

Requested by Representative SMITH G

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 3385**

1 On page 1 of the printed A-engrossed bill, delete lines 4 through 19 and  
2 delete page 2 and insert:

3 **“SECTION 1. Sections 2 and 3 of this 2023 Act are added to and  
4 made a part of ORS chapter 701.**

5 **“SECTION 2. (1) As used in this section, ‘major residential con-  
6 tractor’ means a residential contractor that is:**

7 **“(a) A general contractor; and**

8 **“(b) A company that offers securities registered with the United  
9 States Securities and Exchange Commission for sale to the general  
10 public.**

11 **“(2)(a) A major residential contractor may not, in a contract to  
12 remodel or repair an owner-occupied one-family or two-family resi-  
13 dential structure with a contract price that exceeds \$40,000, collect or  
14 retain more than 50 percent of the original contract price before sub-  
15 stantial completion of the remodeling or repair.**

16 **“(b) If a property owner agrees in writing to contract changes that  
17 result in a net increase in the original contract price of \$20,000 or  
18 more, the major residential contractor may collect and retain not  
19 more than 50 percent of the contract price increase.**

20 **“(3) If a major residential contractor’s costs of materials, supplies  
21 and payments to subcontractors at the commencement of the remodel**

1 or repair exceed 50 percent of the total contract price, the major resi-  
2 dential contractor may require the property owner to make progress  
3 payments solely to cover the costs of materials, supplies and payments  
4 to subcontractors. If the major residential contractor requires  
5 progress payments, the contract must include:

6 “(a) An itemized list of all materials, supplies and payments to  
7 subcontractors;

8 “(b) A schedule of progress payments due that is linked to specific  
9 items of work completed or a specific completed percentage of the  
10 total work specified in the contract; and

11 “(c) A specification of the progress the major residential contractor  
12 must make on the renovation or repair before each progress payment  
13 is due.

14 “(4) This section does not prohibit a major residential contractor  
15 from retaining properly collected amounts after a contract price de-  
16 crease. Subject to subsection (5) of this section, this section does not  
17 prevent a major residential contractor from obtaining payment for  
18 completed construction work from a property owner that unreasonably  
19 withholds approval and acceptance.

20 “(5) If a major residential contractor believes that a property owner  
21 has unreasonably withheld approval and acceptance of properly com-  
22 pleted construction work, the major residential contractor may file a  
23 request with the Construction Contractors Board for mediation of the  
24 dispute. The major residential contractor may initiate an action or  
25 suit or pursue other available remedies to collect the balance of the  
26 moneys due under a contract described in subsection (2) of this section  
27 only if:

28 “(a) The property owner refuses a board offer to mediate the dis-  
29 pute; or

30 “(b) The board declares after reasonable effort that the board can-

1 not resolve the dispute by mediation.

2 “(6) The board may adopt rules to implement the provisions of this  
3 section.

4 **“SECTION 3. (1) A business may not install, apply, repair or main-  
5 tain, or offer to install, apply, repair or maintain, spray-on  
6 fireproofing material or a spray-on fireproofing system in an essential  
7 facility in this state unless the business has a current and valid cer-  
8 tification from the Construction Contractors Board as a spray-on  
9 fireproofing contractor.**

10 **“(2) The board shall certify a business as a spray-on fireproofing  
11 contractor if the business meets the requirements of this section and  
12 of any rule the board adopts under this section. A certification as a  
13 fireproofing contractor expires three years after the date on which the  
14 board issues the certification.**

15 **“(3)(a) Except as provided in paragraph (c) of this subsection, the  
16 board shall require that a business that applies for initial certification,  
17 or for renewal of a certification, as a spray-on fireproofing contractor  
18 provide proof in the application that at least one individual who is an  
19 owner, manager or employee of the business has obtained a certifica-  
20 tion from a program that the board approves by rule. The program  
21 that the board approves must, at a minimum:**

22 **“(A) Use a nationally recognized body of knowledge, techniques and  
23 best practices and nationally recognized safety standards in the  
24 program’s design, contents and instruction;**

25 **“(B) Examine and score or otherwise assess the knowledge and  
26 competence of an applicant for certification;**

27 **“(C) Assess an applicant’s knowledge of how to correctly install,  
28 apply, repair and maintain spray-on fireproofing material and spray-on  
29 fireproofing systems; and**

30 **“(D) Provide information about methods of installation, application,**

1 repair and maintenance that meet applicable occupational health and  
2 safety standards and environmental standards and that otherwise  
3 minimize or eliminate adverse safety or environmental impacts.

4 “(b) The board by rule shall specify scores or demonstrations of  
5 knowledge and competence required to obtain a certification as a  
6 spray-on fireproofing contractor under this section.

7 “(c) The board may not require from a business that applies for  
8 certification, or for renewal of a certification, assessments or practices  
9 that exceed or are inconsistent with assessments or practices required  
10 generally in the spray-on fireproofing industry.

11 “(d) In lieu of obtaining a certification from a program the board  
12 approves under paragraph (a) of this subsection, the board may accept  
13 a certification from another state, or from a nationally recognized  
14 organization of spray-on fireproofing experts or practitioners, if the  
15 board is satisfied that the other certification meets standards and  
16 provides training and content that is substantially similar to a pro-  
17 gram that the board approves by rule.

18 “(4) The board may adopt rules to govern the administration of the  
19 board’s certification program under this section, including:

20 “(a) Requiring an applicant to list the applicant’s name and as-  
21 sumed business name, if any, physical address and telephone number,  
22 along with any available electronic contact information, on the appli-  
23 cation for certification;

24 “(b) Permitting a business to identify the individuals within the  
25 business who obtained a certification from a program the board ap-  
26 proved under subsection (3)(a) of this section or who hold another  
27 certification described in subsection (3)(d) of this section and who have  
28 responsibility for training, education and monitoring of the spray-on  
29 fireproofing practices of the business;

30 “(c) Identifying structures or infrastructure that constitutes an es-

1 essential facility for the purposes of requiring certification under this  
2 section, except that an essential facility may not include a pipeline or  
3 compressor substation; and

4 “(d) Establishing fees necessary to administer this section that do  
5 not exceed the following amounts:

6 “(A) \$500 for an initial application for certification as a fireproofing  
7 contractor; and

8 “(B) \$150 for renewal of a certification as a fireproofing contractor.

9 “(5) The board shall maintain and make available and easily acces-  
10 sible on the board’s website, or provide in response to a request, a list  
11 or searchable database of businesses that the board has certified under  
12 this section.

13 “(6) A building official, as defined in ORS 455.715, may require as a  
14 condition of issuing a permit that a business that installs, applies, re-  
15 pairs or maintains spray-on fireproofing material or spray-on  
16 fireproofing systems provide the building official with a copy of a  
17 certification the business obtained under this section.

18 “SECTION 4. Section 2 of this 2023 Act applies to contracts into  
19 which a major residential contractor and a property owner enter on  
20 or after January 1, 2024.

21 “SECTION 5. (1) Section 3 of this 2023 Act becomes operative on  
22 July 1, 2024.

23 “(2) The Construction Contractors Board may adopt rules and take  
24 any other action before the operative date specified in subsection (1)  
25 of this section that is necessary to enable the board, on and after the  
26 operative date specified in subsection (1) of this section, to undertake  
27 and exercise all of the duties, functions and powers conferred on the  
28 board by section 3 of this 2023 Act.

29 “SECTION 6. This 2023 Act takes effect on the 91st day after the  
30 date on which the 2023 regular session of the Eighty-second Legislative

1 **Assembly adjourns sine die.”.**

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