

CONSTRUCTION CONTRACTORS BOARD

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To: Senate Committee on Business and Transportation
From: James Denno
Administrator
Date: February 10, 2016
Subject: HB 4121: Dispute Resolution Process

Chair Beyer and members of the committee,

The Construction Contractors Board (CCB) requests the committee recommend passage of HB 4121. The purpose of the bill is to continue the existing dispute resolution process currently offered by the CCB, and cancel restoration of the old process that was in place prior to 2011.

Background

From its inception in 1971 the CCB has operated a Dispute Resolution Services program. Agency staff facilitates resolution of disputes between licensed residential contractors and customers. Until a change in the law in 2011, the dispute resolution process involved hearings through the Office of Administrative Hearings (OAH).

Any party dissatisfied with the results of a mediated resolution could request a hearing at OAH. The agency paid for all of the costs of the hearings process. In 2011, the CCB was facing a budget shortfall of approximately \$1.3 million due to a significant drop in the number of construction contractor licenses. To address the budget gap, the law was changed relating to the dispute resolution process. The new law simplified the process, requiring persons filing complaints against residential contractors to obtain a court judgment if mediation failed.

The current process works as follows:

- Customers file complaints with CCB against licensed residential contractors.
- CCB staff attempts to mediate the dispute and reach a settlement.
- If no settlement results, customers must obtain a court judgment.
- Customers then submit the court judgment to the CCB, and the contractor or contractor's surety is responsible to make payment.

The change in the law eliminated the hearings process, four agency positions, and brought the budget into balance. It also contained sunset provisions, providing that the old laws again become operative in 2017. The rationale for the sunset provisions was the agency's expectation that by 2017 there would be adequate revenues to reinstate the old dispute resolution process. In fact, revenues declined still further. Revenues finally stabilized in 2014 but have not risen substantially. The CCB lacks sufficient revenue to return to the old process. In addition, the new process has proven to be more effective and there is greater incentive for the parties to reach a settlement.

Effectiveness of the Current Process

Comparing the current process for dispute resolution with the old (pre- 2011) process we find that the current process is more effective. The new process has resulted in a higher percentage of claims being settled, and a higher percentage of settlement awards being paid.

- Complaints settled: Pre-2011 = 32%
- Complaints settled: Post-2011 = 35%
- Amounts Paid (% of amounts awarded): Pre-2011 = 35%
- Amounts Paid (% of amounts awarded): Post-2011 = 57%

Parties not satisfied with the results of mediation still have the option of due process through the courts to arbitrate their disputes.

What HB 4121 Does

The purpose of HB 4121 is to cancel restoration of the old laws (in effect up until July of 2011) and retain the current laws. The bill drafter accomplishes this by creating a set of amendments that mirror the July 1, 2011, to June 30, 2017 laws that are currently in effect. They are contained in Sections 1 through 14.

Section 15 repeals two statutes that were in the old laws, as well as Oregon Laws chapter 630, section 73, which is the section making the old law operational beginning July 1, 2017. Thus, the bill would retain the current laws.

Recommendation

In keeping with the CCB's strategy to live within our means and serve the public as efficiently as possible, we request passage of HB 4121, retaining the current laws and cancelling restoration of the old laws. The agency lacks sufficient revenue to fund a return to the old process. Moreover, the current dispute resolution process is simpler and working well. It should be retained.

Construction Contractors Board



Our Mission

The Construction Contractors Board (CCB) protects Oregonians by preventing and resolving construction contracting problems. We:

- License contractors and develop licensing standards
- Enforce construction contractor laws
- Educate the public about licensing requirements
- Mediate disputes between homeowners and licensed contractors

The nine-member board was established in 1971 to regulate residential homebuilders. Initially called the Builders Board, the agency became the Construction Contractors Board in 1990 with regulatory authority expanded to include commercial contractors.

Our People

Management Team

James Denno, Administrator: 503-934-2184 or james.s.denno@state.or.us.

Stan Jessup, Enforcement Manager: 503-934-2188 or stan.m.jessup@state.or.us.

Laurie Hall, Licensing Manager: 503-934-2199 or laurie.hall@state.or.us.

Cheryl Martinis, Communications & Education Manager: 503-934-2195 or cheryl.martinis@state.or.us.

Kimberlee Ayers, Administrative Services Manager: 503-934-2237 or kimberlee.ayers@state.or.us.

Customer Service

Licensing questions: 503-378-4621 or ccb.info@state.or.us.

Report unlicensed contractors: 503-934-2246 or cbtips@state.or.us

Continuing education questions: 503-934-2227 or ccbeducation@state.or.us.

Mediation (dispute resolution) questions: 503-934-2247 or ccbdisputes@state.or.us

Lead-based paint regulation: 503-378-4621 or lbptip@state.or.us.

Rule status: 503-934-2228 or leslie.culpepper@state.or.us.

Our Funding

- Licensing fees: 78 percent
- Education: 11 percent
- Civil penalties: 9 percent (80% goes to state General Fund)

Our Challenge

Fulfilling an expanding mission with fewer resources.

	2007-09	2009-11	2011-13	2013-15	2015-17
Licensees	47,000	43,000	39,000	35,000	35,000
Budget	\$15.4 million	\$15.1 million	\$15.1 million	15.9 million	\$14.5 million
Employees	85	80	76	75	62

Our Challenge

Enforcement: Unlicensed contractors, paying employees under the table to avoid employment and workers' compensation requirements, and illegal advertising continue to plague the construction industry.

Licensing: In addition to residential and commercial contractors, CCB now issues licenses to home inspectors, locksmiths, energy assessors, home services contractors, restoration contractors and road flaggers.

Education: The CCB needs to devote increasing resources to creating and maintaining meaningful pre-licensure and continuing education classes for contractors, and to public outreach about the requirements and benefits of using licensed contractors.

Online services: In today's world, it is essential for contractors and the public to be able to conduct business online. Our existing databases and online systems need updating to make them efficient and user-friendly.

Our Strategy

Back to basics: Focus on our core mission of licensing contractors, enforcing construction contracting laws and educating the public.

- Streamline license application and renewal process.
- Move to national license testing standards where appropriate.
- Improve strategic enforcement efforts across the state to root out unlicensed contractors and those paying workers under the table.
- Partner with other agencies to share information and improve enforcement coordination.
- Revise continuing education to increase the variety and quality of available courses.
- Increase public awareness of the requirements and benefits of using licensed contractors.
- Excellent customer service across all programs.

Make it easier to conduct business online: Upgrade our Information Technology services to expand and improve online services.

- Create user friendly system for license applications, renewals, and meeting continuing education requirements.
- Improve web-based license search tools to provide better information to the public.
- Create mobile app to search license database and report unlicensed contractors.

Live within our means: Achieve efficiencies that let us improve operations with existing staff.

- Remove unnecessary or redundant administrative rules and procedures.
- Collaborate with state and local government agencies to share information.
- Increase collaboration with the Building Codes Division to share information and coordinate resources.

Innovate: Work creatively to do more with less.

- Simplify internal processes.
- New models for pre-licensure training and continuing education.
- Leverage membership in National Association of State Contractors Licensing Agencies.