preliminary progress report is attached as Attachment B.

c. *Agency Final Report*

At this time, the CCB is submitting the final Phase II report to the Joint Committee on Ways and Means. A copy of the final Phase II report is attached as Attachment C.



SUMMARY OF AGENCY ACTION AND PHASE II REPORT FINDINGS:

a. *Process Improvement Plan*

According to the April 15, 2013, Process Improvement Plan, the CCB sought to identify the following.

1. Areas of regulation that do not make sense.
2. Areas of regulation that make sense.
3. Areas where the legislature can play a role in improving the agency and the regulations the agency is charged with implementing.
4. Streamlining and process improvements.
5. Efficiencies.

The CCB focused on nine separate items. These are:

1. Surety bonds and other methods for financial accountability
2. Contractor licensing categories
3. Continuing education reforms
4. New contractor outreach
5. Interagency duplication of efforts
6. Database and computer application development
7. Central Business Registry
8. Statewide disciplinary database
9. Streamline CCB laws

b. *Stakeholder Meetings*

The legislature asked the CCB to reach out to stakeholders to determine best practices.

Between June 25, 2013, and August 23, 2013, CCB staff traveled to twelve cities throughout the State of Oregon and held "town hall" style meetings. The CCB Administrator attended all twelve meetings. The meetings were held at the Small Business Development Centers (SBDCs), located at local colleges. The CCB recorded stakeholder comments and compiled those comments for later consideration and inclusion in the Phase II report.

In addition, the agency sought stakeholder input by surveying 39,000 contractors. To obtain their opinion on various questions pertinent to the report.

c. *Phase II Report Summary*

1. Surety Bonds and Other Methods for Financial Accountability

The CCB considered stakeholder input. Overall, contractors and others thought that maintaining surety bonds was the best method of assuring financial responsibility.

The CCB reviewed the history of contractor surety bonds in Oregon. The agency also conducted an in-depth analysis of contractor financial responsibility methods used by other states. In addition to surety bonds, other states use recovery funds, cash deposits and financial statements to assure financial accountability. The CCB reviewed the legislative history in Oregon of attempts (generally unsuccessful) to implement a recovery fund. Finally, the CCB staff looked at the matter of lien laws and how they are impacted by financial accountability.

The CCB found that surety bonds are readily available, affordable, and that coverage is known and predictable. Moreover, authorized surety companies are likely to perform their obligations and will pay claims even if a contractor is bankrupt.

In contrast, it is difficult to gauge the necessary amounts to reserve for recovery funds. Recovery funds may require additional, special assessments against contractors. In the worst case, the funds may become insolvent.

Unless audited or reviewed by a CPA, financial statements provide only a limited assurance of accuracy. They are only a “point in time” evaluation of financial accountability. The state agencies using these statements may need additional staff to review and process the filings.

Finally, cash deposits do not reflect whether a contractor is a good financial risk. In the event a contractor becomes bankrupt, the bankruptcy court will attach the deposits, which is no longer be available for CCB claims.

Based on stakeholder input, independent research and staff and board evaluation, the CCB recommends that the legislature retain surety bonds as the primary source of financial assurance. The agency also recommends that the current bond amounts be retained.

2. Contractor Licensing Categories

The CCB considered the stakeholder input. Concerns were expressed about abuse of the limited residential contractor or “handyman” license. Other stakeholders wondered if the legislature had gone too far in creating too many different licensing endorsements. Finally, concerns were expressed about the difficulty of the licensing process.

The CCB staff reviewed the history of licensing in Oregon. It noted that when the board was originally created in 1971, there were only two types of licenses. Now, there are nine contractor license endorsements, eight specialty licenses or endorsements, and seven individual licenses (24 total license types).

The CCB staff evaluated the residential limited license or “handyman” license. It is very difficult to police abuse of this license. With the advent of new endorsements in

2013 for limited licenses – locksmiths, home inspectors, home service contractors and home performance score contractors – the residential limited license becomes less useful. The CCB staff also evaluated the exemption for casual, minor and inconsequential work. The threshold limit was increased in 2013 from \$500 to \$1,000. Again, this mitigates against the need for the residential limited license.

The CCB staff performed an in-depth analysis of licensing schemes in other states. It noted states tend to regulate in one of the following ways:

- Commercial versus residential (Oregon included)
- New home builder versus improvement contractor
- General contractor versus subcontractor
- Business entity versus individual
- Limited versus intermediate versus unlimited (based on gross sales)
- Trade specific licenses

Oregon’s licensing scheme is as good as other schemes, and better than some.

Based on stakeholder input, independent research and staff and board evaluation, the CCB makes several recommendations to streamline the type and reduce the number of endorsements. These changes will require legislative amendments.

The CCB recommends that the residential developer and commercial developer endorsements be consolidated into a single endorsement with one bond. The CCB also recommends the residential limited contractor, or “handyman” license, be eliminated. The CCB recommends eliminating the distinction between general contractors and specialty contractors.

The CCB also recommends improving legislation passed in 2013 relating to the new limited licenses. These are mostly housekeeping amendments.

3. Residential Continuing Education (RCE) Reforms

The CCB considered stakeholder input. Some stakeholders complained there were not enough courses relevant to their type of work. Others had concerns that only online courses were available. This was a particular concern for contractors in rural areas who prefer in-person courses or have limited internet capabilities.

The CCB reviewed the history of construction contractor RCE in Oregon. RCE was not authorized until 2007. Commercial contractor RCE began in 2010. Residential contractor RCE began in 2011. While the entire concept of RCE was still relatively new, SB 783, passed in 2013, completely revised the program for residential contractors.

The CCB analyzed the approach of other states. Only 11 states – including Oregon – require RCE for contractors. Most states require between 8 and 16 hours biennially. This is what Oregon will require under SB 783.

The CCB staff evaluated how the agency will implement SB 783. The new law applies to contractors renewing their licenses on or after January 1, 2014. A great amount of agency resources have been devoted to implementing this new law. One advantage of the new law is that it will expand the courses available to contractors to satisfy their minimum RCE requirements.

Private providers may offer in-person courses, as well as online courses. The CCB also intends to offer some in-person courses.

Based on stakeholder input, independent research and staff and board evaluation, the CCB recommends that SB 783 that may need some slight adjustment.

To qualify to complete a lesser number of course hours, SB 783 looks to the number of years a contractor (business) has been licensed. It does not, however, consider experienced individuals that operate the business. The CCB recommends allowing business entities with a responsible managing individual having six or more years experience to qualify the business to satisfy only eight hours of continuing education.

Also, SB 783 allows CCB to charge course providers for “Series A” courses (courses all contractors must complete) but not for “Series B” courses (courses that may be completed by less experienced contractors to fulfill additional course hour requirement).

4. New Contractor Outreach

As CCB conducted its outreach meetings, it also held a half-day workshop for new contractors. Many of the same people attended both. The CCB considered stakeholder input. Although the comments were limited, most stakeholders that attended the New Contractor Outreach workshops liked them very much.

In 2009, the CCB developed a workshop to reach out to potential construction contractors. It offered instructions in how to apply for a license – which had become increasingly difficult. The difficulty resulted from the many license types; exempt and nonexempt contractor standards; and business entity options. The CCB hoped to provide the workshop quarterly, on weekends, at the agency’s offices. However, this was not possible because the building housing CCB (the DVA building) could not be adequately secured.

Instead, the CCB partnered with the Small Business Fair. However, for two years, nobody attended the workshops. The CCB discontinued the workshops until the summer and fall of 2013.

The CCB researched other state programs. Both Nevada and California provided workshops to assist contractors in becoming licensed. The workshops were only offered at the agency offices (both states had multiple offices). California eventually dropped their workshops and suspended the program due to low attendance. Nevada has continued its program.

Based on stakeholder input, independent research and staff and board evaluation, the CCB recommends continuing new contractor workshops. The agency is in the process of developing a plan and evaluating costs to determine when and where to hold the workshops.

5. Interagency Duplication of Efforts

The CCB considered stakeholder input. There were divergent ideas ranging from merging the Landscape Contractors Board (LCB) into the CCB to a letting each agency handle its own responsibilities.

The CCB identified multiple agencies that regulate businesses generally. These include the Secretary of State, Revenue Department, Employment Department, Bureau of Labor and Industries (BOLI), Occupational Safety and Health Division (OSHD), Workers' Compensation Division (WCD), and the Department of Environmental Quality (DEQ). In addition, the LCB, Building Codes Division (BCD), Oregon Health Authority (OHA) and Oregon Department of Energy (ODOE) regulate certain construction and trades licenses.

By statute, CCB is required to fulfill legal mandates that stem from requirements of other state agencies or state laws. The CCB identified at least 20 such mandates.

The CCB also evaluated the rights and obligations of the agency as a member of the Interagency Compliance Network. Finally, the CCB reviewed, in extensive detail, its actual operations and practices with regards to other state agencies, as well as local, state and federal law enforcement authorities.

The CCB reviewed practices in other states and found that more states than not have multiple agencies issuing licenses to contractors, as does Oregon.

Based on stakeholder input, independent research and staff and board evaluation, the CCB recommends the removal from ORS chapter 701 of three statutes. Each is enforced by at least two, or possibly more, agencies. The CCB also recommends specific areas where the agency may maximize efficiency by partnering with other state agencies. These include: (1) partnering with the Secretary of State's Central Business Registry (see discussion below: Item 7); (2) sharing data with other state agencies (see discussion below: Item 6); and (3) partnering with other state agencies for testing license applicants.

6. Database and Computer Application Development

The CCB considered stakeholder input. Some stakeholders wanted to see more detail added to contractor online license records. Others wanted online forms they could complete and submit electronically. There was a request to allow contractors (or their agents) to submit surety bonds electronically.

The CCB analyzed database and computer applications development. The CCB provides secure access to contractor data to certain public partners, including other state agencies. In the future, the agency intends to make available data from RCE providers to contractors.

In the report, the CCB describes its application program interface (API). Originally intended for internal use, the agency is expanding the API and will ultimately make it available to its public partners.

The CCB evaluated the possibility of providing software assistance to other state agencies. Unfortunately, the software that the CCB has developed has proven to be specialized and integrated into internal systems, making it an unlikely fit for other agency needs. The CCB also evaluated outsourcing potential. The agency concluded that, due to the complexity of the CCB database and licensing structure, outsourcing would prove to be more costly than in-house information technology staff. Outsourcing would also provide less responsive support and systems development.

Based on stakeholder input, independent research and staff and board evaluation, the CCB recommends developing IT applications to allow electronic submission of surety bonds. The agency also recommends developing an API interface for public partners. The CCB recommends that it develop further online license applications.

7. Central Business Registry

The CCB considered stakeholder input. There were only two comments – one favorable and the other unfavorable about the Central Business Registry (CBR).

The Secretary of State (SOS) developed a CBR that is available to businesses online. The Governor issued a directive to agencies to explore ways to improve the business climate in Oregon. One way may be to partner with the CBR.

The CCB and the SOS's office have agreed to work together to develop an application to allow businesses to complete a CCB license application at the same time they register their business with the SOS.

Based on stakeholder input, independent research and staff and board evaluation, the CCB recommends continuing the work with the SOS to develop an application for CCB licensing on the CBR.

8. Statewide Disciplinary Database

The legislature requested that CCB research developing a central registry of enforcement actions taken by various state agencies. The concern is that consumers are not currently able to obtain a complete picture of the enforcement actions taken against a particular contractor.

The agencies that may provide data for a central registry are CCB, Revenue, Employment, Workers' Compensation, Insurance Division, OHSD, Building Codes and BOLI. (These agencies are all members of the Interagency Compliance Network).

The agency has identified certain obstacles that may impede the creation of such a database. These include: cost, need, where the information will be housed, available resources, coordination of database information, confidentiality concerns, and accountability.

Based on stakeholder input, independent research and staff and board evaluation, the CCB recommends this matter be given further consideration. Trying to integrate data from various state agencies and create user applications may be a herculean task for which neither CCB nor any other agency has adequate resources.

9. Streamline CCB Laws

The CCB considered stakeholder input. One commenter was unconcerned about the number of rules. Another thought CCB should streamline its notice forms.

The CCB reviewed each statute in ORS chapter 701. It also reviewed each rule in OAR division 812. In particular, the CCB previously conducted a five-year rule review for rules adopted in 2006, 2007 and 2008. Just recently, the agency completed a five-year rule review for rules adopted in 2009 and 2010.

Based on stakeholder input, independent research and staff and board evaluation, the CCB identifies four statutes (three identified under Interagency Duplication: Item 5) that could be removed from ORS chapter 701.

The CCB also recommends that it identify, amend or repeal unnecessary rules. In December 2013, the agency amended and repealed unnecessary rules in division 3. It will amend and repeal unnecessary RCE rules after SB 783 is fully implemented.

The CCB recommended performing a five-year rule review for rules adopted in 2009 and 2010. As noted above, the agency recently completed this review.

ACTION REQUESTED:

The CCB respectfully requests the Joint Committee on Ways and Means accept this final Process Improvement Plan (Phase II) report.

Joint Committee on Ways and Means
Senator Richard Devlin, Co-Chair
Representative Peter Buckley, Co-Chair
January 24, 2014
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LEGISLATION AFFECTED:

The CCB has identified some statutes that the agency believes could be repealed or amended. After consultation with, and approval of, the Governor's office, the CCB will put forward appropriate legislative proposals, most likely for the 2015 regular session.

Thank you for your time and consideration.

Sincerely,



Craig P. Smith
Administrator

CPS:cd

Attachment A – April 15, 2013, Process Improvement Plan submitted to Joint Ways and Means Committee, Subcommittee on General Government

Attachment B – September 18, 2013, Preliminary Progress Report to Interim Joint Ways and Means Committee

Attachment C – January 24, 2014, Final Phase II Report.

Construction Contractors Board (CCB) 2013-14 Process Improvement Plan

April 15, 2013

The Construction Contractors Board (CCB) shall engage Oregonians in a discussion designed to seek improvements to Oregon construction regulations and improve efficiencies in the manner and means the agency administers the Oregon Construction Contractors Licensing Act (ORS 701.002). The CCB shall use these discussions to develop administrative improvements, and legislative proposals for review and consideration by the 2014 Oregon Legislature. Legislative concepts and proposals may be considered during the 2015 legislature

The CCB shall develop a report to be delivered to the 2014 legislative session. The CCB shall provide a status report during interim legislative days during the fall of 2013. The 2014 legislative report shall contain the actions taken by the agency, the results of its work, planned and achieved accomplishments, and recommended legislative proposals.

This plan is designed to determine::

- a. Areas of regulation that don't make sense.
- b. Areas of regulation that do make sense.
- c. Areas where the Legislature can play an active role in improving the agency and the regulations that the agency is charged with implementing.
- d. Streamlining and process improvements.
- e. Efficiencies.

Input from Stakeholders and Work Groups

The agency shall obtain input from construction contractors, others associated with the construction industry, (material suppliers insurance providers, etc.) other state regulators, local government leaders, legislators, and other interested Oregonians. Input shall be obtained through the use of surveys, written communication special work groups and meetings held across the state conducted during the spring and summer 2013.

These meetings shall be held in all four corners of Oregon, and are currently planned for Portland, The North Coast, Newport, Medford, Klamath Falls, Central Oregon, Ontario and Hood River Oregon.

TASKS/ISSUE	PRODUCT(S)	TIMELINE	STAFFING DETAILS	COMPLETION DATES
<p>1. Surety Bonds.</p> <ul style="list-style-type: none"> • Research and develop alternatives to financial protections offered by surety bonds. • Research other states' best practices regarding financial accountability for contractors. • Determine which financial protections work best for Oregon based upon input from stakeholders and other state contractor licensing programs. • (financial/statement/recovery funds) • Balance consumer and business needs. 	<ul style="list-style-type: none"> • Report to Legislature of alternatives to current surety bond requirements. <ul style="list-style-type: none"> ○ Convene workgroup of interested stakeholders. ○ Determine pros and cons of various alternatives to the financial protection offered by CCB mandated surety bonds. ○ Provide a detailed report regarding the process followed and the results of the research for consideration of statutory reforms. 	<ul style="list-style-type: none"> • June 1, 2013 start. • July 1, 2013 commence workgroup activity. • July 2013 research and development of alternatives. • August 2013 draft report. • August 2013 presented to the CCB Board. • September 1, 2013 folding results into draft report for Legislature. 	<ul style="list-style-type: none"> • Person in charge CCB Policy Analyst. • Additional staff as needed. 	<ul style="list-style-type: none"> • September 1, rough draft report. • Report status during Fall Interim Legislative committee hearings. • December 1, 2013, create draft legislative concepts necessary to implement the solutions, if necessary. • February 2014 Submit final report to the legislature • Perfect legislative concepts and prepare concepts for 2015 legislature.
<p>2. Contractor Licensing Categories.</p> <ul style="list-style-type: none"> • Develop Alternative limited license categories. • Research other states' best practices regarding limited contractor licenses. 	<ul style="list-style-type: none"> • Recommend amendments to current 2013 legislation, i.e., (contractor "lite" endorsements see SB 207). • Report to Legislature. <ul style="list-style-type: none"> ○ Convene workgroup of interested stakeholders. ○ Determine pros and cons of various alternatives. ○ Provide a detailed report regarding the process followed 	<ul style="list-style-type: none"> • February 2013. • June 1, 2013 start. • July 1, 2013 commence workgroup activity. • July 2013 research and development of alternatives. • August 2013 draft report. • August 2013 presented to the CCB Board. • September 1, 2013 folding results into draft 	<ul style="list-style-type: none"> • Person in charge CCB Licensing Manager • Additional staff need Policy Analyst, Administrator. 	<ul style="list-style-type: none"> • September 1, rough draft report. • Report status during Fall Interim Legislative committee hearings. • December 1, 2013, create draft legislative concepts necessary to implement the solutions, if necessary. • February 2014 Submit final report to the legislature • Perfect legislative concepts and prepare concepts for 2015 legislature.

TASKS/ISSUE	PRODUCT(S)	TIMELINE	STAFFING DETAILS	COMPLETION DATES
<p>and the results of the research for consideration of statutory reforms.</p>	<p>report for Legislature.</p>	<p>report for Legislature.</p>		
<p>3. Continuing education reforms.</p> <ul style="list-style-type: none"> • Research other states' best practices regarding continuing education. • Balance consumer and business needs. 	<ul style="list-style-type: none"> • Recommend amendments to current 2013 legislation, i.e., (contractor education SB 783). • Report to 2014 Legislature. <ul style="list-style-type: none"> ○ Explore additional RCE reforms. ○ Explore national solutions for continuing education for contractors (NASCLA). (This activity has started eff. April 2013.) 	<ul style="list-style-type: none"> • June 1, 2013 start. • Participate in NASCLA education committee in an effort to determine national solutions, which may also be applicable to the State of Oregon. (April 2013) • July 2013 research and development of alternatives. • August 2013 draft report. • August 2013 presented to the CCB Board. • September 1, 2013 folding results into draft report for Legislature. 	<ul style="list-style-type: none"> • Person in charge CCB Education Manager. • Additional staff include the Administrator and other support staff. 	<ul style="list-style-type: none"> • September 1, rough draft report. • Report status during Fall Interim Legislative committee hearings. • December 1, 2013, create draft legislative concepts necessary to implement the solutions, if necessary. • February 2014 Submit final report to the legislature • Perfect legislative concepts and prepare concepts for 2015 legislature.
<p>4. New Contractors Outreach</p> <ul style="list-style-type: none"> • Research and Develop Means to Support and Facilitate New and Emerging Construction Businesses. • Research other states' best practices regarding outreach efforts for new and emerging construction businesses. • Research and develop additional mechanisms to reach out and support new and emerging small businesses in the 	<ul style="list-style-type: none"> • Develop new contractor workshops to facilitate entry into the construction industry. Began 3/29/13. • Report to 2014 Legislature. <ul style="list-style-type: none"> ○ Report schedule, content, and success of new contractor workshops. ○ Report any additional outreach and support efforts planned or developed by the agency. 	<ul style="list-style-type: none"> • New contractor workshops/Salem 3/29, Medford 4/12, PDX and beyond Summer/Fall 2013). • July 2013 research and develop additional mechanisms to reach out and support new and emerging small businesses in the construction industry. • August 2013 draft report. • August 2013 presented to the CCB Board. • September 1, 2013 folding results into draft report for Legislature. 	<ul style="list-style-type: none"> • Person in charge CCB Licensing Manager • Additional staff need Policy Analyst, Education Manager, and Administrator. 	<ul style="list-style-type: none"> • September 1, rough draft report. • Report status during Fall Interim Legislative committee hearings. • December 1, 2013, create draft legislative concepts necessary to implement the solutions, if necessary. • February 2014 Submit final report to the legislature • Perfect legislative concepts and prepare concepts for 2015 legislature.

TASKS/ISSUE	PRODUCT(S)	TIMELINE	STAFFING DETAILS	COMPLETION DATES
<p>construction industry.</p>				
<p>5. Interagency Duplication of Efforts: Overlap of current regulation (research and recommendations).</p> <ul style="list-style-type: none"> • Explore ways the agency may be able to partner with local building inspection agencies to maximize protections for Oregonians. • Research possible overlap and duplication of regulatory processes (BOLI, Workers Compensation, Revenue and Secretary of State). • Explore Opportunities for partnerships to minimize duplication and maximize efficiencies (Secretary of State Central Business Registry), data sharing between CCB and various other state agencies (i.e. Employment, Secretary of State). 	<ul style="list-style-type: none"> • Report findings 	<ul style="list-style-type: none"> • April 2013, working on agreement with Employment Division to share data (in accordance with Interagency Compliance Network efforts). • June 2013, research and develop additional opportunities to reduce duplication and maximize efficiencies, and identify duplications, which may be eliminated. • August 2013 draft report. • August 2013 presented to the CCB Board. • September 1, 2013 folding results into draft report for Legislature. 	<ul style="list-style-type: none"> • Person in charge CCB Enforcement Manager • Additional staff need Policy Analyst, and Administrator. 	<ul style="list-style-type: none"> • September 1, rough draft report. • Report status during Fall Interim Legislative committee hearings. • December 1, 2013, create draft legislative concepts necessary to implement the solutions, if necessary. • February 2014 Submit final report to the legislature • Perfect legislative concepts and prepare concepts for 2015 legislature.
<p>6. Automation. CCB database/computer application).</p>	<ul style="list-style-type: none"> • Report to 2014 Legislature. <ul style="list-style-type: none"> ○ Report schedule, content, and 	<ul style="list-style-type: none"> • April 2013, the agency is currently researching and applying API solutions. • The agency will continue 	<ul style="list-style-type: none"> • Person in charge CCB Budget and Finance Manager • Additional staff need, 	<ul style="list-style-type: none"> • September 1, rough draft report. • Report status during Fall Interim Legislative

TASKS/ISSUE	PRODUCT(S)	TIMELINE	STAFFING DETAILS	COMPLETION DATES
<ul style="list-style-type: none"> • Explore ways to disseminate agency data and software applications to other state agencies and beyond. • Research and develop Application Program Interface (API) opportunities. • Explore opportunities to provide other agencies with software assistance. • Explore outsourcing possibilities. 	<p>success of new contractor workshops.</p> <ul style="list-style-type: none"> ○ Report any additional outreach and support efforts planned or developed by the agency. 	<p>to explore opportunities to use this technology.</p> <ul style="list-style-type: none"> • August 2013 draft report to the CCB Board. • September 1, 2013 folding results into draft report for Legislature. 	<p>Policy Analyst, IT Manager, and Administrator.</p>	<p>committee hearings.</p> <ul style="list-style-type: none"> • December 1, 2013, create draft legislative concepts necessary to implement the solutions, if necessary. • February 2014 Submit final report to the legislature. • Perfect legislative concepts and prepare concepts for 2015 legislature.
<p>7. Central Business Registry</p> <ul style="list-style-type: none"> • Partnership at front end of licensing process (see Secretary of State one stop business registry). • Research and develop connection opportunities to Secretary of State Central Business Registry. 	<ul style="list-style-type: none"> • Implement connections as soon as is reasonably possible to facilitate streamlining and duplication required of our customer base. • Report to 2014 Legislature. <ul style="list-style-type: none"> ○ Report schedule, content, and success of new contractor workshops. ○ Report any additional outreach and support efforts planned or developed by the agency. 	<ul style="list-style-type: none"> • June 1, 2013 start. • July 1, 2013 commence workgroup activity. • July 2013 research and development of alternatives. • August 2013 draft report. • August 2013 presented to the CCB Board. • September 1, 2013 folding results into draft report for Legislature. 	<ul style="list-style-type: none"> • Person in charge CCB Licensing Manager • Additional staff need Enforcement Manger, Policy Analyst, and Administrator. 	<ul style="list-style-type: none"> • September 1, rough draft report. • Report status during Fall Interim Legislative committee hearings. • December 1, 2013, create draft legislative concepts necessary to implement the solutions, if necessary. • February 2014 Submit final report to the legislature • Perfect legislative concepts and prepare concepts for 2015 legislature

TASKS/ISSUE	PRODUCT(S)	TIMELINE	STAFFING DETAILS	COMPLETION DATES
<p>8. Statewide Business Disciplinary Database</p> <ul style="list-style-type: none"> • Partnerships at back end of enforcement process partnerships with other state agencies' disciplinary database. • Research possibility of creating a central location for reporting problem contractors. 	<ul style="list-style-type: none"> • Establish a one stop location for consumers to find out about construction contractors out of compliance with various state regulators. <ul style="list-style-type: none"> • Report to 2014 Legislature. <ul style="list-style-type: none"> ○ Report schedule, content, and success of new contractor workshops. ○ Report any additional outreach and support efforts planned or developed by the agency. 	<ul style="list-style-type: none"> • June 1, 2013 start. • July 1, 2013 commence workgroup activity. • July 2013 research and development of alternatives. • August 2013 draft report. • August 2013 presented to the CCB Board. • September 1, 2013 folding results into draft report for Legislature. 	<ul style="list-style-type: none"> • Person in charge CCB Enforcement Manager • Additional staff need, Policy Analyst, and Administrator. 	<ul style="list-style-type: none"> • September 1, rough draft report. • Report status during Fall Interim Legislative committee hearings. • December 1, 2013, create draft legislative concepts necessary to implement the solutions, if necessary. • February 2014 Submit final report to the legislature • Perfect legislative concepts and prepare concepts for 2015 legislature
<p>9. Streamline CCB Laws</p> <p>Statute and rule review for elimination of reforms.</p> <ul style="list-style-type: none"> • Review all current CCB statutes and rules with an eye for eliminating as many unnecessary laws as possible without reducing current protections for consumers and workers. 	<ul style="list-style-type: none"> • Propose elimination of unnecessary laws. 	<ul style="list-style-type: none"> • June 1, 2013 start. • July 2013 research and development of alternatives. • August 2013 draft report. • August 2013 presented to the CCB Board. • September 1, 2013 folding results into draft report for Legislature. 	<ul style="list-style-type: none"> • Person in charge CCB Policy Analyst • Additional staff need, as needed. 	<ul style="list-style-type: none"> • September 1, rough draft report. • Report status during Fall Interim Legislative committee hearings. • December 1, 2013, create draft legislative concepts necessary to implement the solutions, if necessary. • February 2014 Submit final report to the legislature • Perfect legislative concepts for 2015 legislature

Draft tentative dates for stakeholder meetings as of May 9, 2013.

Draft schedule of Stakeholder – Travel Meetings:

6/25/13	Portland area – Clackamas Community College	Day Trip
6/27/13	North Coast -- Seaside or Astoria	Overnight
6/28/13	Newport	Return to Salem
7/16/13	Travel day to Baker	Overnight
7/17/13	Baker	Overnight
7/18/13	The Dalles or Hood River	Overnight
7/19/13	Bend/Redmond	Return to Salem
7/23/13	Travel day to Klamath Falls	Overnight
7/24/13	Klamath Falls	Overnight
7/25/13	Grants Pass/Medford	Overnight
7/26/13	Eugene	Return to Salem

CCB will conduct both stakeholder meetings and new contractor workshops at these meetings. The new contractor workshops could be set for one hour before or after the stakeholder meeting.



August 19, 2013

The Honorable Senator Richard Devlin, Co-Chair
The Honorable Representative Peter Buckley, Co-Chair
Interim Joint Committee on Ways and Means
900 Court Street NE H-178 State Capitol
Salem OR 97301-4048

RE: OREGON CONSTRUCTION CONTRACTORS BOARD PRELIMINARY REPORT

Dear Co-Chairpersons:

NATURE OF THE REQUEST

The Construction Contractors Board (CCB) requests acknowledgement of this progress report concerning the budget note in SB 5513 (2013).

BACKGROUND:

The Construction Contractors Board (CCB) was directed to engage Oregonians in a discussion designed to seek improvements to Oregon construction regulations and improve efficiencies in the manner and means the agency administers the Oregon Construction Contractors Licensing Act (ORS 701.002). The CCB was directed to use these discussions to develop administrative improvements, and legislative proposals for review and consideration by the 2014 Oregon Legislature. Legislative concepts and proposals may be considered during the 2015 legislature

ACTIONS TAKEN:

1. The agency created a communication tool (PowerPoint) that illustrates the 9 subject areas contained in the plan and presented it to Oregonians across the state.
2. The agency scheduled 12 meetings in the following locations:

Date	City	Location
6-25-13	Clackamas, OR	Clackamas Community College-SBDC 7736 SE Harmony Road OIT Building Rm 145 Milwaukie OR 97222
6-27-13	Seaside, OR	Clatsop Community College – SBDC 1455 North Roosevelt Room 2/3 Seaside OR 97138
6-28-13	Newport, OR	Oregon Coast Community College- SBDC 400 SE College Way Rm 140 Newport OR 97366
7-16-13	Baker City, OR	Blue Mountain Community College 1901 Main Street VAOI Building Baker City OR 97814
7-17-13	Pendleton, OR	Blue Mountain Community College - SBDC Pendleton Campus 2411 NW Carden Avenue Rm M-7 (Morrow Hall) Pendleton OR 97801



7-18-13	The Dalles, OR	Columbia Gorge Comm College-SBDC 400 East Scenic Drive Lecture Hall, Bldg 2 The Dalles OR 97058
7-24-13	Klamath Falls, OR	Klamath Community College –SBDC 7390 S 6th St Rom H138 Klamath Falls OR 97603
7-25-13	Grants Pass, OR	Rogue Community College 3345 Redwood Hwy - Auditorium (Bldg. R) Grants Pass OR 97526
7-26-13	Eugene, OR	Lane Community College SBDC 101 West 10th Avenue #304 - Rm 303 Eugene OR 97401
8-22-13	Ontario, OR	Treasure Valley Community College – SBDC 650 College Blvd. Ontario OR 97914
8-23-13	La Grande, OR	Eastern Oregon University – SBDC 1607 Gekeler Lane La Grande OR 97850

3. **Town Hall Style Stakeholder Meetings:** The meetings provide licensed contractors, citizens and others interested in construction licensing regulations, an opportunity to offer input and opinions on matters facing construction contractors, future regulatory reforms, and how the CCB can better serve its stakeholders.

Topics include:

- Financial accountability/surety bonds
 - Contractor licensing categories
 - Continuing education
 - New contractor outreach
 - Inter-agency work
 - Automation
 - License categories
 - Mission – duplication
 - Use of Central Business Registry
 - Streamline CCB laws and rules
4. In most locations the CCB also conducted a *New Contractor Workshop*. The 90-minute workshop were designed to “un-complicate” contractor licensing requirements and assist Oregonians thinking about obtaining a CCB license to take the next step to obtaining a CCB license. CCB staff discussed the process involved in becoming licensed including:
- a. Choosing a business entity and CCB license endorsement;
 - b. License, bonding and insurance requirements, and
 - c. Pre-licensure education and testing requirements.

The Honorable Senator Richard Devlin, Co-Chair
The Honorable Representative Peter Buckley, Co-Chair
Interim Joint Committee on Ways and Means
August 19, 2013
Page 3

5. The agency has conducted meetings and engaged Oregonians in all but 2 of the 12 locations across the state.
6. The agency is collecting data, input, and developing final report content for the February 2014 session.

ACTION REQUIRED:

The Construction Contractors Board (CCB) respectfully requests that the Interim Joint Ways and Means Committee accept this preliminary report on the agency's progress on its work plan and acknowledge the CCB's intent to provide the final report in February 2014.

LEGISLATION AFFECTED:

None.

Sincerely,



Craig P. Smith
Administrator

CPS:cd

L-term committee.docx

DRAFT

1/24/14 5:00 p.m.

CONSTRUCTION CONTRACTORS BOARD

September 2013



Oregon Veteran's Building, Salem, Oregon
CCB Offices, Suite 300, third floor

*Report to
the 78th
Oregon
Legislature*



DRAFT

1/24/14 5:00 p.m.

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Construction Contractors Board Members

- Rob Yorke, Chair
- Roger Nyquist, Vice-Chair
- Andrew Colas
- Simone Neall
- Melvin Oden-Orr
- James Patrick
- Sandi Warren
- Kimberly Wood

Staff:

- Craig P. Smith, Administrator
 - Kathleen Dahlin, Policy Analyst
 - Gina Fox, Policy Analyst
 - Stan Jessup, Budget Manager
 - Traci Barnett, HR Manager
 - Laurie Hall, Licensing Manager
 - Rich Blank, Enforcement Manager
 - Shelly Wiles, IT Manager
 - Cathy Dixon, Executive Assistant
-

Executive Summary

The Construction Contractors Board (CCB) presented a Process Improvement Plan during the 2013 budget hearings (SB 5513). The purpose of the plan was to identify:

- a. Areas of regulation that do not make sense.
- b. Areas of regulation that make sense.
- c. Areas where the legislature can play a role in improving the agency and the regulations the agency is charged with implementing.
- d. Streamlining and process improvements.
- e. Efficiencies.

The CCB has prepared an outline of legislative concepts it intends to pursue in 2015 to improve regulation of construction contractors. (See Appendix N)

Per the plan, the CCB focused on nine separate items. Recommendations are based on stakeholder input surveys, independent research, and staff and board evaluation.

Item #1: Surety Bonds or Other Forms of Financial Accountability

Surety bonds are the current method for financial accountability. The CCB recommends:

- a. Retain surety bonds as the primary source of financial assurance.
- b. Retain the current bond amounts.
- c. Repeal ORS 701.088, which permits cash deposit for rehabilitating “meth” houses, as unnecessary and inconsistent with consumer protection.

Item #2: Contractor Licensing Categories and Endorsements

Current contractor endorsements may be confusing and, in some cases, unnecessary. Contractors that previously used some endorsements may use one of the new, limited endorsements created by the 2013 legislature. The CCB recommends:

- a. Consolidate the Residential Developer and Commercial Developer endorsements.
- b. Eliminate the Residential Limited Contractor endorsement.
- c. Eliminate the distinction between general and specialty contractors.
- d. LBPR license – change from one year to a two year license.
- e. Amend SB 207 (2013) (ORS 701.495) to allow an owner or employee – not just a responsible managing individual – to qualify the contractor for endorsement.
- f. Amend SB 207 (2013) (ORS 701.360) to clarify the home service contractor endorsement.
- g. Amend HB 2801 (2013) (ORS 701.532) for a 2-year home energy performance score license and endorsement.

Item #3: Continuing Education

The 2013 legislature passed Senate Bill 783. The bill creates a new residential continuing education (RCE) program that applies to contractors renewing their licenses on or after January 1, 2013. The CCB recommends:

- a. Amend SB 783 (2013) (ORS 701.082) to allow business entities with a responsible managing individual (RMI) with at least six years experience to complete only eight hours of continuing education. (SB 783 ties the requirement to the business license).
- b. Amend SB 783 (2013) (ORS 701.082) to allow business entities or RMIs to qualify for the six year experience even if the experience was not continuous.
- c. Consider reducing all RCE from 16 to 8 hours for all contractors. (See Appendix Q - survey results)

Item #4: New Contractor Outreach

From 2009 to 2013, CCB occasionally offered new contractor information workshops. The CCB recommends:

- a. Develop a plan for new contractor workshops at the agency's offices and throughout the state. (See Appendix O)

Item #5: Interagency Duplication of Efforts

Various agencies in Oregon regulate businesses, including contractors. Other agencies regulate construction and trades. Still other agencies regulate certain "specialty" conduct by contractors. The CCB recommends:

- a. Remove ORS 701.555 from ORS chapter 701. The statute bans certain exterior products. These standards are in Oregon's structural code.
- b. Remove ORS 701.550 from ORS chapter 701. Disposal of mercury thermostats is regulated by both the Building Codes Division and the Department of Environmental Quality.
- c. Repeal ORS 701.230. The CCB must provide a monthly list of information to other state agencies. By 2014, these other state agencies will be able to access 'real time' information with a search query.

Item #6: Database and Computer Application Development (Automation)

The CCB is working on an application program interface (API) for external use. The API will be available for agencies, vendors and education providers. The CCB recommends:

- a. Explore expanding e-proof to bonds.
- b. Develop Application Program Interface (API) for public partners.
- c. Develop online license applications.

Item #7: Central Business Registry

The Secretary of State developed a Central Business Registry (CBR) that is available online to businesses. The CCB recommends:

- a. Add CCB licensing to Central Business Registry.

Item #8: Statewide Disciplinary Database

At issue is whether there could be a central registry for all enforcement actions by state agencies against construction contractors.

- a. Research feasibility for a statewide disciplinary database for construction contractors.
- b. Perform cost/benefit analysis for a statewide disciplinary database.
- c. Consider posting NASCLA national disciplinary database on Oregon CCB website for use by Oregon citizens.

Item #9: Streamline CCB Laws

There may be statutes in ORS chapter 701 and administrative rules in OAR chapter 812 that can be repealed or revised.

The CCB recommends:

- a. Identify statutes that the legislature might amend, repeal or move to a more appropriate ORS chapter. (See Appendix N)
- b. Continue identifying, amending or repealing, unnecessary rules as part of the CCB's rulemaking process. (See Appendix P: December 3, 2013 CCB Rule Filing)
- c. Perform 5-year rule reviews for rules adopted in 2009 and 2010. [Completed January 2014]. (See Appendix I-M)

Regulatory Framework

A. Licensing.

The licensing process identifies individuals who make up each licensed business. The process requires contractors to report their status as exempt (no employees) or nonexempt (employees).

1. *Licensing helps keep out “bad actors” by requiring:*
 - a. Criminal conviction information; and
 - b. Information about unpaid construction debts.
2. *Licensing protects workers by ensuring that their employers are not misclassified. Protection is provided by:*
 - a. Wage and hour laws administered by the Bureau of Labor and Industries (BOLI);
 - b. Worker injury laws administered by the Workers’ Compensation Division (WCD); and
 - c. Unemployment insurance offered through the Employment Department.
3. *Licensing protects consumers.*

B. Financial Accountability and Viability

Licensed contractors must hold valid surety bonds. Licensed contractors must also carry insurance that covers liability, personal injury and property damage.

C. Competency

1. *Pre-licensure training and test.*
 - a. A contractor must complete 16 hours of pre-licensure training and pass a test.
 - b. There is an exemption for contractors with a responsible managing individual in business before July 1, 2000.
2. *Continuing education.*
 - a. Contractors must complete eight (8) or 16 hours of continuing education each two-year license period.
 - b. Of those hours, three hours must be CCB-offered courses on law, regulation and business.
 - c. CCB- approved providers will offer a larger number of courses – some approved by CCB (Series A courses) and some not (Series B courses).

D. Consumer Protection

1. *Public health protection.*
 - a. Lead-based paint requirements.
 - b. Requirements for installing backflow prevention devices.

2. *Energy Conservation.*
 - a. License contractors trained in Energy Efficiency and Sustainable Technology (EEAST).
 - b. Under HB 2801 (2013), license energy performance score assessors and contractors.

3. *Consumer Education.*
 - a. Contractors must provide to consumers various notices developed by CCB.
 - b. CCB provides information for successful projects.
 - c. CCB works with organizations and social service groups to prevent elder abuse and construction fraud.

4. *Enforcement.*
 - a. Compliance, including:
 - Warning letters;
 - Civil penalties; and
 - License suspension or revocation.
 - b. Field investigations.
 - c. Special investigations of egregious acts.

5. *Dispute Resolution Services (DRS).*
 - a. Mediation of disputes between consumer and contractors.
 - b. Making determinations requiring bonding companies to pay court judgments (including those based on arbitration awards).

Methodology

The legislature asked the CCB to review certain program areas and reach out to stakeholders to determine best practices. CCB staff traveled to twelve cities throughout Oregon and held “town hall” style meetings. The meetings were usually held at the Small Business Development Centers (SBDC), located at local colleges.

Meetings Held

Date	City	Location	Time
6-25-13	Clackamas	Clackamas Community College SBDC	9:30 am-11:30 am
6-27-13	Seaside	Clatsop Community College SBDC	9:30 am-11:30 am
6-28-13	Newport	Oregon Coast Community College SBDC	9:30 am-11:30 am
7-16-13	Baker City	Blue Mountain Community College	9:30 am-11:30 am
7-17-13	Pendleton	Blue Mountain Community College SBDC (Pendleton Campus)	9:30 am-11:30 am
7-18-13	The Dalles	Columbia Gorge Community College SBDC	9:30 am-11:30 am
7-19-13	Bend	Central Oregon Community College SBDC	9:30 am-11:30 am
7-24-13	Klamath Falls	Klamath Community College SBDC	9:30 am-11:30 am
7-25-13	Grants Pass	Rogue Community College	9:30 am-11:30 am
7-26-13	Eugene	Lane Community College SBDC	9:30 am-11:30 am
8-22-13	Ontario	Treasure Valley Community College SBDC	9:30 am-11:30 am
8-23-13	La Grande	Eastern Oregon University SBDC	9:30 am-11:30 am

Promotion and Marketing

To promote and market the “town hall” style meetings, the CCB:

1. Notified and invited leadership and members from Oregon Home Builders Association (OHBA), Oregon Remodelers Association (ORA), Associated General Contractors (AGC), Associated Building Contractors (ABC), Oregon Building Trades Council, PacWest Communications, National Electrical Contractors, Home Inspector associations, and Locksmith associations.
2. Notified and invited members of the legislature of meetings in their districts;

3. Notified and invited building officials;
4. Notified other interested stakeholders by e-mail and regular mail;
5. Posted the meeting schedule on CCB's webpage;
6. Posted notices on the State of Oregon's Transparency Website;
7. Posted the meeting information in the CCB Blog;
8. Posted the meeting information in CCB's social media;
9. Partnered with SBDCs to provide outreach to their students and customer base;
and
10. Partnered with SBDCs that visited local building supply stores to post meeting notices.

Survey

In January 2014, the CCB conducted an online survey of licensed contractors. The agency transmitted a 10-question survey that parallels the items addressed in this report. The survey was sent to approximately 39,000 contractors. The CCB received responses from approximately 2,300 contractors, or 6% of the survey audience.

The survey responses are included in the report that follows. (See Appendix G)

**Report
And
Recommendations**

Item 1: Surety Bonds and Other Methods for Financial Accountability

Stakeholder Input

Based on meetings held throughout the state, the following is a sample of comments about construction contractor bonds.

1. Bonding contractors is “clean, easy, and simple.”
2. Bonding is “the best of the alternatives.”
3. There is “no problem” with the current bonding system.
4. “Oregon’s bonding system is the most feasible solution.”
5. “I think the bonding system has worked pretty good, don’t pollute the system.”
6. “Contractors have a hard time getting bonds because of credit.”
7. As a customer, I “feel better knowing my contractor has a bond.”
8. “Current bonding system works great.”
9. “What about the ability of having one bond that covers everything?”¹
10. “NO’ in regards to recovery funds.”
11. A bond for \$20,000 is “not enough.”
12. The bond amount should be increased “from \$20,000 to \$30,000.”
13. “You should look at the minimum bond requirement.”
14. “I went through a divorce and it really affected my credit. Bond went from \$125 to \$575.”

Survey Response (January 2014)

A CCB surety bond provides a limited amount of financial security for property owners. Surety bonds are designed to provide an incentive for contractors to pay CCB orders, as opposed to being a comprehensive safety net for consumers. Currently Oregon surety bonds are set at: \$20,000 for a Residential General Contractor; \$10,000 for a Residential Specialty Contractor; \$5,000 for a Limited (Residential) Contractor are bonding levels in Oregon set:

	Response Percent	Response Count
About right	67.1%	1,547
Too high	17.3%	398
Too low	6.5%	150
I don't know	9.2%	212

Oregon Contractor Surety Bonds

Since the board’s creation in 1971, the bond for a residential general contractor has increased from \$3,000 to \$20,000. During the same time, the median price of a new home has risen from \$23,900 to \$212,300.²

¹ The question apparently refers to the law, passed in 2007, that requires separate license endorsements for residential and commercial contractors, and separate bonds. Before that time, the same license covered residential and commercial contractors, and there was only one bond.

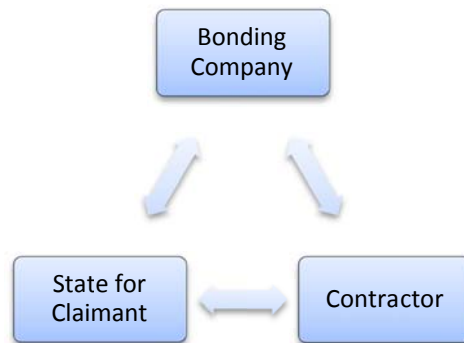
² US Bureau of Census, comparing January 1971 with October 2011.

Interestingly, the value of the bond has remained remarkably unchanged since its inception. Using the Consumer Price Index (CPI) inflation calculator, \$3,000 in 1971 would have the same buying power in 2013 as \$17,224.52. Thus, the \$3,000 general contractor bond in 1971 is worth approximately the same as the \$20,000 general residential contractor bond in 2013.

However, using the same calculator, a new house costing \$23,900 in 1971 dollars would cost only \$137,222 in today's dollars. The reality is that new homes are much larger and contain more costly materials than homes built a generation ago. This raises the question – is the bond amount adequate? Should there be a different, or an additional, method of financial assurance for new homes or other extensive construction?

a. What is a contractor's bond?

A bond is a contract that involves three parties: a bonding company, the State of Oregon (for the benefit of the homeowner or other claimant) and the contractor.



The bonding company promises to pay the state, for the benefit of the claimant, if the contractor fails to perform its obligations. The contractor pays a premium for the coverage. The contractor may post security (like a certificate of deposit) from which the bonding company may recover its payment.

b. How does a licensing bond differ from a performance bond?

A performance bond is a specific type of surety bond. It relates to only one specific project. Large commercial construction often requires performance bonds. A performance bond protects the project owner in the event the contractor fails to perform the work or the work does not meet certain standards. It is up to the project owner and the contractor whether or not to have a performance bond.

As discussed above, the licensing bond (or contractor's bond) is good for all jobs performed by the contractor while licensed.

c. What protection does a contractor's bond provide in Oregon?

In Oregon, a contractor's bond protects against negligent work, improper work or breach of contract.³ The following persons may recover against a contractor's bond:

- Property owner
- Prime contractor against subcontractor
- Subcontractor against prime contractor
- Employee
- Materials supplier⁴

To obtain payment, a claim must be filed within one or two years, depending on the circumstances and identity of the claimant.⁵

d. What amount of coverage does a contractor's bond provide in Oregon?

The amount of coverage ranges from \$5,000 to \$75,000 depending on the type of contractor.⁶

Since 1971, residential general contractor bonds have increased from \$3,000 to \$20,000. *See table below.*

Surety Bond Amounts 1971 - 2013

ORS Year	RGC	RSC	RLC	RD	CGC-1	CSC-1	CGC-2	CSC-2	CD
2013	\$20,000	\$15,000	\$10,000	\$20,000	\$75,000	\$50,000	\$20,000	\$20,000	\$20,000
2011	\$20,000	\$15,000	\$10,000	\$20,000	\$75,000	\$50,000	\$20,000	\$20,000	\$20,000
2009	\$20,000	\$15,000	\$10,000	\$20,000	\$75,000	\$50,000	\$20,000	\$20,000	\$20,000
2007	\$20,000	\$15,000	\$10,000	\$20,000	\$75,000	\$50,000	\$20,000	\$20,000	\$20,000
ORS Year	General	Specialty	Limited	Developer					
2005	\$15,000	\$10,000	\$5,000	\$15,000					
2003	\$15,000	\$10,000	\$5,000						
2001	\$15,000	\$10,000	\$5,000						
1999	\$15,000	\$10,000	\$5,000						
1997	\$10,000	\$5,000	\$2,000						
1995	\$10,000	\$5,000	\$2,000						
1993	\$10,000	\$5,000	\$2,000						
1991	\$10,000	\$5,000	\$2,000						
1989	\$10,000	\$5,000	\$2,000						
1987	\$5,000	\$5,000	\$2,000						
1985	\$5,000	\$5,000	\$2,000						
1983	\$5,000	\$5,000	\$2,000						
1981	\$5,000	\$5,000	\$2,000						
1979	\$3,000	\$3,000	\$1,000						
1977	\$3,000	\$1,000	\$1,000						
1975	\$3,000	\$1,000	\$1,000						
1973	\$3,000	\$1,000							
1971	\$3,000	\$1,000							

³ ORS 701.140(1).

⁴ ORS 701.140.

⁵ ORS 701.143.

⁶ ORS 701.081; 701.084.

Construction Contractors Board Report to the 78th Oregon Legislature

Key:

RGC	Residential General Contractor
RSC	Residential Specialty Contractor
RLC	Residential Limited Contractor
RD	Residential Developer
CGC-1	Commercial General Contractor, Level 1
CSC-1	Commercial Specialty Contractor, Level 1
CGC-2	Commercial Specialty Contractor, Level 2
CSC-2	Commercial Specialty Contractor, Level 2
CD	Commercial Developer

e. What percent of claims are covered by Oregon contractor bonds?

Before a claimant can make a claim against a contractor's bond, the board must enter a final order or determination. The final order or determination is first sent to the contractor who may pay some, or all, of the amount awarded. The board then submits the unpaid balance to the bonding company for payment.

Over the last seven years, contractors have paid, on average, 10.2% of the amounts awarded by final order of the board. Historically, sureties have paid, on average, 26.7% of the amounts awarded by final order of the board. The balance, 63.1%, remained unpaid. *See table below.*

	2006	2007	2008	2009	2010	2011	2012
Number of Contractors	44,008	46,105	45,966	43,242	40,616	38,918	36,108
Paid by Contractor	\$519,541	\$518,916	\$876,325	\$686,238	\$736,068	\$552,685	\$360,704
Paid by Surety	\$1,158,412	\$406,597	\$1,549,880	\$2,634,410	\$2,677,918	\$1,601,380	\$1,252,383
Unpaid	\$4,138,532	\$4,947,891	\$2,925,336	\$5,528,437	\$4,678,254	\$3,589,584	\$1,613,087
Total	\$5,816,485	\$5,873,404	\$5,351,541	\$8,849,085	\$8,092,240	\$5,743,649	\$3,226,174
Percent by Contractor	8.9%	8.8%	16%	7.7%	9.1%	9.6%	11.2%
Percent by Surety	19.9%	7%	30%	30%	33.1%	27.9%	38.8%
Percent Unpaid	71.2%	84.2%	54%	62.3%	57.8%	62.5%	50%

If there are multiple claims against a single surety bond, they are paid (1) according to priorities and (2) pro rate for the remaining amounts.⁷ It is not uncommon for a single contractor to be the target of numerous claims. This is particularly true if a contractor declares bankruptcy and the sole source of recovery is the surety bond.

The percent of unpaid orders has declined since 2006. This may be because the number of licensed contractors declined starting in 2007. There were slightly over 46,000 contractors in 2007. That number has decreased by about 10,000 contractors. Many contractors experienced financial difficulty during the Great

⁷ ORS 701.153(3).

Recession.⁸ The contractors that remained in business tended to be more financially stable.

f. What is the cost for a contractor to obtain a bond?

The annual premium for a surety bond runs, on average, between \$146 (\$10,000 bond) and \$1,097 (\$75,000 bond). The average cost for bonds in 2013, based on surveys conducted by the board, is shown below.

Contractor Type	Bond Amount	Average Cost 2013
Commercial General Contractor, Level 1 (CGC-1)	\$75,000	\$1,097
Commercial Specialty Contractor, Level 1 (CSC-1)	\$50,000	\$750
Commercial General Contractor, Level 2 (CGC-2)	\$20,000	\$571
Commercial Specialty Contractor, Level 2 (CSC-2)	\$20,000	\$393
Residential General Contractor (RGC)	\$20,000	\$316
Residential Specialty Contractor (RSC)	\$15,000	\$247
Residential Limited Contractor (RLC)	\$10,000	\$146

Recovery Funds

Recovery funds, or consumer assistance funds, are used by some states to pay claims to homeowners (and others) damaged by contractors. This issue was considered, and discussed, in the Construction Claims Task Force (CCTF) Report to the 74th Oregon Legislature, January, 2007. The CCTF recommended that Oregon adopt a limited consumer assistance fund. The source of funds would be civil penalties collected by the board and an assessment of not more than \$40 per contractor. The 2007 legislature did not to create such a fund.

During the 2009 legislature, a bill was introduced to create a Residential Structure Lien Assistance Fund.⁹ The bill did not pass.

Financial Statements

There are different types of financial statements. Some provide more assurance than others. In ascending order of quality, these are:

- Self-prepared financial statements
- Compiled financial statements
- Reviewed financial statements
- Audited financial statements

⁸ The Great Recession began in December 2007, with the contraction of the United States gross domestic product (GDP) occurring between the third quarter of 2008 and the first quarter of 2010. Housing starts were down dramatically during this period of time.

⁹ House Bill (HB) 2366 (2009).

The key financial statement for understanding what value exists in a company is the “balance sheet.” A balance sheet summarizes assets (what the company owns), liabilities (what the company owes) and the net worth, or equity, which is the positive balance of the two.¹⁰ The assets appear on the left side of the sheet. The liabilities and net worth appear on the right side of the sheet. The total amounts on each side “balance out” or are equal.

a. Prepared by Contractor

A contractor may prepare a balance sheet, showing assets, liabilities and net worth, as of a particular date in time. If no other person works on the financial statement, it is only as accurate and representative as the quality of the work that goes into its preparation.

b. Compiled by CPA

If a certified public accountant (CPA) prepares a financial statement, this statement is “compiled” by the CPA. During a compilation, the data is simply arranged into conventional financial statement form. The CPA offers no assurance as to whether significant changes are necessary for the statements to conform to generally accepted accounting principles (GAAP) or other accounting requirements. The CPA does not probe the data unless he or she learns that the data provided is in error or is incomplete.

c. Prepared by Contractor – Reviewed by CPA

A contractor may hire a CPA to perform a “review” of its financial statements and issue a report that provides limited assurance that changes to the financial statements are not necessary. With respect to reliability and assurance, a review falls between a compilation, which provides no assurance, and the more extensive assurance of an audit.

The CPA will make inquiries concerning matters like accounting practices. The CPA will apply analytical procedures designed to identify unusual items or trends in the financial statements that may need explanation. Essentially, a review is designed to see whether the financial statements “make sense” without applying audit-type tests.

d. Prepared by Contractor – Audited by CPA

A contractor may hire a CPA to “audit” the contractor’s financial statements. This requires the CPA to undertake procedures such as confirming data with outside parties, observing inventories, and testing selected transactions by examining supporting documents. After an audit, a CPA will issue a report that provides the highest level of assurance that the financial statements are presented fairly, in conformity with GAAP.

¹⁰ A company may also have a negative net worth if it owes more than it owns.

An audit provides a reasonable level of assurance that the financial statements are free of material errors and fraud. An audit does not, however, provide a guarantee of absolute assurance.

Cash Deposits

Another alternative for financial security is a cash deposit, in lieu of a surety bond. Oregon law permitted this at one time. However, the legislature eventually removed the option effective July 1, 2008.¹¹ This was because the cash deposit was considered an asset of the bankruptcy estate, while a surety bond was not.¹²

There remains only one permissible use of a cash deposit to obtain a contractor's license. It may be used by a contractor that is a nonprofit organization engaged in rehabilitating an illegal drug manufacturing site.

ORS 701.088 allows non-profit contractors that rehabilitate "meth houses" and other similar buildings to post cash deposit or bank letter of credit in lieu of a surety bond. This law was adopted in 2007, shortly after Oregon made it more difficult to obtain the pseudoephedrine necessary to manufacture methamphetamine in homemade batches. Even before the pseudoephedrine restrictions took effect, the number of "meth houses" in Oregon had significantly declined.¹³ Today, most methamphetamine available in Oregon comes from Mexican drug cartels,¹⁴ not "meth houses." There *is not a single contractor* who has a cash deposit or letter of credit permitted under this statute. Obtaining a bank letter of credit is every bit as difficult as obtaining a surety bond. Cash deposits provide no consumer protection in the event of bankruptcy.

Other State Practices

a. Surety Bonds

Some states, particularly in the western United States, use surety bonds to protect persons who deal with contractors. For example, Alaska requires a general contractor to post a \$10,000 bond and a specialty contractor to post a \$5,000 bond.¹⁵ Arizona requires a bond of between \$5,000 and \$105,000, depending on the gross volume of business the contractor contemplates performing.¹⁶ Arizona also requires that contractors contribute to a recovery fund.

California requires a contractor to post a \$12,500 bond.¹⁷ California requires a separate "Bond of Qualifying Individual" posted by the contractor's responsible

¹¹ See OAR 812-003-0171.

¹² *In re Fintel*, 10 BR 50 (Bankr. Or. 1981).

¹³ "Oregon's Prescription Requirement for Cold Medicine Has Little Effect on Meth: Study," Balko, Radley, Huffington Post, February 21, 2012, http://www.huffingtonpost.com/2012/02/21/meth-laws-oregons-prescription-cold-medicine_n_1290918.html.

¹⁴ "Oregon's Tough Meth Laws May Have Unintended Consequences," Join Together Staff, Partnership for Drugfree.org, November 30, 2007, <http://www.drugfree.org/join-together/drugs/oregons-tough-meth>.

¹⁵ AS § 08.18.071.

¹⁶ ARS 32.1151.

¹⁷ Calif. Bus. Prof. Code § 7071.6

managing individual.¹⁸ Washington State requires general contractors to post a bond of \$12,000 and specialty contractors to post a bond of \$6,000.¹⁹ Oregon's surety bond amounts are slightly above those of the states mentioned. Many other states do not require a surety bond. Some states have no surety bond requirement because they rely on recovery funds or other financial criteria, such as financial statements. Other states simply do not regulate contractors or require no financial assurance.

b. Recovery Funds

Some states have recovery funds. A sampling of the funds and the scope of their coverage is described below. The source of funds often includes an assessment or payment from the contractor at the time of licensing, as well as special assessments in the event the fund balance is significantly reduced.

In Connecticut, consumers may obtain payments from the state's guaranty fund against a new home construction contractor. Homeowners must have a judgment, the contractor must be "judgment-proof" and the maximum amount of recovery is limited to \$30,000.²⁰ New home construction contractors, in turn, are certified by the state to build single-family dwellings, duplexes, or condominium units and common areas.

In Florida, the Homeowners' Construction Recovery Fund is available to homeowners of an owner-occupied residence, which includes individual condominium units or "a residential building containing not more than two residential units." A claimant may not recover more than \$50,000 and claims against any one contractor may not exceed \$100,000 annually.²¹

In Hawaii, an "injured person" may recover amounts from the Contractors Recovery Fund. "Injured persons" are limited to owners or lessees of private residences, condominiums, and cooperative units. The amount is limited to \$12,500 per claim and \$25,000 per contractor.²²

In Minnesota, the state's recovery fund compensates for actual loss due to a residential contractor's fraudulent, deceptive or dishonest practices, conversion of funds or failure to perform. The damages are limited to \$75,000 per claimant, not to exceed \$150,000 per contractor.²³

Nevada law allows "injured persons" to recover damages from the Residential Recovery Fund by the "failure of a residential contractor to perform qualified services adequately." The law defines an "owner" as a natural person who owns a single-family residence. The maximum amount that each claimant can recover is

¹⁸ **APPENDIX A:** National Association of State Contractors Licensing Agencies (NASCLA), *Contractor's State Licensing Information Directory* (2013 ed.), p. 34.

¹⁹ RCW 18.27.040.

²⁰ Conn.Gen.Stat. § 20-417i

²¹ Fla.Stat. §§ 489.140 – 489.144

²² Haw.Rev.Stat. § 444-26

²³ Minn.Stat. § 326B.89

\$35,000. The total amount that may be paid on the claims of any one contractor is \$400,000.²⁴

North Carolina law provides access to a Homeowners Recovery Fund for owners or former owners of a “single-family residential dwelling unit” that suffered a “reimbursable loss.” A “reimbursable loss” is an unpaid loss that results from dishonest or incompetent conduct by a general contractor not covered by bonds, sureties, or insurance.²⁵

Virginia’s recovery fund focuses on egregious conduct perpetuated by a contractor. Virginia law allows a “person with an unsatisfied judgment involving residential construction” against a contractor access to recovery fund monies. In addition, Virginia requires that the behavior of the contractor amounted to “improper and dishonest conduct.” “Improper and dishonest conduct” does not include breach of contract.²⁶ Payout limits are \$20,000 per claimant and \$40,000 per contractor.²⁷

Some states have recovery funds limited to liens. Two such states are Michigan and Utah.

Michigan law allowed a subcontractor or material supplier to seek lien payment from the Homeowner Construction Lien Recovery Fund in the event the general contractor did not make payments. The fund was created in 1982. The maximum amount of payment for any residential structure was \$100,000.²⁸ By 2009, the fund was effectively insolvent. In 2010, the Michigan legislature passed laws eliminating the fund.²⁹

In 1994, Utah created the Residence Lien Recovery Fund. All licensed contractors are required to join the fund.³⁰ As of 2009, Utah new contractors paid \$195 and renewing contractors paid \$112 for membership in the fund. There was also a \$25 non-refundable processing fee. Utah contractors are also subject to special assessment. In 2007, Utah assessed contractors an additional \$75 for fund membership. The fund is still operational.

c. Financial Statements

By way of example, the following states require contractors to submit balance sheets.

Arkansas requires all residential builders to supply a balance sheet compiled by a CPA as part of the license application process.³¹ The balance sheet must not be more than one year old and must show a positive net worth.

²⁴ Nev.Rev.Stat. §§ 624.400 – 624.560

²⁵ N.C.Gen.Stat. §§ 87-15.5 – 87-15.9

²⁶ Va.CodeAnn. §§ 54.1-1118 – 54.1-1120

²⁷ **APPENDIX A**, p. 291.

²⁸ MCL §§ 570.1101 – 570.1303

²⁹ Michigan Public Acts 147, 148, 149, 150, 151 and 152 of 2010.

³⁰ UtahCodeAnn. §§ 38-11-101, et. seq.

³¹ ArkCodeAnn § 17-25-506.

Alabama requires general contractors to submit a detailed financial statement consisting of a balance sheet and supporting documentation compiled by a CPA.³² It must be the latest statement prepared for the contractor.

South Carolina requires commercial general contractor applicants to submit a balance sheet.³³ The quality of balance sheet and amount of required net worth depends on the amount the contractor intends to bid for its jobs.³⁴ The following table shows the requirements:

Amount of Bid Not to Exceed	Type of Balance Sheet	Minimum Net Worth
\$30,000	Self-prepared	\$6,000
\$100,000	Self-prepared	\$20,000
\$350,000	Compiled by CPA	\$70,000
\$750,000	Compiled by CPA	\$150,000
Unlimited	Audited by CPA (Upon renewal: reviewed by CPA)	\$250,000

Lien Payment and Recovery

Oregon, like many states, allows subcontractors and material suppliers to file a lien on a structure in order to force the owner to pay their bills. In effect, an individual may have to pay twice for the same work. The first payment is to the general contractor and the second to the lien holder who was not paid by the contractor.

In 2009, a bill was introduced to create a Residential Structure Lien Assistance Fund.³⁵ The bill would establish a fund to be administered by the CCB. Surcharges on contractors' licenses would provide money for the fund. The fund would pay lien claimants who owned residential structures against which liens were filed. The payment would satisfy and discharge liens only for newly constructed or remodeled homes. According to the Oregon Legislative Fiscal Office, the cost to administer the fund was \$160,000 per biennium. To fund this cost, a surcharge of \$4 would be added to each license fee. The bill did not pass.³⁶

Oregon, like other states, has considered changes to the lien laws. But, these laws are notoriously difficult to change. Many vested interests – like lenders – continue to fight any changes to the laws.

³² Code Ala § 34-8-2.

³³ SC Code § 40-11-240.

³⁴ SC Code § 40-11-260.

³⁵ HB 2366 (2009).

³⁶ HB 2366 (2009) was amended in the House to remove the fund and instead modify information in the notice of right to lien. As amended, the bill passed the House, but was still in a Senate committee upon adjournment.

So far, Oregon has enacted one law – the Homebuyer Protection Act (HPA),³⁷ sponsored by then Oregon Representative Jeff Merkley. The law provides some protection from the pay twice problem. Representative (now U.S. Senator) Merkley came to know the problem first-hand because his constituents, a married couple, were caught in a particularly difficult situation where they were on the receiving end of numerous, expensive liens after paying for a new home.

The HPA applies to the following:

- A new single family residence, condominium unit or residential building.
- An existing single family residence, condominium unit or residential building that had at least \$50,000 worth of improvements, additions or remodeling within three months of the sale.

The person selling a home that is covered by the law must do one of the following to protect the buyer:

- Purchase title insurance that does not exclude filed or unfiled claims of lien (usually referred to as an ALTA policy);
- Retain at least 25% of the sales price in escrow;
- Maintain a bond or letter of credit for at least 25% of the sales price;
- Obtain lien waivers or releases; or
- Wait to complete the sale after the deadline for filing liens (usually 75 days).

The contractor-seller must complete a Notice of Compliance form indicating which method of protection it chose. Failing to provide the notice is a Class A Violation, subject to sanction by the courts.

Pros and Cons of Statutory Financial Assurance Programs

a. Surety Bonds

Pros:

- Readily obtainable
- Reasonably affordable
- Sureties, licensed as insurance companies, are likely to perform obligations
- Amount of coverage is known and predictable
- Contractors with good practices are less likely to incur cost for poor performing contractors
- Pays claims even if contractor is in bankruptcy

Cons:

1. Some contractor applicants cannot obtain bonds
2. May not be sufficient to cover all damages
3. Under Oregon law, requires a court judgment to recover payment from the bond

³⁷ ORS 87.007.

b. Recovery Funds

Pros:

- Does not restrict contractors with weak credit
- By pooling money of many contractors, funds may be able to pay higher amounts

Cons:

- Difficult to gauge amount to reserve for claims
- May require additional contractor assessments to maintain financial viability
- Administrative costs for state to administer funds
- Worst case – insolvency

c. Financial Statements

Pros:

- If no CPA review or audit, little cost to contractor
- Financially responsible contractors not responsible for less responsible contractors

Cons:

- If no CPA review or audit, limited assurance of accuracy
- Balance sheets are a “point in time” that may or may not accurately reflect the contractor’s current financial condition
- Agency may require additional staff to review and process filings
- State will need to adopt standards for what is an acceptable level of net worth, a fairly subjective measurement
- Only assurance of accuracy is audit by state examiners, which is very costly (e.g. as used for insurance companies and banks)

d. Cash Deposits

Pros:

- May be more readily obtained by contractors with weak credit (e.g. can borrow cash from friend or relative)

Cons:

- Does not reflect if contractor is a good financial risk
- In the event of bankruptcy, the bankruptcy court will attached the deposit and it will no longer be available for CCB claims

Recommendations:

a. Retain Surety Bonds as Primary Source of Financial Assurance.

The CCB recommends that Oregon retain the surety bond as the primary source of financial assurance. While the bonds do not provide complete protection, particularly for large claims, they do the following. Only contractors that are credit

worthy may obtain bonds. This makes it difficult for financially weak contractors to enter the market. Financially weak contractors are more likely to harm consumers as they run into financial difficulty. Also, many contractors will try and work with consumers rather than “tap” their bond. The surety may hold collateral that will take an equal amount of assets from the contractor as if the surety pays the claim. Many contracting jobs involve remodeling, repair and the like. The bonds are usually sufficient for the claims arising from these jobs.

b. Retain the Current Bond Amounts.

The current bond amounts are generally in line with historic requirements. They are similar, or slightly higher, than bonds in neighboring states. In 2007, Oregon substantially increased bonds for commercial contractors (level 1). For most residential remodel and repair jobs, the bonds are also sufficient.

c. Repeal ORS 701.088.

The legislature removed cash deposits as a method of financial assurance some years ago. The primary reason was that such deposits did not provide any assurance in the case of bankruptcy. Since that time, Oregon’s law has focused almost exclusively on surety bonds. One exception is ORS 701.088, which permits a nonprofit contractor involved in rehabilitating illegal drug manufacturing sites to post a cash bond. Since no one has used this option, it makes sense to eliminate it as unnecessary and confusing for administration of the surety bond program.

Additional Issues to Consider

a. Use of Inappropriate Information by Surety Company

It has been suggested that legislators may want to prohibit surety companies from using inappropriate information to establish cost or availability of surety bonds. This suggestion arises because some individuals have difficulty obtaining a surety bond due to previous financial problems: open claims, divorces, bankruptcy relating to medical issues, and so forth. The CCB does not recommend this solution. The CCB believes it would be difficult to establish the standards. Both bonding companies and contractors would likely oppose such legislation. (As a practical matter, bonding companies might reduce the premiums for less-financially secure contractors while simultaneously increasing premiums for all others). Nonetheless, the CCB brings this issue forward for consideration.

Item 2: Contractor Licensing Categories

Stakeholder Input

Based on meetings held throughout the state, the following is a sample of comments about the Construction Contractors Board’s (CCB’s) licensing program.

- “Drop the price of the fee and bond for residential limited contractors – contractors are typically older, retired ‘handymen’.”
- “A lot of people have been burned by the ‘handyman’ category.”
- The amount of work to be done without a license “should be \$0.”
- “Even \$500 is too much” for work done without a license.
- “Have a superior overall license to do everything.”
- “Go from a two-year to a three-year renewal to go along with code changes.”³⁸
- “Have we gone overboard with contractor licensing? Are we requiring too many people to get licenses (like locksmiths)?”
- “Application process has become complicated enough, outreach is definitely needed.”
- “The licensing application is way too complicated – simplify it.”

Survey Response (January 2014)

<i>Oregon residential contractors are divided into several different categories to account for necessary financial protections for consumers and the market. Should Oregon:</i>		
	Response Percent	Response Count
Leave the current categories as is	50.3%	1,156
Have more limited license categories	15.0%	301
Have less limited license categories	24.4%	560
I don't know	10.3%	237

Oregon Construction Contractor Licenses

The CCB was originally created in 1971 as the “Builders Board.” At that time, it regulated residential construction. It issued two types of licenses – one for general contractors and one for specialty contractors.

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, subcontracts to be performed, or performs in whole or in part.³⁹ Ordinarily, a “specialty

³⁸ Historically, the Building Codes Division (BCD) of the Department of Consumer and Business Services (DCBS) updated building codes every three years. CCB issues two-year licenses. Unlike code updates, CCB licenses renew throughout the year, upon each contractor’s licensing date (the date the contractor first obtained the license). Code updates have changed away from a three year cycle.

³⁹ OAR 812-002-0320.

contractor” means a contractor who performs work that requires two or fewer unrelated building trades or crafts.⁴⁰

In 1975, the category of “limited contractor” was added. Under current law, a residential limited contractor means a residential contractor that may not perform work exceeding \$40,000 in gross annual volume and may not enter into contracts to perform work in excess of \$5,000.⁴¹ This is sometimes called a “handyman” license.

In 2005, a new category was created for a “developer.” This was the first license that allowed the license holder to obtain a license without prerequisite education.⁴² One of the conditions for a developer is that the license holder must use licensed general contractors and not perform the actual construction work.⁴³

In 2007, the legislature revamped construction contractor licenses and created separate residential and commercial “endorsements.”⁴⁴ In place of the four existing contractor categories, there are now nine endorsements. They are:

- Residential General Contractor (RGC);
- Residential Specialty Contractor (RSC);
- Residential Limited Contractor (RLC);
- Residential Developer (RD);
- Commercial General Contractor, Level 1 (CGC-1);
- Commercial Specialty Contractor, Level 1 (CSC-1);
- Commercial General Contractor, Level 2 (CGC-2);
- Commercial Specialty Contractor, Level 2 (CSC-2); and
- Commercial Developer.

In 2013, the legislature created four new endorsements that, like the developer endorsements, do not require prerequisite training, testing or continuing education.

As of January 1, 2014, the CCB will issue nine contractor endorsements, eight specialty licenses or endorsements, and seven individual licenses.

A complete list with the requirements for bonds, insurance, prerequisite training and testing and continuing education are shown in the table below.

⁴⁰ OAR 812-002-0677. There is another “type” of specialty contractor under current law – a residential contractor that performs more than two unrelated trades but does work on a single property that does not exceed \$2,500. *Id.*

⁴¹ ORS 701.038.

⁴² This license was later exempted from continuing education requirements. ORS 701.124; 701.126(4).

⁴³ ORS 701.042.

⁴⁴ Oregon Laws 2007, chapter 836.

CCB LICENSES: JANUARY 1, 2014

Endorsement	No. Licensed ⁴⁵	Bond	Insurance	Training/Testing	CE
COMMERCIAL CONTRACTOR ENDORSEMENTS					
Commercial General Contractor Level 1	1524	\$75,000	\$2,000,000	Yes	Yes
Commercial Specialty Contractor Level 1	730	\$50,000	\$1,000,000	Yes	Yes
Commercial General Contractor Level 2	4111	\$20,000	\$1,000,000	Yes	Yes
Commercial Specialty Contractor Level 2	2504	\$20,000	\$500,000	Yes	Yes
Commercial Developer	64	\$20,000	\$500,000	No	No
RESIDENTIAL CONTRACTOR ENDORSEMENTS					
Residential General Contractor	18232	\$20,000	\$500,000	Yes	Yes
Residential Specialty Contractor	8982	\$15,000	\$300,000	Yes	Yes
Residential Limited Contractor	2405	\$10,000	\$100,000	Yes	Yes
Residential Developer	147	\$20,000	\$500,000	No	No
SPECIALTY CONTRACTOR ENDORSEMENTS/LICENSES					
EEAST Certification ⁴⁶	60	--	--	--	--
Lead Abatement Contractor ⁴⁷	12	--	--	--	--
Lead Inspection Contractor ⁴⁸	18	--	--	--	--
Certified Lead-Based Paint Renovation Contractor ⁴⁹	4582	--	--	--	--
Residential Locksmith Services Contractor [NEW]	0	\$10,000	\$100,000	No	No
Home Inspector Services Contractor [NEW]	0	\$10,000	\$100,000	No	No
Home Services Contractor [NEW]	0	\$10,000	\$100,000	No	No
Home Energy Performance Score Contractor [NEW]	0	--	--	No	No
INDIVIDUAL LICENSES					
Lead assessor	21	--	--	OHA ⁵⁰ Certified	--
Lead inspector	14	--	--	OHA Certified	--
Lead (abatement) worker	22	--	--	OHA Certified	--
Lead (abatement) supervisor	17	--	--	OHA Certified	--

⁴⁵ The number licensed is reflected as of *June 30, 2013*. The number is for active, inactive and lapsed licenses. Contractors may have both residential and commercial endorsements.

⁴⁶ Must be a licensed residential or commercial contractor (OAR 812-025-0010(2)).

⁴⁷ Must be a licensed residential or commercial contractor (OAR 812-007-0210(1)(b)).

⁴⁸ Must be a licensed residential or commercial contractor (OAR 812-007-0210(2)(b)).

⁴⁹ Must be a licensed residential or commercial contractor (OAR 812-007-0310(2)).

⁵⁰ OHA refers to the Oregon Health Authority (previously, Health Department).

Home inspectors	374	--	--	Yes	Yes
Locksmiths	420	--	--	Yes	No
Home Energy Assessor [NEW]	0	--	--	ODOE ⁵¹ Trained	No

Handyman License

One license that causes confusion in the marketplace is the residential limited license. This is sometimes referred to as the “handyman” license. The license holder may not: (1) perform work as a contractor exceeding \$40,000 in gross annual volume; or (2) enter into contracts to perform work as a contractor in excess of \$5,000. However, like other residential contractors, the residential limited contractor is required to complete prerequisite training, pass the test and completed continuing education. The licensee must maintain a \$10,000 bond and \$100,000 in insurance.

Other than a listing on the CCB website, there is nothing to readily distinguish this residential contractor to members of the public.

This is a difficult license to police. There is no requirement that applicants or licensees file anything to verify their income or contract amounts. There is no ongoing monitoring. Some contractors think this license is abused by persons who have no intention of limiting work to the dollar amounts.

With the advent of the new endorsements – locksmiths, home inspectors, home service contractors and home performance score contractors – we expect some residential limited contractors will elect one of these new license endorsements. Locksmiths and home inspectors, in particular, often could satisfy the limited residential contractor criteria.

Also, the exemption for casual, minor and inconsequential work was expanded in the 2013 legislature. See discussion below. We expect that some limited residential contractors will take advantage of that expansion and not obtain any license.

As of June 30, 2013, there were 2,405 licensed limited residential developers. Of those, 2,152 were active.

Exemption for Casual, Minor and Inconsequential Work

A person may work as a contractor with no license at all. Until January 1, 2014, the contractor licensing laws permitted a person to work, without a license:

- On one structure or project when the total price for all labor, materials and other items is less than \$500; and
- The work is of a “casual, minor or inconsequential nature.”

⁵¹ ODOE refers to Oregon Department of Energy.

The CCB defines “casual, minor or inconsequential” as work not of a structural nature that cannot affect the health or safety of the owner. It does not include work as a subcontractor to a general contractor.⁵²

The legislature amended the law to increase the “casual, minor and inconsequential” exemption from \$500 to \$1,000. The new law takes effect January 1, 2014. The amount of the exemption had not been increased since the formation of the board in 1971.⁵³

Other States’ Contractor Licensing

It is difficult to compare other state licensing programs with Oregon’s. Each is unique. Some states, for example, distinguish and license each trade. Some have extensive testing requirements. Some states impose licensure requirements only when work involves a minimum dollar amount. A few states allow contractors to operate with virtually no regulation; Oregon falls somewhere in the middle.

Within the past few months, the State of Washington traveled to Oregon to study the CCB’s programs. It wanted to see how Oregon’s program operates.

Some generalizations may be made about the different state programs. Programs tend to regulate in one of the following ways:

- Commercial versus residential (Oregon included)
- New home builder versus improvement contractor
- General contractor versus subcontractor
- Business entity versus individual
- Limited versus intermediate versus unlimited (based on gross sales)
- Trade specific licenses

In many states, the agency that licenses construction contractors also licenses tradespersons, such as electricians, plumbers and others.⁵⁴ In Oregon, the Building Codes Division, Department of Consumer and Business Services (DCBS), issues those licenses.

Relative to other states, the number of license types in Oregon (24) is not particularly large.

⁵² OAR 812-002-0120.

⁵³ See HB 2524. The bill passed the House 49 – 8. As amended, it passed the Senate 30 – 0. The amended bill re-passed in the House 52 – 5.

⁵⁴ **APPENDIX A:** National Association of State Contractors Licensing Agencies (NASCLA), *Contractor’s State Licensing Information Directory* (2013 ed.)

Oregon's New License Endorsements

a. Senate Bill 207 (2013)⁵⁵

Senate Bill (SB) 207,⁵⁶ created three new endorsements: (1) residential locksmith services contractor; (2) home inspector services contractor; and (3) home services contractor.

A residential locksmith services contractor may provide locksmith services only. The contractor must have a responsible managing individual (RMI) who is a licensed locksmith. The contractor may work on residential or small commercial structures. A residential locksmith services contractor must post a \$10,000 bond and carry at least \$100,000 in insurance. A residential locksmith services contractor does not have to complete prerequisite education, pass a test or complete continuing education.

A home inspector services contractor may operate a business providing only the services of home inspectors. The contractor must have an RMI who is a certified home inspector. The contractor may only work on residential structures. A home inspection services contractor must post a \$10,000 bond and carry at least \$100,000 in insurance. A home inspector services contractor does not have to complete prerequisite education, pass a test or complete continuing education.

A home services contractor may operate a business providing service, repair or replacement for homes under a home service agreement.⁵⁷ A home service agreement contractor may only work on residential structures. A home services contractor must post a \$10,000 bond and carry at least \$100,000 in insurance. A home services contractor does not have to complete prerequisite education, pass a test or complete continuing education.

b. House Bill 2801 (2013)⁵⁸

House Bill (HB) 2801⁵⁹ created a new: (1) individual certification (license) for a “home energy assessor,” and (2) contractor endorsement for a “home energy performance score contractor.”

An individual may not offer to work, or work, as a home energy assessor without first being certified by the CCB. A “home energy assessor” is a person who assigns buildings a home energy performance score.⁶⁰

⁵⁵ SB 207 passed the Senate in its original form 30 – 0. As amended, it passed the House 57 – 0. The amended bill re-passed in the Senate 29 – 0.

⁵⁶ Oregon Laws 2013, chapter 300.

⁵⁷ A “home service agreement” means a contract or agreement for a specific limited duration to: (1) service, repair or replace in an existing home the mechanical or appliance system or components that break down due to normal wear and tear or inherent defects, or (2) provide incidental service, repair or replacement to cover leaks and failures in a roofing system. ORS 731.164(1)(a)(B).

⁵⁸ HB 2801 passed the House 35 – 25. As amended, it passed the Senate 19 – 9. The amended bill re-passed in the House 38 – 21.

⁵⁹ Oregon Laws 2013, chapter 383.

A home energy performance score contractor may not offer to work, or work, as a business providing home energy performance scores unless it is owned by, or employs, a certified home energy assessor. However, unless a business is licensed as a home energy performance score contractor or as a residential contractor, it may not provide home energy performance scores.

A home energy performance score contractor must post a \$10,000 bond and carry at least \$100,000 in insurance. A home services contractor does not have to complete prerequisite education, pass a test or complete continuing education.

Unless a business is licensed as a home energy performance score contractor or as a residential contractor, it may not provide home energy performance scores.

Recommendations:

1. Consolidate the Residential Developer and Commercial Developer endorsements into one endorsement. Require one bond.

There is no distinction between the commercial developer endorsement and the residential developer endorsement except what type of property the developer may develop. The bond amounts are the same. Neither requires prerequisite training, testing or continuing education.

As of June 30, 2013, there were only 64 commercial developer endorsed licenses and 147 residential developer licenses. There are not a sufficient number of developers to justify the need for two separate endorsements.

2. Eliminate the Residential Limited Contractor endorsement.

This is a difficult endorsement to monitor since it relies upon gross annual receipts and contract amounts. The CCB has no access to this information. It lacks the authority or resources to randomly audit the records of these contractors. This license confuses the marketplace. Very few customers understand that hiring a residential limited contractor affords less protection than hiring any other residential contractor.

With the addition of four new (limited) endorsements and an increase in the dollar amount before any license is needed, there will likely be fewer residential limited contractors.

3. Eliminate the distinction between general contractors and specialty contractors.

The distinction between general contractors and specialty contractors has historically caused confusion in the marketplace. It is difficult to enforce the requirements because it is often unclear how many trades a contractor may

⁶⁰ A “home energy performance score” means a score assigned to a residential building using the home energy performance score system adopted by the State Department of Energy.

oversee. As a practical matter, the requirements for each endorsement are very similar.

For example, a residential general contractor must:

- Complete prerequisite training (16 hours)
- Pass a test
- Complete between 8 and 16 hours of continuing education (as of 1-1-14)
- Post a bond of \$20,000
- Carry insurance with a limit of \$500,000

A residential specialty contractor must:

- Complete prerequisite training (16 hours)
- Pass a test
- Complete between 8 and 16 hours of continuing education (as of 1-1-14)
- Post a bond of \$15,000
- Carry insurance with a limit of \$300,000

The CCB recommends that all residential contractors carry the higher bond and insurance amounts. The difference in the cost of the higher bond amount is approximately \$69 over a two-year period. *See* Item 1: Surety Bonds.

4. LBPR License: Change from a one year to a two year license.

Change the lead-based paint renovator license from a one year license to a two year license to coincide with the CCB license periods.

5. Amend SB 207 (2013) (ORS 701.495) to allow an owner or employee to qualify the contractor for endorsement.

SB 207 (ORS 701.495) refers to certain individuals who must be associated with the business in order for the business to qualify for one of the new endorsements. SB 207 (ORS 701.495) identifies these individuals as the “responsible managing individual,” or RMI, of the business.

Under current law, ORS 701.005(16) defines an RMI as an individual who exercises management or supervisory authority over the construction activities of the business.⁶¹ Yet, it is a common practice to have one individual fill the management role (RMI) and other employees provide the specialized services that require certification (e.g. locksmiths or home inspectors).

6. Amend SB 207 (2013) (ORS 701.360) to clarify that home service contractor endorsement is limited.

With respect to residential locksmith services contractors and home inspector services contractors, SB 207 (ORS 701.360) states residential locksmith service contractors and home inspector services contractors may only provide locksmith

⁶¹ ORS 701.005(16).

and home inspector services, respectively. The contractors are not authorized to engage in other construction activities.

However, with respect to home services contractors, SB 207 *only* states that contractor will provide services pursuant to a home service agreement. The bill does not state that the contractor may not engage in other contractor activities.

While it appears all licenses have identical authority – and limits on authority—it is not entirely clear from the language.

7. Amend HB 2801 (2013) (ORS 701.532) to provide for 2-year rather than 1-year licensure.

HB 2801 (ORS 701.532) establishes the individual home energy assessor certification. It is valid for one year. Most CCB licenses and certifications are good for two years. For example, home inspector and locksmith certifications are good for two years.

It would cause less confusion in the marketplace and simplify administering the laws if this new certification is good for two years.

Item 3: Continuing Education Reform

Stakeholder Input

Based on meetings held throughout the state, the following is a sample of comments about the CCB's continuing education programs.

1. "Getting credit is more important than knowledge."
2. "Too many people don't like RCE [residential continuing education] but it is necessary."
3. "Get rid of RCE and [instead] test every two to four years."
4. "It's hard to find trade specific classes."
5. "If I don't roof, why learn BEST [Building Exterior Shell Training⁶²]? Should be a huge scope in RCE."
6. "In the end, lack of education affects everyone."
7. "Building officials doing local training shouldn't be required" to be approved providers.
8. "Partner with insurance companies to offer continuing education in different aspects."
9. "List classes taken" on contractor's license.
10. "List classes taken" on website for contractor's license summary.
11. "Guys in rural areas have a hard time getting RCE."
12. "Get rid of electives."
13. "I think building code courses are important."
14. There should be "the ability to make sure the contractor's RCE is updated and shows on their license as soon as they take it."
15. "We thought of putting together a class at the insurance agency and [bringing] in a couple of people to teach courses. But when we found out the fee,⁶³ we dropped the idea. We were going to offer it for our clients to take for free. The list of qualifications and the hurdles you have to jump through was too overwhelming."
16. "I like the idea of local classes. I can't sit in front of a computer."
17. "Some people are not meant to sit in front of a computer."
18. "Not everyone has high-speed internet."
19. "If they had a live webcast, I would like a local [representative] to do Q & A afterwards."
20. "I like the [personal] interaction."
21. "Make sure there are plenty of options available."
22. "It becomes the least you can do, for the least money and still fill the requirement."
23. "Why couldn't they just require RCE for contractors that have claims?"
24. "More live classes."
25. "I am not a computer person."
26. "Real life experience – that can be verified – should be able to qualify for core continuing education."

⁶² This requirement is eliminated effective October 1, 2013. The BEST course became part of the prerequisite education course. *See discussion below.*

⁶³ Currently, the non-refundable fee for provider approval is \$2,000.

- 27. “Provide a paper list of classes available and required.”
- 28. “Classes need to be job related.”
- 29. “Raise the renewal fee to cover continuing education.”

Survey Response (January 2014)

In accordance with SB 783 (2013) residential contractors are required to take between 8 and 16 hours of Residential Continuing Education (RCE) every 2 years. Are the requirements:

	Response Percent	Response Count
Just about right	36.2%	834
Not enough	4.7%	109
Too much	56.2%	1,293
I don't know	2.8%	65

Oregon currently mandates continuing education for commercial and residential contractors. Do you think Oregon should continue to require continuing education in order to renew a contractor's license?

I do think Oregon should require continuing education	37.6%	869
I don't think Oregon should require continuing education	49.2%	1,138
I'm neutral on the requirement of continuing education	12.4%	287
I don't know	0.87%	17

History of Construction Contractor Continuing Education

In 2007, Oregon passed laws⁶⁴ requiring, for the first time, continuing education for construction contractors. The law was prescriptive for those with commercial licenses.⁶⁵ CCB was tasked with developing a residential continuing education (RCE) system.⁶⁶

In a 2007 report to the legislature, the Task Force on Construction Claims (Task Force) determined that defects in constructing the building envelope lead to construction claims, higher insurance costs, and poor consumer confidence in the industry.

The premise used in establishing RCE was based on the Task Force report to the legislature (2007) that education should work towards:

1. Preventing buildings that leak;
2. Educating on building codes; and
3. Educating on the laws regulating contractors.

CCB created a three-person subcommittee that spent 12 months gathering information from stakeholders, researching other state requirements⁶⁷ and best practices. The

⁶⁴ HB 2654 (2007) and HB 3242 (2007).

⁶⁵ ORS 701.124.

⁶⁶ ORS 701.126.

subcommittee made their recommendations to the CCB. On June 25, 2009, the CCB adopted rules that established the RCE program.⁶⁸

The rules outlined the new RCE requirements. The rules included: (1) the required number of continuing education hours; (2) requirements for provider approvals; (3) requirements for course approvals; and (4) reasonable fees.

The RCE program mandated 16 hours of continuing education for contractors renewing on or after October 1, 2011. It included:

- Eight hours in mandatory subjects (CORE)
 - CCB Laws, Regulations and Business Practices (3 hours)
 - Building Codes (2 hours)
 - Building Exterior Shell Training (BEST) (3 hours/one time only⁶⁹)
- Eight hours in any construction or business related subject area that a contractor believed would better the business (Electives).

CCB was tasked with approving providers and courses that met the criteria for CORE education. The agency also created courses in CCB Laws, Regulations and Business Practices (LRB).

In 2011, Senate Bill 155 required the agency to adopt criteria allowing for exemptions from residential continuing education. In September 2011, the Board passed rules exempting plumbers, electricians, licensed architects and licensed engineers from BEST and building codes based on continuing education taken to maintain their licenses. In addition, a special exemption was created for those that did not work on a residential structure.

By October 1, 2013, all contractors completed BEST either through continuing education or prerequisite training. New contractors continued to receive BEST in prerequisite training. New rules, effective October 1, 2013, required:

- Five hours in mandatory subjects (CORE)
 - CCB Laws, Regulations and Business Practices (3 hours)
 - Building Codes (2 hours)
- Eleven hours in any construction or business related subject area that a contractor believed would better the business (Electives).

Continuing Education in Other States

Recent statistics shows that only 47 percent of construction businesses are still operating after four years.⁷⁰ Top reasons for failure relate to management and business

⁶⁷ **APPENDIX B:** Construction Contractor Board Report on Continuing Education in Other States (2011).

⁶⁸ OAR 812-021-0000 through 812-021-0047.

⁶⁹ BEST became part of pre-licensure education November 1, 2011.

⁷⁰ University of Tennessee Research (7/26/12): <http://www.statisticbrain.com/startup-failure-by-industry/>

practices. Over the past several years, the construction industry has suffered a downturn due to economic conditions, forcing many contractors out of business. With continuing education a reality in the construction industry, research shows the following requirements of other states.⁷¹

State	Number of hours	Required classes	Providers
Alaska	16 hours biennially	8 – 16 hours technical topics; 0 – 8 hours business topics	Private
Florida	14 hours biennially	6 hours required topics	Private
Georgia	6-12 hours biennially	Specific subject areas	Private
Louisiana	4 hours annually	None	Private
Massachusetts	6 – 12 hours biennially	5 hours required topics	Private
Michigan	21 hours triennially	3 hours building codes	Private
Minnesota	14 hours biennially	1 hr. energy codes; 7 hrs. bldg. codes	Private
Oregon	16 hours biennially	8 hours mandated; 8 hours elective 10/1/13: 5 hours mandated/11 hours elective	Private and Agency
Rhode Island	5 hours biennially	None	Private
Utah	6 hours biennially	3 – 6 hours “core”; 0 – 3 hours professional education	Private
Wisconsin	12 hours biennially	None	Private

Senate Bill 783 (2013)

During the 2013 legislative session, lawmakers passed Senate Bill 783. This bill, brought forth by the Senate Business and Transportation committee at the request of the Oregon Home Builders Association (OHBA), was an effort to fine tune the RCE program and help eliminate some of the issues that arise in new programs.⁷²

Some of the problems identified with the existing RCE program were the following:

- Many contractors did not need building exterior shell training (BEST) because they did not work on buildings. For example, contractors that only installed fencing or decks, or those that worked as painters, were still required to complete the class.

⁷¹ In 2014, Georgia will also begin requiring between 6 or 12 hours biennially.

⁷² The CCB took no position on the bill.

- Many contractors did not need building code training because their work was not covered by building codes. For example, tree trimmers do not need to comply with building codes.
- Most contractor businesses that failed did so because of inadequate business practices, not trade competency. Expanding this area could help businesses succeed.
- Many of the current classes were inconsistent in quality.
- The law required experienced contractors to complete the same amount of RCE as inexperienced contractors.

SB 783 took effect on August 1, 2013, when it was signed by the governor.⁷³ The law applies to residential contractors that renew their licenses on or after January 1, 2014. ORS 701.126 is repealed on January 1, 2014.

During the summer and fall of 2013, the CCB met with stakeholders throughout the state and worked with industry and education providers to develop and implement the new program.

On October 22, 2013, and December 12, 2013, CCB adopted rules.

For residential construction contractors, the new law:

- Retains the 3 required hours of CCB laws, regulations and business practices (LRB).
- Expands the subject area for 5 required hours to include topics related to business practices.
 - The accepted subjects include construction business practices, marketing, customer service, accounting, business law, bidding, safety, building codes, energy efficiency and trade specific courses.
 - The CCB's rules label these "Series A Courses."
- Exempts residential contractors with more than six years of continued CCB licensing from eight additional hours.
- Expands the trade-related subjects, including energy efficiency, that make up the additional eight hours.
 - The CCB's rules label these "Series B Courses."

In an attempt to improve course quality, the CCB will approve all course providers and all Series A Courses. Contractors will be given an opportunity to rate the courses they complete. These ratings will be posted on the CCB website along with the course information. This marketplace feedback should improve the quality of course offerings.⁷⁴

The CCB will register, but not approve, Series B Courses. By registering the courses, CCB will make it easier for contractors to locate those courses.

The law will increase the CCB's work to manage and approve providers and courses and maintain additional information on its website. SB 783 allows the agency to charge providers in order to recoup the agency's administration costs.

⁷³ The bill contained an emergency clause.

⁷⁴ The CCB currently uses such a rating system to evaluate its own LRB courses.

The town hall meetings that the CCB held throughout the state did not indicate significant opposition to contractor continuing education. Instead, contractors and others were mainly concerned about:

- Being required to take things that were not applicable to them.
- Sensitivity that too many classes are online. Rural areas have difficulty in connectivity. Some contractors are not comfortable with computer technology.
- Providers and would-be providers expressed concerns about costs to become providers.

With that in mind, the CCB makes the following observations:

- a. *SB 783 does not consider experienced individuals may operate companies with licenses issued for less than six years.*

SB 783 requires contractors that have been licensed for six or more years to complete eight hours of continuing education. These hours are divided between CCB courses (3 hours) and Series A Courses (5 hours). Contractors licensed less than six years must complete the 3 + 5 hours plus Series B Courses (8 hours), for a total of 16 hours of continuing education.

It is not uncommon for a contractor (which is a business entity) to change its business entity. For example, an individual might be licensed as a sole proprietor for several years. For business or tax reasons, the individual might choose to incorporate the business.

Under SB 783, a new contractor – even if being operated by an experienced individual – must complete the additional eight hours of continuing education because it was licensed less than six years.

- b. *SB 783 does not consider that contractors (or their experienced individuals) may have operated for many years but have a “break” in operations.*

SB 783 requires, for a contractor to qualify for the eight hour requirement, the contractor’s license must not have lapsed or expired during the six-year period. Yet, it is not uncommon for a contractor to have been in business for many years yet have a “break” in the license period. This may occur for a number of valid reasons. The experience – which defines the need for the level of education – remains useful.

- c. *Consider reducing all RCE from 16 to 8 hours for all contractors.*

Based on contractor survey results consider reducing the number of RCE hours from 16 hours to 8 hours for all contractors.

Recommendations:

- 1. Amend SB 783 to permit business entities that have a responsible managing individual in business for six or more years to complete only 8 hours of continuing education.**

CCB proposes that the legislature amend the law to permit contractors licensed for less than six years to qualify for the 8 hour continuing education requirement, provided that those businesses have a responsible managing individual with six or more years of experience.

- 2. Amend SB 783 to allow contractors with six or more years experience, even if not continuous, to complete the eight hour CE requirement.**

CCB proposes that the legislature amend the law to permit contractors licensed for less than six years to qualify for the 8 hour continuing education requirement, even if the license had a “break” during the period of licensure.

- 3. Consider reducing all RCE from 16 to 8 hours for all contractors.**

Based on contractor survey results consider reducing the number of RCE hours from 16 hours to 8 hours for all contractors.

Item 4: New Contractor Outreach

Stakeholder Input

Based on meetings held throughout the state, the following is a sample of comments about the CCB’s new contractor outreach programs.

1. “Not sure if there is much interest.”
2. “Advanced training will cut down on headaches and stress when trying to get licensed.”
3. “Walking through” the application is “really helpful.”
4. “Make sure people know about the workshops.”
5. “Application process has become complicated enough, outreach is definitely needed.”
6. “Having one-on-one contact with a government agency helps build a good relationship.”
7. “I like this kind of personal stuff – seeing the people from CCB face-to-face.”
8. “Could we put the New Contractor Workshop online?”

Survey Response (January 2014)

The CCB recently developed and implemented a plan to reach out and help emerging new contractors with efforts to acquire a CCB license. The CCB is scheduled to do 10 outreach events over the course of the 2013-2015 biennium. Is Oregon holding:

	Response Percent	Response Count
Just enough outreach events	22.9%	526
Not enough- We need more	7.8%	178
Too many- we need less or none	34.6%	794
I don't know	34.6%	794

Background

In 2009, the Construction Contractors Board (CCB) developed a workshop to reach out to potential construction contractors.⁷⁵ The workshop offered instruction in an effort to simplify the process of licensing, which in the past had been built into the Oregon Contractor Reference Manual, as part of the required pre-licensure training.⁷⁶

The CCB hoped to provide the workshop quarterly at the agency office on weekends. However, the CCB was not able to secure the building on days when it was not typically open.

⁷⁵ APPENDIX C: Construction Contractors Board PowerPoint Presentation for New Contractors (2009).

⁷⁶ This information was removed in 2007 to accommodate new requirements.

The CCB partnered with the Small Business Fair that is held each September. Since the agency did not have any workshop attendees two years in a row, it stopped the workshop presentations and maintained only a booth to answer questions.

In March 2013, the CCB developed new outreach plans.⁷⁷ The CCB decided to offer New Contractor Information Workshops throughout the state in conjunction with town hall style meetings.

Other State Programs

Nevada and California both provided workshops to assist contractors in becoming licensed. Both states offered the workshops free of charge, but only at their office locations. (Both states have multiple offices throughout their respective states.)

Nevada holds workshops in each of two locations monthly. There is a fairly consistent turnout of about five to 15 participants.

California's turnout consistently dropped and they suspended the program.

New Contractor Informational Workshops

During July and August 2013, the CCB held 13 New Contractor Informational Workshops across the state. Low attendance was zero (at four workshops). The best attended workshop had five attendees. Several others had between two and four attendees.⁷⁸

The CCB received extremely positive feedback on these sessions. At the workshop in Newport, one of the attendees said he probably would not have obtained his license had he not attended the workshop. He now feels comfortable and less confused about the process.

Based on feedback, the CCB finds these workshops are beneficial in many ways.

- They help contractors who want to be licensed but who are overwhelmed by the complicated process.
- They develop a relationship between the CCB and contractors in areas where CCB does not have a strong presence.
- They increase the CCB presence in the geographical area.

Recommendations:

1. Continue New Contractor Outreach

The benefits to contractors and the CCB are important. The CCB can develop a plan to hold workshops at the agency as well as throughout the state.

⁷⁷ APPENDIX D: Construction Contractors Board Spring Contractor Workshop Business Plan (2013).

⁷⁸ APPENDIX E: New Contractor Information Workshop attendance list (2013).

Additional Issues to Consider

The costs associated with have off-site workshops can be high. The CCB may need to consider:

- Providing these workshops in conjunction with home shows or other events.
- Having field investigators provide the workshops.
- Absorb the cost of the Public Information Coordinator providing workshops during the off-home show season.
- As indicated by the survey, there is some reluctance on the part of licensed contractors to spend their fees for assisting new contractors to enter the business. However, the results were fairly mixed, with about 1/3 of the contractors of this opinion, 1/3 of the contractors opining that the CCB should offer the workshops as it does now, and 1/3 of the contractors having no opinion.

Item 5: Interagency Duplication of Efforts

Stakeholder Input

Based on meetings held throughout the state, the following are samples comments about regulation of contractors.

- Workers’ compensation “is confusing.”
- “If it doesn’t relate to construction, let the other agency handle it.”
- “Merge LCB [Landscape Contractors Board] with CCB.”⁷⁹
- CCB should “get the workers under the table”
- “If you are being efficient then continue what you are doing but it doesn’t seem like the guys paying under the table are getting caught.”

Survey Response (January 2014)

The CCB has partnerships with other tax and regulatory authorities including Oregon Department of Revenue, BOLI, Workers Comp, Employment Department. These partnerships help the CCB and the partnering agencies fulfill their missions as well as supporting each other's work. Do you think the agency should:

	Response Percent	Response Count
Keep these partnerships as they are	40.3%	925
Strengthen the partnerships	13.5%	311
Reduce or eliminate the partnerships	28.7%	660
I don't know	17.4%	400

Multiple Agency Regulation of Oregon Contractors

Various agencies in Oregon regulate businesses, including contractors. These include:

1. Corporation Division (Secretary of State);
2. Revenue Department;
3. Employment Department;
4. Bureau of Labor and Industries (BOLI);
5. Occupational Safety and Health Division (OSHD) of the Department of Consumer and Business Services (DCBS);
6. Workers’ Compensation Division of DCBS; and
7. Department of Environmental Quality (DEQ).

⁷⁹ The 2013 legislature introduced a bill to abolish LCB and move its functions to CCB. SB 557 (Introduced). The bill was later amended to create a Landscape Construction Professionals Task Force to study the issue. SB 557 A-Engrossed. The bill died in committee.

Other agencies regulate construction and trades. Besides the Construction Contractors Board (CCB), these include:

1. Landscape Contractors Board (LCB); and
2. Building Codes Division (BCD) of DCBS.

Still other agencies regulate certain “specialty” conduct by contractors. For example, the Oregon Health Authority (OHA) trains and certifies individuals to engage in lead-based paint inspection, abatement and renovation. The Oregon Department of Energy (ODOE) establishes standards for contractors wishing to engage in the energy efficiency and sustainable technology (EEAST) loan program. Under House Bill (HB) 2801 (2013), the ODOE will designate a training program for individuals seeking licenses from the CCB as individual home energy assessors.

Regulation by various agencies can be confusing for contractors. Most are small businesses operating without professional guidance provided by attorneys, accountants or trained human resources personnel. They must navigate these often complex regulations on their own.

Legally Required Interaction with Other State Agencies.

Oregon law requires the CCB to work with, assist and promote enforcement activities of other state agencies. In many cases, by partnering with agencies like the Oregon Department of Revenue and the Employment Department, the agencies are able to target businesses that do not pay required employment obligations like withholding taxes, social security contributions and workers’ compensation premiums. Often, these businesses pay cash and purposefully do not maintain records. This is sometimes called “paying under the table.” Legitimate, licensed contractors resent having to compete on an unequal playing field with these businesses.

The legislature has attempted to address the problem of violating “other agency” laws by requiring “cross-enforcement.”

The following are the CCB’s legal mandates.

- ORS 701.098(1)(g): The CCB may sanction a contractor that works without a building, electrical, mechanical or plumbing permit, where the resulting work results in a complaint against the contractor.
- ORS 701.102: The CCB may sanction a contractor that fails to pay a construction debt. A construction debt includes an unpaid civil penalty owed to another state agency. See ORS 701.005(4)(b).
- ORS 701.106(1)(b): The CCB may sanction a contractor that fails to comply with ORS chapter 316 or 317, or any related rules. ORS chapter 316 governs personal income taxation. ORS chapter 317 governs corporate excise taxation.

- ORS 701.106(1)(c): The CCB may sanction a contractor that fails to comply with ORS 446.225 to 446.285, or any related rules. These statutes govern installing manufactured structures.
- ORS 701.106(1)(d): The CCB may sanction a contractor that fails to comply with ORS 446.395 to 446.420, or any related rules. These statutes govern installing manufactured dwellings.
- ORS 701.106(1)(e): The CCB may sanction a contractor that fails to comply with ORS chapter 455, or any related rules. ORS chapter 455 is the Oregon's building code.
- ORS 701.106(1)(g): The CCB may sanction a contractor that fails to comply with ORS 460.005 to 460.175, or any related rules. These statutes govern work on elevators.
- ORS 701.106(1)(h): The CCB may sanction a contractor that fails to comply with ORS 479.510 to 479.945, or any related rules. These statutes govern electrical installations.
- ORS 701.106(1)(i): The CCB may sanction a contractor that fails to comply with ORS 480.510 to 480.670, or any related rules. These statutes govern work on boilers and pressure vessels.
- ORS 701.106(1)(j): The CCB may sanction a contractor that fails to comply with ORS chapter 656, or any related rules. ORS chapter 656 governs workers' compensation.
- ORS 701.106(1)(k): The CCB may sanction a contractor that fails to comply with ORS chapter 657, or any related rules. ORS chapter 657 governs unemployment insurance and benefits.
- ORS 701.106(1)(m): The CCB may sanction a contractor that fails to comply with ORS 671.510 to 671.760, or any related rules. These statutes govern landscape construction professionals.
- ORS 701.106(1)(n): The CCB may sanction a contractor that fails to comply with ORS chapter 693, or any related rules. ORS chapter 693 governs plumbers.
- ORS 701.108: If the CCB receives a complaint that a contractor working on a project financed under the energy efficiency and sustainable technology (EEAST) loan program failed to meet wage and hour standards, the board must forward the complaint to the Bureau of Labor and Industries (BOLI).
- ORS 701.119: The CCB may revoke the certification of a contractor working on a project financed under the EEAST loan program that fails to meet standards adopted by the Oregon Department of Energy (ODOE).

- ORS 701.230: The CCB must, at least once a month, provide to the investigative units of the Department of Revenue, DCBS, and Employment Department the name and address of each person who worked as a contractor without a license, or assisted another in working without a license.
- ORS 701.240: The CCB must supply the Department of Revenue and the Employment Department with a partial or complete list of licensees, as deemed necessary by the board. The lists shall contain the name, address, Social Security or federal employer identification number of each licensee or such other information as the departments may, by rule, require.
- ORS 701.995(4): The CCB must report all sanctions involving lead-based paint violations to (1) the Oregon Health Authority (OHA); (2) the Occupational Safety and Health Division (OSHD) of the Department of Consumer and Business Services (DCBS); and (3) the Department of Environmental Quality (DEQ).

The CCB is required to suspend the license of a contractor that fails to pay taxes owed the State of Oregon. ORS 305.385.

The CCB is required to suspend the license of a contractor who fails to pay child support (in excess of \$2,500) owed in the State of Oregon. ORS 25.750.

The following are acts of “dishonest or fraudulent conduct,” a basis for sanction under ORS 701.098(1)(L).

- Failing to pay minimum wages or overtime wages, required under state or federal law. (OAR 812-002-0260(7)).
- Failing to comply with the state’s prevailing wage rate law. (OAR 812-002-0260(8)).
- Failing to comply with the federal Davis-Bacon Act. (OAR 812-002-0260(9)).
- Failing to pay wages as determined by BOLI. (OAR 812-002-0260(10)).
- Failing to pay a fine or civil penalty imposed by a local, state or federal government. (OAR 812-002-0260(11)).

Interagency Compliance Network

The CCB is a member of the Interagency Compliance Network (ICN). The ICN is created by ORS 670.700. The ICN is made up of seven state agencies. The seven agencies are:

- Department of Justice
- Department of Revenue
- Department of Consumer and Business Services (DCBS)
- Employment Department

- Bureau of Labor and Industries (BOLI)
- Construction Contractors Board (CCB)
- Landscape Contractors Board (LCB)

The ICN is tasked with improving the compliance with laws relating to worker classification. Misclassification results in employers not paying taxes (income, unemployment) or workers' compensation premiums. The ICN members are directed to gather and share information about people who pay workers in cash and do not comply with taxation or employment laws. The members are also directed to develop investigative methods for and conduct joint audits of people who pay workers in cash, who misclassify workers, or who evade tax laws.

Agency Practices

a. Field Investigation Section

The Field Investigation Section (FIS) is the CCB staff of investigators. The FIS investigators are stationed throughout the state and respond to complaints about construction contractors. In addition, the FIS initiates stings and sweeps to target potential violators in specific geographical areas. The FIS investigators operate like the “police” in criminal cases. One staff member is a designated dispatcher who sends investigators to respond to specific complaints.

The FIS works closely with federal, state and local agencies. The following is a list of agencies and the ways in which the FIS interacts with each.

AGENCY	FUNCTION
Department of Revenue	ICN, Joint Audits, Information Sharing
Employment Department	ICN, Joint Audits, Information Sharing
Workers Compensation Division	ICN, Joint Audits, Information Sharing
Building Codes Division	Joint Investigations, Information Sharing
Department of Environmental Quality	Investigations, Information Sharing
Department of Health and Human Services	Investigations, Information Sharing
Bureau of Labor and Industries	Investigations, Information Sharing
DOJ – General Counsel Division	Investigations, Information Sharing, Work on Agency Policy/Procedures
DOJ – Financial Fraud Division	Investigations, Information Sharing, Work on Agency Policy/Procedures
DOJ – Criminal Justice Division	Investigations, Criminal Prosecutions
District Attorneys (county)	Investigations, Criminal Prosecutions, Information Sharing
Police Departments (city, county, state)	Investigations, Criminal Prosecutions, Information Sharing
Internal Revenue Department	Investigations, Information Sharing (limited)
Federal Bureau of Investigation	Investigations, Information Sharing (limited)
Social Security Office	Investigations, Information Sharing

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U.S. Attorney’s Office	Investigations, Information Sharing
Metro Area Fraud Investigation Assn.	Investigations, Information Sharing
Social Services Fraud Workgroup	Investigations, Information Sharing
MDT Workgroup (Eugene)	Investigations, Information Sharing

b. Enforcement Section

The CCB’s Enforcement Section takes disciplinary action against contractors. The Enforcement Section operates like the “prosecutor” and prosecutes violations. The following are grounds the Enforcement Section applies to suspend licenses for unpaid debts.⁸⁰

AGENCY	CONSTRUCTION DEBT
Bureau of Labor and Industries	Unpaid judgments for wages
Department of Revenue	Unpaid state taxes
Department of Justice	Unpaid child support
Building Codes Division	Unpaid civil penalties
Workers’ Compensation Division	Unpaid civil penalties
Employment Department	Unpaid employment tax

c. Dispute Resolution Section

The Dispute Resolution Section (DRS) is the section that assists consumers, subcontractors, employees and material suppliers in resolving disputes with licensed contractors. The CCB DRS works with the following state agencies.

AGENCY	INTERACTION
Bureau of Labor and Industries	Access bond based upon determination as to amount of wages owed
Landscape Contractors Board	Coordinate dispute resolution where dispute involves both construction and landscaping

d. Licensing Section

The CCB’s Licensing Section issues licenses and assists contractors and customers with questions related to licensing and other operational issues. The Licensing Section works with the following state agencies.

AGENCY	INTERACTION
Secretary of State	Verify corporate filings and assumed business names
Insurance Division	Verify status of insurance companies
Building Codes Division	Verify plumbing and electrical licenses

⁸⁰ See ORS 701.102, sanction for past unresolved activity. “Construction debts” include unpaid civil penalties levied by other state agencies. ORS 701.005(4)(b).

Construction Contractors Board and Building Codes Division

Some people view the CCB as duplicating efforts of the Building Codes Division (BCD), or vice versa. In fact, the two agencies serve very different roles and operate in unique ways.

a. Construction Contractors Board

The CCB is a licensing agency. It licenses individuals and businesses that operate as construction contractors. The CCB reviews relevant criteria to make sure the applicant qualifies for the license. These criteria include adequate bonds, insurance, prerequisite training and passing a test.

If a licensed contractor engages in detrimental conduct, the CCB may sanction the contractor by imposing civil penalties or suspending or revoking the license. The CCB also sanctions individuals and businesses that perform work as a contractor without proper licenses.

In the event there is a dispute between a licensed contractor and a customer, subcontractor, or supplier, the CCB DRS will attempt to mediate the dispute. If unsuccessful, the person damaged by the contractor may seek a court judgment. Damages recovered against the contractor may be paid from the contractor's bond.

b. Building Codes Division

The BCD is charged with adopting state building codes. Building codes are the written requirements that contractors must follow in constructing a building. Building codes include structural codes, mechanical codes, plumbing codes and electrical codes. The codes are "prescriptive," meaning that they set standards that ordinarily must be followed in performing construction. If the codes permit a deviation, there may be a requirement that a licensed engineer create the standards for the construction.

Oregon is a "uniform" code state. This means that construction must be performed according to the codes adopted by BCD, regardless of which jurisdiction enforces the code.⁸¹

With regards to code enforcement, cities are usually given first choice to enforce the codes. Large cities, like Portland, have building departments that include this function. The next level of enforcement is provided by counties – both for cities too small to perform their own code enforcement and for unincorporated areas. Finally, if no local jurisdiction elects to enforce a code, BCD will perform the task.⁸²

The enforcing jurisdiction issues necessary permits for the construction. As the construction progresses, it sends building inspectors onsite to determine whether the work complies with the code requirements. When the work is satisfactory, an

⁸¹ Some states permit cities and/or counties to adopt their own building codes. In a few cases (such as Idaho County, Idaho), there are no building codes.

⁸² BCD may use contract inspectors to perform code enforcement on its behalf.

inspector signs off on the permits. When finished, the jurisdiction issues a certificate of occupancy.

BCD licenses specialty contractors, such as plumbers and electricians. BCD may sanction these individuals or businesses for misconduct. Similarly, BCD may suspend or revoke licenses where appropriate.

c. Perceived Overlap between the BCD and the CCB

There is no actual overlap of responsibility between the BCD and the CCB. However, such overlap is sometimes perceived to exist. An electrical contractor, for example, may wonder why it must obtain a license from the BCD as an electrical contractor and a separate license from the CCB as a construction contractor.

The reason is fairly simple. The BCD license ensures that the company has qualified electricians to perform the technical work of making electrical installations. These installations must comply with the electrical code adopted by the BCD.

The CCB license ensures that the company is minimally educated in areas of construction contracting – such as liens, contracts and notices. More importantly, the license ensures that the company is financially responsible. It must have sufficient bond and insurance coverage. If a complaint is successfully prosecuted against the company, the CCB uses the bond to pay persons who are damaged.

Both the CCB and the BCD have citizen boards appointed largely for their expertise.

In the case of the CCB, the nine-member board consists of:

- Three residential contractors
 - One of the three residential contractors must be a remodeler
 - One of the three residential contractors may be a home inspector
- Two commercial general contractors
- One commercial specialty contractor or residential limited contractor
- Two public members
- One elected representative of a local government⁸³

The BCD has five boards with members heavily drawn from the respective industry. These include the:

- Seven-member State Plumbing Board⁸⁴
- Eleven-member Residential and Manufactured Structures Board⁸⁵
- Eleven-member Electrical and Elevator Board⁸⁶
- Nine-member Mechanical Board⁸⁷

⁸³ ORS 701.205(1).

⁸⁴ ORS 693.115.

⁸⁵ ORS 455.135.

⁸⁶ ORS 455.138.

- Eleven-member Board of Boiler Rules⁸⁸

Other State Regulation of Contractor and Trade Professional Licenses

In general, other states that regulate construction contractors and trade licenses (e.g. plumbing, electrical, boiler) either do so under the auspices of a single agency or divide the tasks between multiple agencies, like Oregon. (Some states do not license construction contractors or trade professionals).

The following table illustrates the practices.⁸⁹

One Agency Issues Licenses	Multiple Agencies Issue Licenses
Alaska	Alabama
Arizona	Arkansas
California	Colorado
Connecticut	Delaware
Guam	District of Columbia
Hawaii	Florida
Louisiana	Georgia
Mississippi	Idaho
New Mexico	Iowa
South Carolina	Maryland
Tennessee	Massachusetts
Utah	Michigan
Virginia	Minnesota
Washington	Montana
West Virginia	Nebraska
Wisconsin	New Jersey
	North Carolina
	North Dakota
	Oregon
	Rhode Island
	Texas

⁸⁷ ORS 455.140.

⁸⁸ ORS 480.535.

⁸⁹ **APPENDIX A:** National Association of State Contractors Licensing Agencies (NASCLA) *Contractor's State Licensing Information Directory* (2013 ed.)

Opportunities for Minimizing Duplication

a. *EIFS Ban*

ORS 701.555⁹⁰ prohibits the use of “barrier-type exterior insulation and finish systems.” Ordinarily, construction materials are permitted, or prohibited, in the building codes – not in ORS chapter 701, the Construction Contractors Licensing Act.

In fact, the BCD issued a Statewide Code Interpretation in August 2008 interpreting the requirements in more detail.⁹¹ The changes were then incorporated into the 2009 (now 2011) editions of the International Residential Code and the 2010 edition of the International Building Code. These changes are now part of the Oregon building code.

According to the Building Codes Administrator, the rationale for including the law in ORS chapter 701 was to permit the CCB to sanction the license of a contractor that violated the EIFS ban. However, this is now accomplished by ORS 701.106(1)(f).⁹²

b. *Mercury Thermostats*

ORS 701.550⁹³ requires the CCB to provide an annual notice to licensed contractors to inform of a rule adopted by the BCD that prohibits the installation of thermostats that contain mercury, and requiring proper disposal of thermostats that contain mercury. The BCD requirement is set forth at ORS 455.355.

The BCD adopted two rules. One rule describes a process for disposal of thermostats that contain mercury.⁹⁴ The other rule prohibits installing a thermostat containing mercury as of January 1, 2006 (except for safety controls on industrial equipment).⁹⁵

The Oregon Department of Environmental Quality (DEQ) has established a comprehensive program for disposal of such thermostats, and makes the information available on its website.

No fewer than three agencies are regulating this one very narrow area of practice. ORS 701.550 likely adds to the public’s confusion over the CCB’s and the BCD’s respective roles.

⁹⁰ ORS 701.555 was adopted in 2007. Or Laws 2007, ch 851, § 2.

⁹¹ **APPENDIX F:** Oregon Building Code Statewide Code Interpretation (Aug. 13, 2008).

⁹² ORS 701.106(1)(f) provides that a contractor that violates or fails to comply with any rule adopted under ORS chapter 455 may be sanctioned. ORS chapter 455 authorizes the Building Codes Division to adopt the Oregon building code, which it has so done by rule.

⁹³ ORS 701.550 was adopted in 2001. Or Laws 2001, ch 924, § 22.

⁹⁴ OAR 918-440-0500.

⁹⁵ OAR 918-440-0510.

Areas for Maximizing Efficiency

a. Secretary of State Central Business Registry

The Secretary of State (SOS) maintains an on-line central business registry that helps businesses file their formation documents (e.g. articles of incorporation) and register (where necessary) their assumed business names.

The board desires to approach SOS about the possibility of providing a link to the board's website in the Central Business Registry. Such a link would enable businesses that wish to obtain a contractor's license to seamlessly transition to the next step. *See Item #7, Central Business Registry.*

b. Data Sharing with Other State Agencies

The CCB maintains a great deal of information in electronic format. Some of this information is currently accessible by means such as the CCB's website. The CCB is developing an Application Program Interface (API) that may be used by state agencies and others to download 'real time' data. The API will maintain internal security since the data cannot be changed or manipulated by the receiving entity. The CCB plans to offer the API for use in early 2014. *See Item #6, Automation.*

ORS 701.230 requires that the CCB, at least once a month, provide the investigative units of the Department of Revenue, DCBS, and Employment Department the name and address of each person who worked as a contractor without a license, or assisted another in working without a license. This statute was originally enacted in 1983, before electronic data transmission existed and could be readily accessed. The concept of transmitting lists is outdated and could be replaced by providing access to the CCB's 'real time' electronic data.

c. Partnering with Other State Agencies for Testing

On December 20, 2013, the CCB met with representatives of DAS and the Health Licensing Authority (HLA). The agencies discussed the possibility of CCB and HLA⁹⁶ partnering for purposes of administering the CCB pre-licensure examination.

The HLA currently provides tests for the various occupations it regulates. It administers approximately 500 tests per month at its Salem offices.⁹⁷ DAS discussed with CCB and HLA the possibility of partnering to issue an RFP to meet the needs of both agencies. The possibility of using the current testing site for CCB applications was discussed. Other statewide sites might be added for both agencies.⁹⁸

CCB expects to perform a feasibility study and undertake a cost/benefit analysis in the next few months to determine if partnering with HLA is a viable option.

⁹⁶ The HLA will become part of the Oregon Health Authority (OHA) on July 1, 2014. HB 2074 (2013).

⁹⁷ The HLA offices are located on the same floor of the same building as the CCB offices.

⁹⁸ Currently, the CCB pre-licensure tests are administered by a third-part contractor at its offices throughout the state. The current contract expires in 2014.

Recommendations:

1. Remove ORS 701.555 from ORS chapter 701.

The prohibition against installing barrier-type exterior insulation and finish systems (in ORS 701.555) is now appropriately, and in more detail, incorporated in Oregon's building code.⁹⁹ Existing laws permit the CCB to sanction contractors without this statute.

2. Remove ORS 701.550 from ORS chapter 701.

ORS 701.550 was adopted in 2001. The BCD prohibited installation of such thermostats in 2006.

The current focus of the law is to make sure mercury thermostats are not disposed of in a manner that will harm the environment. The Department of Environmental Quality has established guidelines and identified collection points and methods. It offers detailed information on its website.¹⁰⁰ The CCB notification requirement is duplicative.¹⁰¹

⁹⁹ 2011 Oregon Residential Specialty Code, § R703.9, http://ecodes.biz/ecodes_support/free_resources/Oregon/11_Residential/11_ORResidential_main.html; and 2010 Oregon Structural Specialty Code, § 1704.12, http://ecodes.biz/ecodes_support/free_resources/Oregon/10_Structural/10_PDFs/Chapter%2014_Exterior%20Walls.pdf.

¹⁰⁰ <http://www.deq.state.or.us/lq/mercurydisposal.htm>.

¹⁰¹ The current form of notification is inclusion of an article in CCB's annual online newsletter.

Item 6: Database and Computer Applications Development

Stakeholder Input

Based on meetings held throughout the state, the following is a sample of comments about database and computer application development.

1. Be transparent on the website about the classes taken for each contractor. Add CCB RCE courses taken to the contractor's public records.
2. Allow electronic submission of bonds.
3. Put RCE education and private certification links on the contractor's license summary.
4. Make sure forms on website are fill-in-able and try to combine forms.
5. When ABN gets close to expiration, send email with a link to update.
6. Guys in rural areas have a hard time getting RCE. CCB should have a way to allow the purchase a CD of the RCE.
7. Contractors really struggle with the original bond. Can I mail it? Do I need to take it in personally?

Survey Response (January 2014)

CCB has been working hard to automate all of its services used by the public including the ability to obtain business licenses, renew licenses, online continuing education, and other agency products online. Should the CCB:

	Response Percent	Response Count
Keep the same amount of automated solutions	43.3%	992
Add more automated solutions	43.9%	1,006
Reduce the amount of automated solutions	7.7%	177
I don't know	5.1%	117

Database and Computer Applications Development

a. *Disseminating data and software applications to other state agencies and beyond:*

- The CCB provides secure access to contractor data to enable integration into public entity systems related to construction contractors or construction in general. Public partners include City of Portland, City of Gresham, Oregon University System, PermitsPlus and others. These public partners rely on the CCB's data to verify the license status of contractors applying for construction permits or public bid opportunities and other business details found in the CCB's data.
- https://ccbed.ccb.state.or.us/ccb_frames/consumer_info/ccb_index.htm is the link to the CCB's search function. It provides comprehensive

information on licensed construction contractors and certified locksmiths. The information includes business address and phone number, construction complaint history, and enforcement action history.

- This search is used by Workers' Compensation Division, the State Accident Insurance Fund (SAIF), Employment Department and other public entities for various informational purposes.
- The CCB tracks residential continuing education for its 37,000 contractors. It is critical that courses taken from vendors be uploaded to the CCB's systems in a timely manner. The CCB has developed a system to accept uploaded data from residential continuing education (RCE) vendors. The system will verify license information, verify other required information, and integrate the class data into CCB tables, allowing for fast access by the many of the CCB's systems. While this system is only used internally at the present, the CCB plans to utilize this system for external customers after it implements the recent adjustments to residential contractor RCE requirements.

b. Application Program Interfaces

An application program interface (API) is "is a set of routines, protocols, and tools for building software applications. A good API makes it easier to develop a program by providing all the building blocks. A programmer then puts the blocks together."¹⁰²

The CCB's API was initially designed for internal use, to standardize searches and other requests for data in internally developed software applications. The initial implementation was for an SMS-based (simple message system or text message to a mobile device) license query tool that accepts the text message of a CCB license number, then returns a text message with specified information on that license contractor. This SMS system is used by the CCB's investigators to verify licensee status and information.

The API has also been extensively used in the in-house licensing application upgrade, to be put into production in 2014.

CCB is developing an API that will ultimately be used by public partners (state and local governments), vendors and education providers to download 'real time' data while maintaining internal security since the data cannot be changed or manipulated by the receiving entity. The CCB hopes to offer the API to public partners for use in early 2014.

Software Assistance with other Agencies

A request was made during the CCB budget hearing to touch base with the Teacher Standards and Practices Board and offer assistance with licensing software acquisition/development.

¹⁰² "API," Webopedia. N.p., n.d. Web. 05 Sept. 2013.

Unfortunately, the software that CCB develops has proven to be far more specialized and is integrated into other internal systems, which makes the CCB systems developments unlikely to fit other agency needs.

Outsourcing Possibilities

Due to the complexity of the CCB database and licensing structure, research indicates that outsourcing would prove to be more costly than in-house information technology staff and provide less responsive support and systems development.

Information Technology (IT) (Automation) Outreach Efforts

1. **E-Proof**: E-Proof is an application designed to allow insurance agencies and agents to submit electronic proof of insurance for CCB licensees. E-Proof has been in use for over ten years and has been very successful. It improves accuracy of documents and eliminates mail time. The agency hopes to create an e-Bond system for the electronic submission of construction bonds. Due to bond requirements, this project is still in the development phase.
2. **Website for Bond Companies**: The CCB provides a web site for bond companies that provides information tailored to bonding companies' specific needs.
3. **SMS Based System**: As mentioned above, the CCB implemented an SMS-based system to respond to texted CCB license status requests. This system is in use by CCB investigators, but will be released for public use in 2014.
4. **Online Services**: The CCB created a central location for those doing online business with the CCB. Each person registers an account and is then allowed to conduct business as needed. Options available on the CCB's Online Services include the Oregon Certified Locksmith (OCLS) application and testing process, OCLS renewals, CCB renewal application submission, manage CCB business information, and other services.
5. **Online Renewals**: In July of 2013, the CCB implemented an online renewal application system for sole proprietors and corporations. It has since broadened the online renewal offering to limited liability corporations. Before the online renewal application process, over 50% of application forms had to be returned to licensees due to incorrect or missing information. The online renewal application process walks the licensee through the renewal form, and presents only that information the licensee needs to read or complete. This system eliminates transit time because it is an online submission. It also streamlines the application acceptance process, saving hours of staff time per online renewal.
6. **E-Watch System**: Online Services also coordinates access to the CCB e-Watch system. The e-Watch system allows a contractor to set electronic monitors on multiple license numbers so that if a "watched" license moves out of active status, a notification is sent. This helps contractors stay in compliance with laws requiring the employment of actively licensed contractors as well as maintaining their own license.

7. *Online Payments:* The Other Services section of the CCB's Online Services provides the ability to make CCB payments online. These payments include the CCB new application fee, Energy Efficiency and Sustainable Technology (EEAST) Certification renewal fees, Oregon Certified Home Inspector (OCHI) Certification renewal fee, and Lead-based Paint Renovation Contractors renewal fee.
8. *Central Business Registry:* The CCB will work with the Secretary of State to incorporate CCB's online renewal application process and new license application process into the Central Business Registry.
9. *CCB Website Publications:* The CCB provides contractor publications and forms, as well as home owner publications and forms on its website at <http://www.oregon.gov.ccb>.

Recommendations:

1. **Explore expanding e-proof to bonds.**
2. **Develop Application Program Interface (API) for public partners.**
3. **Develop online license applications.**

Additional Issues to Consider

CCB continues to aggressively pursue means of communicating with contractors that reduce effort, increase security and reduce cost. Many of CCB's notifications are automated. As it becomes feasible, CCB is attempting to communicate with contractors as much as possible with electronic means rather than paper and mail notifications. The construction industry has been more reluctant to rely on computers than many other industries. Yet, the survey results indicate a strong percentage of contractors embrace technology and want more electronic options. Progress is being made with programs such as online residential continuing education courses, online locksmith applications and renewals and online construction contractor licenses.

Item 7: Central Business Registry

Stakeholder Input

Based on meetings held throughout the state, the following is a sample of comments about CCB’s potential partnership with Secretary of State’s Central Business Registry:

1. “Disclaimers for using Central Business Registry on the website.”
2. “It’s about time.”

Survey Response (January 2014)

<i>The CCB is exploring ways to partner with the Secretary of State to allow new construction businesses to use the new One Stop Business Registry coupled with CCB's new future online application process. Do you support the CCB's efforts to combine the Secretary of State Business Registry, and CCB licensing in order to offer a "One Stop" online solution?</i>		
	Response Percent	Response Count
I do approve	61.2%	1,406
I don't approve	13.4%	308
Neutral	19.0%	437
I don't know	6.4%	148

Background

The Secretary of State developed a Central Business Registry (CBR) that is available online to businesses. The services currently available include:

1. Assumed business name (also known as DBA)
2. Oregon business corporation registration
3. Foreign business corporation registration
4. Oregon limited liability company registration
5. Oregon nonprofit corporation registration
6. Printable copies of each of the above registrations

For employers making payroll tax payments, the CBR offers a combined employer registration that provides information to the Department of Revenue, Employment Department and Department of Consumer and Business Services (DCBS). A business may provide the information through this application and will receive account information from the three agencies listed (as well as the Secretary of State).

Developing CCB Application

The Governor issued a directive to explore ways to improve the business climate in Oregon. One way to accomplish this is to explore partnering with the Secretary of State’s CBR. This will allow a business wanting a CCB license to complete the application at the same time the business registers with the Secretary of State.

In addition to the application and registration process, the CBR also provides businesses an opportunity to get information regarding many issues businesses face during their start-up phase. Much of this is accomplished through the Business Xpress program, which includes information provided by many state agencies involved in business regulation. *See Item 5: Interagency Duplication of Efforts.*

The CCB and the Secretary of State's office have agreed to work together to develop this application. Development will provide a true benefit to prospective licensees, as well as efficiencies in agency operations.

Recommendation:

1. Add CCB Licensing to Central Business Registry.

Continue the work with the Secretary of State to develop an application for CCB licensing on the CBR.

Item 8: Statewide Disciplinary Database

The legislature wants the CCB to research and develop a central registry of enforcement actions taken by state agencies against construction contractors for violation of their statutes and rules. Below is a starting point for evaluation of the request.

Survey Response (January 2014)

<i>CCB keeps records of disciplinary action available to the public. It's possible for other agencies and national associations to provide disciplinary information from other sources. Do you favor CCB making that information available to Oregonians online?</i>		
	Response Percent	Response Count
I do approve	66.9%	1,542
I don't approve	16.4%	379
I feel neutral on the approval	14.2%	327
I don't know	2.5%	57

Problem

Consumers and contractors are not always able to obtain a complete picture of contractors' enforcement history relating to various aspects of the contractors business.

Remedy

Provide a central registry for information to be disseminated to consumers contemplating the use of a contractor's services. The nature of the information would be instances where a construction contractor had run afoul of a government agencies rules, and laws resulting in an official sanction issued by the agency. The information would be provided by various government agencies with oversight of construction contractors business activities.

These agencies may include the CCB, Department of Revenue, Employment Department, Workers Compensation Division, Insurance Division, OSHA, Building Codes Division and Bureau of Labor & Industries.

Obstacles

First and foremost, this is an issue of cost/benefit. In today's budget environment, any agency that wishes to participate must take into account the costs associated to implement the program, and the perceived benefit derived from it.

1. Identify if there is a real need;
2. Housing the information;
3. Location/agency;
4. Resources necessary/available to coordinate the information;
5. Coordination of data from various sources (agency proprietary databases);

6. Confidentiality/willingness to provide the necessary information;
7. Accountability. Who is responsible for insuring the information is correct.

The obstacles listed above are all intertwined. Ultimately, it will take a decision by senior management for the agencies that commit to be involved to answer these questions.

Item 9: Streamline CCB Laws

Stakeholder Input

Based on meetings held throughout the state, the following is a sample of comments about the CCB’s new contractor outreach programs.

1. “Rules were created for a reason – the reason hasn’t gone away.”
2. “Streamline the notices contractors are required to give to consumers.”¹⁰³

Survey Response (January 2014)

<i>Contractor regulations in Oregon have been the topic of much discussion and debate over the last 10 years. With regard to improving contractors regulations, should the agency:</i>		
	Response Percent	Response Count
Work to develop more and better regulations	16.9%	388
Work to reduce the amount of regulations	54.9%	1,261
Not change the regulations	19.9%	456
I don't know	8.4%	192

ORS Chapter 701

CCB reviewed ORS chapter 701 and identified some laws that might be eliminated or moved to another section of the revised statutes.

a. ORS 701.088 (Cash Deposits for Meth House Rehabilitation).

As discussed in *Item 1: Surety Bonds*, ORS 701.088 allows non-profit contractors that rehabilitate “meth houses” and other similar buildings to post cash deposit or bank letter of credit in lieu of a surety bond. This law was adopted in 2007, shortly after Oregon made it more difficult to obtain the pseudoephedrine necessary to manufacture methamphetamine in homemade batches. Even before the pseudoephedrine restrictions took effect, the number of “meth houses” in Oregon significantly declined. Today, most methamphetamine available in Oregon comes from Mexican drug cartels, not “meth houses.” At present there *is not a single contractor* who has a cash deposit or letter of credit permitted under this statute. (Obtaining a bank letter of credit is every bit as difficult as obtaining a surety bond.) Cash deposits provide no consumer protection in the event of bankruptcy. It is difficult to administer cash deposits separately from bonds. This law is not necessary.

¹⁰³ Senate Bill (SB) 205 (2013), proposed by CCB and passed by the 2013 legislature, eliminates some of the mandatory requirements for contract language. This is the second bill in as many sessions to try and reduce some of the redundancy for contractor notices.

b. *ORS 701.550 (Annual Notice of BCD Rule on Mercury Thermostats).*

As discussed in *Item 5: Interagency Duplication of Efforts*, ORS 701.550 requires the CCB to provide an annual notice to licensed contractors to inform contractors of a rule adopted by the BCD that prohibits the installation of thermostats that contain mercury, and requires proper disposal of thermostats that contain mercury. In addition to the BCD rules, the Oregon Department of Environmental Quality (DEQ) has established a comprehensive program for disposal of such thermostats, and makes the information available on its website.

c. *ORS 701.555 (Prohibits Use of Barrier-Type Exterior Insulation and Finish Systems).*

As discussed in *Item 5: Interagency Duplication of Efforts*, ORS 701.555¹⁰⁴ prohibits the use of “barrier-type exterior insulation and finish systems.” Ordinarily, construction materials are permitted, or prohibited, in the building codes – not in ORS chapter 701, the Construction Contractors Licensing Act. These particular changes have been made and are now part of the 2011 Oregon Residential Specialty Code and the 2010 Oregon Structural Specialty Code. ORS 701.106(1)(f) protects the public by authorizing the CCB to sanction contractors that violate the EIFS ban. There does not need to be another statute on the same subject.

OAR Chapter 812

The CCB’s rules are in OAR chapter 812. The CCB reviewed each of its rules and prepared a table of those rules.¹⁰⁵

As is required by Oregon statute, the CCB also reviewed many of its rules over the last few years. These reviews are part of the five-year rule reviews, required by ORS 183.405.¹⁰⁶

The CCB reviewed all of its rules originally adopted in 2006, 2007, 2008, 2009 and 2010. In the rule reviews, CCB answers the following questions:

- Did the rule have its intended effect?
- Was the anticipated fiscal impact of the rule underestimated or overestimated?
- Did subsequent changes in the law require that the rule be repealed or amended?
- Is there a continued need for the rule?

The CCB identified rules that need to be amended or repealed. In many cases, rules have become out of date and simply do not apply anymore.

¹⁰⁴ ORS 701.555 was adopted in 2007. Or Laws 2007, ch 851, § 2.

¹⁰⁵ **APPENDIX G:** Construction Contractors Board Rule Review for Process Improvement Plan (2013).

¹⁰⁶ **APPENDIX H:** Five-year rule review – rules adopted 2006; **APPENDIX I:** Five-year rule review – rules adopted 2007; **APPENDIX J:** Five-year rule review, rules adopted 2008.

The rule reviews were completed on:

- 2006 – October 26, 2010
- 2007 – October 26, 2010
- 2008 – January 10, 2012
- 2009 – December 18, 2013
- 2010 – December 27, 2013

The CCB recently adopted rules to implement SB 207 (2013) and HB 2801 (2013) which created new licenses and endorsements. These new laws required extensive changes in Division 3 of the OAR chapter 812. (These are the rules that govern licensing.)

The CCB took the opportunity to remove the rules that no longer apply to licensed contractors. The CCB filed its rule notice on October 7, 2013, for a rulemaking hearing on December 3, 2013.¹⁰⁷ After the rulemaking hearing, the unnecessary rules in Division 3 were eliminated.

The CCB intends to continue to use its rulemaking hearings as an opportunity to amend or repeal out-of-date or unnecessary rules.

Recommendations:

- 1. Identify statutes that the legislature might amend, repeal or move to a more appropriate ORS chapter. (See Appendix N)**
 - a) CCB proposes to add to the exemption statute, ORS 701.010, an exemption for vineyard, hop-yard and orchard installations. There is some lack of clarity on these issues.
- 2. Continue identifying, amending or repealing, unnecessary rules as part of the CCB's rulemaking process. (See Appendix P – Dec. 2013 Permanent Rules Filed)**
- 3. Perform 5-year rule reviews for rules adopted in 2009 and 2010. [Completed January 2014].¹⁰⁸ (See Appendix I-M)**
- 4. Prepare legislative concepts for 2015, based on this report, of statutes to amend, repeal or move. (See Appendix N).**

¹⁰⁷ **APPENDIX K:** CCB Rule Notice filed 10-7-13.

¹⁰⁸ **APPENDIX L;** Five-year rule review, rules adopted 2009; **APPENDIX M:** Five-year rule review, rules adopted 2010.

APPENDICES

Appendix A: National Association of State Contractors Licensing Agencies (NASCLA), *Contractor's State Licensing Directory* (2013 ed.).

Appendix B: Construction Contractors Board Report on Residential Continuing Education in Other States (2011).

Appendix C: Construction Contractors Board PowerPoint Presentation for New Contractors (2009).

Appendix D: Construction Contractors Board Spring Contractor Workshop, Business Plan (2013).

Appendix E: Construction Contractors Board – New Contractor Information Workshop Attendance List (2013).

Appendix F: Oregon Building Codes Division Statewide Code Interpretation (August 13, 2008).

Appendix G: Memo re Central Business Registry 4-13-13.

Appendix H: Construction Contractors Board Rule Review for Process Improvement Plan (2013)

Appendix I: Five-year rule review, rules adopted 2006.

Appendix J: Five-year rule review, rules adopted 2007.

Appendix K: Five-year rule review, rules adopted 2008.

Appendix L: Five-year rule review, rules adopted 2009.

Appendix M: Five-year rule review, rules adopted 2010.

Appendix N: List of legislative concepts (2015).

Appendix O: CCB Outreach Events

Appendix P: December 2013 Permanent Rules Filed

Appendix Q: 2014 Contractor Survey Results