

**PROPOSED AMENDMENTS TO
SENATE BILL 1571**

1 On page 1 of the printed bill, line 2, after “ORS” insert “701.005 and”.

2 Delete lines 4 through 30 and delete page 2 and insert:

3 **“SECTION 1. Sections 2 to 4 of this 2014 Act are added to and made**
4 **a part of ORS chapter 701.**

5 **“SECTION 2. As used in sections 2 to 4 of this 2014 Act:**

6 **“(1) ‘Board-up services’ means covering over building openings to**
7 **secure the property against weather or unauthorized or unsafe entry.**

8 **“(2) ‘Contracting person’ means:**

9 **“(a) A property owner, occupant or manager that contracts for the**
10 **performance of restoration work;**

11 **“(b) A property owner’s authorized agent that contracts for the**
12 **performance of restoration work; or**

13 **“(c) An owner of the contents of a property that contracts for the**
14 **performance of restoration work.**

15 **“(3) ‘Man-made or natural disaster’ means a fire, flood, earthquake,**
16 **crime or other sudden event that causes property or the contents of**
17 **property to suffer major damage.**

18 **“(4) ‘Proximity’ means within 1,000 feet of a property less than 48**
19 **hours after:**

20 **“(a) The first fire, law enforcement, medical or other emergency**
21 **personnel responding to a man-made or natural disaster is dispatched**
22 **to or arrives at the property; or**

1 **“(b) Except as provided in paragraph (a) of this subsection, the be-**
2 **ginning of any physical or lawful exclusion from the property of the**
3 **property owner or occupant, or an owner of contents of the property,**
4 **as a result of a man-made or natural disaster.**

5 **“(5) ‘Restoration work’ means repair, restoration or nonroutine**
6 **cleaning services undertaken because of damage to a residential or**
7 **commercial property, or to the contents of a residential or commercial**
8 **property, that was caused by a man-made or natural disaster.**

9 **“SECTION 3. The Construction Contractors Board shall adopt rules**
10 **to require that a contract for restoration work include, in addition to**
11 **any other standard contractual terms required by the board:**

12 **“(1) An estimate of the total cost of the restoration work or a stated**
13 **hourly rate for the work; and**

14 **“(2) A disclosure that construction contractors are prohibited from**
15 **contracting for restoration work in proximity of a man-made or na-**
16 **tural disaster except under limited circumstances.**

17 **“SECTION 4. (1) Except as provided in this subsection and sub-**
18 **section (2) of this section, a contractor, or agent or employee of a**
19 **contractor may not, in proximity to a property that is the site of a**
20 **man-made or natural disaster, contract or attempt to contract for the**
21 **contractor to supply restoration work at the property. This subsection**
22 **does not apply to:**

23 **“(a) A contractor that is summoned to the property by any property**
24 **owner, occupant or manager, by any agent of the property owner or**
25 **by any owner of contents of the property;**

26 **“(b) A contractor that is summoned to the property by the insurer**
27 **of the property or of the contents of the property; or**

28 **“(c) The offering of board-up services by a contractor under an**
29 **agreement with a fire department, police department or other gov-**
30 **ernmental unit that responded to the man-made or natural disaster**

1 at the property.

2 “(2) A fire department, police department or other governmental
3 unit that responds to a man-made or natural disaster at the property,
4 and during that response provides of a list of recommended contrac-
5 tors to a property owner, occupant or manager, to an agent of the
6 property owner or to an owner of the contents of the property, is not
7 an agent of any contractor on the list for purposes of subsection (1)
8 of this section.

9 “(3) In addition to any other penalty or sanction, if a contractor
10 violates subsection (1) of this section:

11 “(a) A contract for restoration work formed in proximity to the
12 property that violates ORS 701.305 or board rules adopted under ORS
13 701.235 is void; and

14 “(b) If a contract for restoration work formed in proximity to the
15 property is not void under paragraph (a) of this subsection:

16 “(A) Notwithstanding ORS 83.710 to 83.750 or 701.305, the right of the
17 contracting person to rescind the contract within three days is
18 nonwaivable;

19 “(B) The contractor, and any subcontractor, may not recover for
20 any services performed prior to a rescission of the contract;

21 “(C) The contractor shall return any moneys received under a
22 rescinded contract within a time established by board rule;

23 “(D) The contracting person is not required to allow removal or
24 recovery of any materials that have become attached to the property
25 or attached to the contents of the property;

26 “(E) The contractor shall satisfy any liens or claims on the property
27 or contents of the property arising from the provision of materials or
28 labor prior to a rescission by the contracting person; and

29 “(F) The contract may not be sold or assigned unless the contract-
30 ing person gives written consent in a separate document at least three

1 **days in advance and does not revoke the consent.**

2 **“(4) The maximum penalty that the Construction Contractors Board**
3 **may impose for each violation of subsection (1) of this section is twice**
4 **the maximum penalty amount allowed under ORS 701.992 (1).**

5 **“SECTION 5.** ORS 701.005 is amended to read:

6 “701.005. As used in this chapter:

7 “(1) ‘Board’ means the Construction Contractors Board.

8 “(2) ‘Commercial contractor’ means a licensed contractor that holds an
9 endorsement as a:

10 “(a) Commercial general contractor level 1;

11 “(b) Commercial specialty contractor level 1;

12 “(c) Commercial general contractor level 2;

13 “(d) Commercial specialty contractor level 2; or

14 “(e) Commercial developer.

15 “(3) ‘Commercial developer’ means a developer of property that is zoned
16 for or intended for use compatible with a small commercial or large com-
17 mercial structure.

18 “(4) ‘Construction debt’ means an amount owed:

19 “(a) Under an order or arbitration award issued by the board that has
20 become final by operation of law;

21 “(b) Under a judgment, arbitration award or civil penalty that has become
22 final by operation of law arising from construction activities within the
23 United States;

24 “(c) Under a judgment or civil penalty that has become final by operation
25 of law arising from a failure to comply with ORS 656.017; or

26 “(d) To employees of a construction contracting business for unpaid
27 wages.

28 “(5) ‘Contractor’ means any of the following:

29 “(a) A person that, for compensation or with the intent to sell, arranges
30 or undertakes or offers to undertake or submits a bid to construct, alter,

1 repair, add to, subtract from, improve, inspect, move, wreck or demolish, for
2 another, a building, highway, road, railroad, excavation or other structure,
3 project, development or improvement attached to real estate, or to do any
4 part thereof.

5 “(b) A person that purchases or owns property and constructs or for
6 compensation arranges for the construction of one or more residential
7 structures or small commercial structures with the intent of selling the
8 structures.

9 “(c) A school district, as defined in ORS 332.002, that permits students to
10 construct a residential structure or small commercial structure as an edu-
11 cational experience to learn building techniques and sells the completed
12 structure.

13 “(d) A community college district, as defined in ORS 341.005, that permits
14 students to construct a residential structure or small commercial structure
15 as an educational experience to learn building techniques and sells the
16 completed structure.

17 “(e) A person except a landscape contracting business, nurseryman,
18 gardener or person engaged in the commercial harvest of forest products,
19 that is engaged as an independent contractor to remove trees, prune trees,
20 remove tree limbs or stumps or to engage in tree or limb guying.

21 “(f) A business that supplies the services of a home inspector certified
22 under ORS 701.350 or a cross-connection inspector and backflow assembly
23 tester certified under ORS 448.279.

24 “(g) A person that for compensation arranges, undertakes, offers to
25 undertake or submits a bid to clean or service chimneys.

26 **“(h) A person that performs restoration work as defined in section**
27 **2 of this 2014 Act.**

28 “(6) ‘Developer’ means a contractor that owns property or an interest in
29 property and engages in the business of arranging for construction work or
30 performing other activities associated with the improvement of real property,

1 with the intent to sell the property.

2 “(7)(a) ‘General contractor’ means a contractor whose business operations
3 require the use of more than two unrelated building trades or crafts that the
4 contractor supervises or performs in whole or part, whenever the sum of all
5 contracts on any single property, including materials and labor, exceeds an
6 amount established by rule by the board.

7 “(b) ‘General contractor’ does not mean a specialty contractor or a resi-
8 dential limited contractor.

9 “(8)(a) ‘Home improvement’ means a renovation, remodel, repair or alter-
10 ation by a residential contractor to an existing owner-occupied:

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

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

15 “(C) Modular home constructed off-site;

16 “(D) Manufactured dwelling; or

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

18 “(b) ‘Home improvement’ does not include a renovation, remodel, repair
19 or alteration by a residential contractor:

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

22 “(B) That the residential contractor performed in the course of con-
23 structing a new residential structure.

24 “(9)(a) ‘Home inspector’ means a person who, for a fee, inspects and pro-
25 vides written reports on the overall physical condition of a residential
26 structure.

27 “(b) ‘Home inspector’ does not include persons certified under ORS chap-
28 ter 455 to inspect new, repaired or altered structures for compliance with the
29 state building code.

30 “(10) ‘Key employee’ means an employee or owner of a contractor who is

1 a corporate officer, manager, superintendent, foreperson or lead person or
2 any other employee the board identifies by rule.

3 “(11) ‘Large commercial structure’ means a structure that is not a resi-
4 dential structure or small commercial structure.

5 “(12) ‘Officer’ means any of the following persons:

6 “(a) A president, vice president, secretary, treasurer or director of a cor-
7 poration.

8 “(b) A general partner in a limited partnership.

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

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

11 “(e) A trustee.

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

15 “(13) ‘Residential contractor’ means a licensed contractor that holds an
16 endorsement as a:

17 “(a) Residential general contractor;

18 “(b) Residential specialty contractor;

19 “(c) Residential limited contractor;

20 “(d) Residential developer;

21 “(e) Residential locksmith services contractor;

22 “(f) Home inspector services contractor;

23 “(g) Home services contractor; or

24 “(h) Home energy performance score contractor.

25 “(14) ‘Residential developer’ means a developer of property that is zoned
26 for or intended for use compatible with a residential or small commercial
27 structure.

28 “(15)(a) ‘Residential structure’ means:

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

30 “(B) A structure that contains one or more dwelling units and is four

1 stories or less above grade;

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

5 “(D) A modular home constructed off-site;

6 “(E) A manufactured dwelling;

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

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

10 “(b) ‘Residential structure’ does not mean:

11 “(A) Subject to paragraph (a)(C) of this subsection, a structure that con-
12 tains both residential and nonresidential units;

13 “(B) Transient lodging;

14 “(C) A residential school or residence hall;

15 “(D) A state or local correctional facility;

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

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

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

20 “(H) A nursing home;

21 “(I) A hospital; or

22 “(J) A place constructed primarily for recreational activities.

23 “(16) ‘Responsible managing individual’ means an individual who:

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

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

27 “(c)(A) Successfully completed the training and testing required for li-
28 censing under ORS 701.122 within a period the board identifies by rule;

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

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

1 “(17) ‘Small commercial structure’ means:

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

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

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

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

16 “(18) ‘Specialty contractor’ means a contractor who performs work on a
17 structure, project, development or improvement and whose operations as such
18 do not fall within the definition of ‘general contractor.’ ‘Specialty
19 contractor’ includes a person who performs work regulated under ORS
20 446.395.

21 “(19) ‘Worker leasing company’ means a person licensed under ORS
22 656.850 (2) to perform the service of providing nontemporary workers by
23 contract and for a fee to work for a client.

24 “(20) ‘Zero-lot-line dwelling’ means a single-family dwelling unit con-
25 structed in a group of attached units in which:

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

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

29 **“SECTION 6.** ORS 701.005, as amended by section 59, chapter 630, Oregon
30 Laws 2011, section 7, chapter 130, Oregon Laws 2013, section 4, chapter 251,

1 Oregon Laws 2013, section 7, chapter 300, Oregon Laws 2013, and section 9,
2 chapter 383, Oregon Laws 2013, is amended to read:

3 “701.005. As used in this chapter:

4 “(1) ‘Board’ means the Construction Contractors Board.

5 “(2) ‘Commercial contractor’ means a licensed contractor that holds an
6 endorsement as a:

7 “(a) Commercial general contractor level 1;

8 “(b) Commercial specialty contractor level 1;

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13 for or intended for use compatible with a small commercial or large com-
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17 become final by operation of law;

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19 of law arising from construction activities within the United States;

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21 of law arising from a failure to comply with ORS 656.017; or

22 “(d) To employees of a construction contracting business for unpaid
23 wages.

24 “(5) ‘Contractor’ means any of the following:

25 “(a) A person that, for compensation or with the intent to sell, arranges
26 or undertakes or offers to undertake or submits a bid to construct, alter,
27 repair, add to, subtract from, improve, inspect, move, wreck or demolish, for
28 another, a building, highway, road, railroad, excavation or other structure,
29 project, development or improvement attached to real estate, or to do any
30 part thereof.

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3 structures or small commercial structures with the intent of selling the
4 structures.

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6 construct a residential structure or small commercial structure as an edu-
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18 under ORS 701.350 or a cross-connection inspector and backflow assembly
19 tester certified under ORS 448.279.

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21 undertake or submits a bid to clean or service chimneys.

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25 property and engages in the business of arranging for construction work or
26 performing other activities associated with the improvement of real property,
27 with the intent to sell the property.

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29 require the use of more than two unrelated building trades or crafts that the
30 contractor supervises or performs in whole or part, whenever the sum of all

1 contracts on any single property, including materials and labor, exceeds an
2 amount established by rule by the board.

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4 dential limited contractor.

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6 ation by a residential contractor to an existing owner-occupied:

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14 “(b) ‘Home improvement’ does not include a renovation, remodel, repair
15 or alteration by a residential contractor:

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

18 “(B) That the residential contractor performed in the course of con-
19 structing a new residential structure.

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21 vides written reports on the overall physical condition of a residential
22 structure.

23 “(b) ‘Home inspector’ does not include persons certified under ORS chap-
24 ter 455 to inspect new, repaired or altered structures for compliance with the
25 state building code.

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27 a corporate officer, manager, superintendent, foreperson or lead person or
28 any other employee the board identifies by rule.

29 “(11) ‘Large commercial structure’ means a structure that is not a resi-
30 dential structure or small commercial structure.

1 “(12) ‘Officer’ means any of the following persons:

2 “(a) A president, vice president, secretary, treasurer or director of a cor-
3 poration.

4 “(b) A general partner in a limited partnership.

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

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

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9 officer adopted by board rule may include persons not listed in this sub-
10 section who may exercise substantial control over a business.

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15 “(c) Residential limited contractor;

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29 unit that is part of a larger structure, if the property interest in the unit is
30 separate from the property interest in the larger structure;

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2 “(E) A manufactured dwelling;
3 “(F) A floating home as defined in ORS 830.700; or
4 “(G) An appurtenance to a home, structure, unit or dwelling described in
5 subparagraphs (A) to (F) of this paragraph.
6 “(b) ‘Residential structure’ does not mean:
7 “(A) Subject to paragraph (a)(C) of this subsection, a structure that con-
8 tains both residential and nonresidential units;
9 “(B) Transient lodging;
10 “(C) A residential school or residence hall;
11 “(D) A state or local correctional facility;
12 “(E) A youth correction facility as defined in ORS 420.005;
13 “(F) A youth care center operated by a county juvenile department under
14 administrative control of a juvenile court pursuant to ORS 420.855 to 420.885;
15 “(G) A detention facility as defined in ORS 419A.004;
16 “(H) A nursing home;
17 “(I) A hospital; or
18 “(J) A place constructed primarily for recreational activities.
19 “(16) ‘Responsible managing individual’ means an individual who:
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21 “(b) Exercises management or supervisory authority, as defined by the
22 board by rule, over the construction activities of the business; and
23 “(c)(A) Successfully completed the training and testing required for li-
24 censing under ORS 701.122 within a period the board identifies by rule;
25 “(B) Demonstrated experience the board requires by rule; or
26 “(C) Complied with the licensing requirements of ORS 446.395.
27 “(17) ‘Small commercial structure’ means:
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29 feet or less, including exterior walls, and a height of not more than 20 feet
30 from the top surface of the lowest flooring to the highest interior overhead

1 finish of the structure;

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

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

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11 to (c) of this subsection.

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13 structure, project, development or improvement and whose operations as such
14 do not fall within the definition of ‘general contractor.’ ‘Specialty
15 contractor’ includes a person who performs work regulated under ORS
16 446.395.

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18 656.850 (2) to perform the service of providing nontemporary workers by
19 contract and for a fee to work for a client.

20 “(20) ‘Zero-lot-line dwelling’ means a single-family dwelling unit con-
21 structed in a group of attached units in which:

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

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

25 **“SECTION 7.** ORS 701.992 is amended to read:

26 “701.992. (1) Except as provided in subsections (4) and (5) of this section
27 **or section 4 (4) of this 2014 Act**, any person who violates any provision of
28 this chapter or any rule adopted by the Construction Contractors Board shall
29 forfeit and pay into the General Fund of the State Treasury a civil penalty
30 in an amount determined by the board of not more than \$5,000 for each of-

1 fense.

2 “(2) Civil penalties under this section shall be imposed as provided in
3 ORS 183.745.

4 “(3) The provisions of this section are in addition to and not in lieu of
5 any other penalty or sanction provided by law.

6 “(4) The board shall impose sanctions for violation of ORS 701.098 (1)(h)
7 on both the person to whom the contract is awarded and the person who
8 awards the contract as follows:

9 “(a) A penalty not less than \$500 nor more than \$1,000 for the first of-
10 fense;

11 “(b) A penalty not less than \$1,000 nor more than \$2,000 for the second
12 offense;

13 “(c) Suspension of the person’s license for six months for a third offense;

14 “(d) Suspension of the person’s license for three years for a fourth offense;
15 and

16 “(e) Revocation of the person’s license for a fifth offense.

17 “(5) The board may impose a civil penalty not to exceed \$100 for each
18 violation of ORS 87.007 (3).”.

19
