

MINUTES OF THE JUNE 24, 2014 CONSTRUCTION CONTRACTORS BOARD MEETING

The Construction Contractors Board (CCB) met on Tuesday, June 24, 2014, in the Oregon Room, West Salem Roth's IGA, 425 Glen Creek Rd. NW, Salem, Oregon.

Attendees:

Board Members: Board Chair, Rob Yorke, and Board Members: Simone Neall, Melvin Oden-Orr, Jim Patrick, and Kimberly Wood. Board member Sandi Warren was excused from the meeting.

Staff: Berri Leslie, CCB Interim Administrator, Administrative Services Manager Kimberlee Ayers, Education Manager Cheryl Martinis, Licensing Manager Laurie Hall, DRS/ENF/FIS Manager Stan Jessup, Linda Bures (HR), Policy Analyst Kathi Dahlin, and Catherine Dixon, Board Secretary. Assistant Attorney Generals Susan Bischoff and Kelly Gabliks were also present.

Guests: Bonnie Sullivan, Jason Yarashes, and Lisa Strader.

A. MEETING CALLED TO ORDER:

Chair Rob Yorke called the meeting to order at 8:40 a.m.

B. APPROVAL OF AGENDA AND ORDER OF BUSINESS:

The Board made the following motion:

MOTION: Jim Patrick moved to approve the June 24, 2014, Board meeting draft agenda.

VOTE: 5-0, Ayes—Neall, Oden-Orr, Patrick, Wood, and Yorke.

C. EXECUTIVE SESSION:

The Board went into executive session at 8:45 a.m. pursuant to ORS 192.660(2)(f) to consider information or records that are exempt from public disclosure and 192.660(2)(h) to consult with legal counsel on threatened or pending litigation.

D. APPEAL COMMITTEE MEETING:

The Board met as the Appeal Committee. See Attachment A.

E. APPROVAL OF MINUTES:

The Board made the following motion:

MOTION: Simone Neall moved to approve the April 22, 2014 meeting minutes.

VOTE: 5-0, Ayes—Neall, Oden-Orr, Patrick, Wood, and Yorke.

MOTION: Melvin Oden-Orr moved to approve the June 3, 2014 meeting minutes.

VOTE: 5-0, Ayes—Neall, Oden-Orr, Patrick, Wood, and Yorke.

F. ADMINISTRATOR'S REPORT:

Interim Administrator Berri Leslie reported that CCB has a very simple budget that is very easy to track; licensing revenue and money spent. CCB projects it will underspend its budget for this biennium. CCB Administrative Services Manager Kimberlee Ayers and Enforcement Manager Stan Jessup keep a close watch on revenue and make sure CCB is being conservative in its spending.

Ms. Leslie reported a six percent increase in the number of new licensees from this time last year. CCB is averaging 80 percent renewal rate for the quarter.

Ms. Leslie also reported that Enforcement staff had begun a statewide campaign of making unannounced visits to construction jobsites (commonly known as "sweeps").

The sweeps began in the spring, and will continue throughout the year.

In response to the Administrator's Report Board member Patrick asked that the new licensing and renewal charts and graphs be included in the Board packets. In regard to the newsletter article on enforcement violations, Board member Patrick asked that a short explanation be listed rather than the code violation number. Additionally, Board member Patrick requested that the list of continuing education providers (RCE) simply have the names of the approved providers. Currently the website gives a list of courses and each course has to be opened up to see who is providing the course.

(Staff Action item 6.24.F)

Ms. Leslie asked if Board members had any comments or changes on the Board Strategic Planning document. No comments were made.

G. FOLLOW-UP ITEMS FROM APRIL 22 BOARD MEETING:**1. Use of Lay Representatives in Contested Case Hearings (Dahlin):**

CCB Policy Analyst Kathleen Dahlin discussed the use of lay representative in contested case hearings. In order for this to happen, three things needed to happen: 1) the agency needs to update its rules, 2) train staff, and 3) prepare and retrieve certain data to report to the Department of Justice (DOJ).

Staff have now completed all three tasks (including DOJ Code of Conduct training that Stan Jessup conducted on April 29, 2014). The target date for the initial report is July 1, 2015. The actual report is due July 1, 2017.

2. Public Records Fee Rules (Dahlin)

CCB Policy Analyst Kathleen Dahlin reported that at the April Board meeting Board members asked staff to address the rule covering public record fees to cover actual costs rather than pre-set amounts. In 2008 the agency chose to adopt a more specified pre-set fee format. It is important that the agency recoup its actual costs. The rule revision recommendations are included in the first look packet and the handout.

3. Attorney Fees Recovery (Dahlin)

CCB Policy Analyst Kathleen Dahlin reported that at the last Board meeting staff were asked to address attorney fee recovery by either statute or rule change. A statute change is needed to make any changes. Currently, CCB does not have any legislative concepts proposed that would work. The earliest CCB could submit a legislative concept would be in either the 2016 or 2017 sessions. There are four agencies that have recovery of attorney

fees in their statutes. Trying to obtain a statute change is a problem because the Oregon State Bar Administrative Law Section has said they will oppose any agency that tries to put this in their statute. Ms. Dahlin did not recommend moving forward with this issue.

H. ADMINISTRATIVE RULES:

1. Review of Rules and Discussion:

Interim Administrator Leslie and Policy Analyst Kathi Dahlin discussed the proposed rule changes with Board members.

2. Rulemaking Hearing:

Chair Yorke opened the administrative rulemaking hearing at 11:03 a.m. and read a statement regarding the rulemaking hearing.

Public Comment: No one came forward to give public comment.

The Board made the following motion after discussion of the proposed rules:

MOTION: Jim Patrick moved to approve the rule amendments on pages 55 to 75 of the Board packet, strike the word “structure” from 812-002-0120(1)(a), and revise 812-006-0200((6)(k) to change the surety bond from “\$20,000” to “\$10,000.”

VOTE: 5-0, Ayes—Neall, Oden-Orr, Patrick, Wood, and Yorke.

Board members discussed looking at revising the definition of casual, minor, inconsequential further to make it clear that roofing, windows and siding work (while no permit is required) is not minor, casual or inconsequential work.

(Staff Action item 6.24.H.2)

The rulemaking hearing closed at 11:08 a.m.

(Note: See Attachment B for the language of the adopted rules.)

3. Temporary Rules Filed:

Interim Administrator Leslie asked if Board members had any concerns regarding the temporary rules filed (page 120-137 of Board packet). No concerns were raised.

I. PUBLIC COMMENT:

Bonnie Sullivan said she appreciated the changes being made. Ms. Sullivan strongly encouraged holding Board meetings every month. Ms. Sullivan recommended that CCB find incentives for younger people to encourage them to enter the construction industry.

Ms. Sullivan suggested that CCB help different community leaders get high school students interested in the construction industry since the average age of construction contractors is between 45 to 60 years old.

J. NEW BUSINESS:

1. Home Inspector Testing:

Due to time constraints this item was not discussed.

2. Board Strategic Planning:

Due to time constraints this item was not discussed.

K. BOARD CALENDAR:

No changes were made.

F. ADJOURNMENT

The meeting adjourned at 4:00 p.m. The next Board meeting and Appeal Committee meeting are scheduled for June 24, 2014.

Sincerely,

Catherine Dixon

Board Secretary

2014 06-24 mins.docx

ATTACHMENT A

MINUTES OF THE JUNE 24, 2014 CONSTRUCTION CONTRACTORS BOARD APPEAL COMMITTEE MEETING

The Construction Contractors Board Appeal Committee met on Tuesday, June 24, 2014, at West Salem Roth's IGA, Oregon Room, 425 Glen Creek Rd NW, Salem, Oregon. Appeal Committee Members present included: Chair Rob Yorke, Simone Neall, Melvin Oden-Orr, Jim Patrick, and Kimberly Wood. Board members Sandi Warren and Roger Nyquist were excused from the meeting. Construction Contractors Board staff present were: CCB Interim Administrator Berri Leslie, DRS/ENF/FIS Manager Stan Jessup; Administrative Services Manager Kimberlee Ayers; Education Manager Cheryl Martinis, Licensing Manager Laurie Hall, Policy Analyst Kathi Dahlin, and Board Secretary Catherine Dixon. Assistant Attorney Generals Susan Bischoff and Kelly Gabliks were also present.

Guests Included: Bonnie Sullivan, Jason Yarashes, and Lisa Strader

Chair Yorke opened the Appeal Committee at 9:48 a.m.

1. Enforcement No. 101334, In Phillip Chung (Respondent). In the matter of imposition of a civil penalty. The respondent, In Phillip Chung, did not appear before the Board.
2. Enforcement No. 100391, Michael P. Bieker (Respondent). In the matter of imposition of a civil penalty. The respondent, Michael P. Bieker, did not appear before the Board.
3. Enforcement No. 99235, William Bunch dba Awesome Transformation Remodel Design LLC (Respondent). In the matter of revocation of license no. 181204. The respondent, William Bunch dba Awesome Transformation Remodel Design LLC, did not appear before the Board.

The Appeal Committee retired to deliberate under ORS 192.690. The meeting was reconvened and the Appeal Committee made the following decisions:

1. Enforcement No. 101334, In Phillip Chung (Respondent).

MOTION: Jim Patrick moved to remand enforcement case no. 101334 back to the Administrative Law Judge for further hearing to address additional factual and evidentiary issues.

VOTE: 5-0, Ayes—Neall, Patrick, Oden-Orr, Wood and Yorke.

2. Enforcement No. 100391, Michael P. Bieker (Respondent).

MOTION: Rob Yorke moved to adopt the proposed order in enforcement case no. 100391 as the final order and impose a civil penalty in the amount of \$10,000 and direct the Interim Administrator to execute the final order on behalf of the Appeal Committee.

VOTE: 5-0, Ayes—Neall, Patrick, Oden-Orr, Wood and Yorke.

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3. Enforcement No. 99235, William Bunch dba Awesome Transformation Remodel Design LLC (Respondent).

MOTION: Melvin Oden-Orr moved to approve the proposed order in enforcement case no. 99235 as the final order and direct the Interim Administrator to execute the final order on behalf of the Appeal Committee.

VOTE: 5-0, Ayes—Neall, Patrick, Oden-Orr, Wood and Yorke.

The meeting adjourned at 10:15 a.m. The next Appeal Committee meeting is scheduled for August 26, 2014.

Respectfully submitted,

Catherine Dixon
Appeal Committee Secretary

ap mins 2014 6-24.docx

ATTACHMENT B

812-002-0120

Casual, Minor or Inconsequential

(1) "Casual, minor or inconsequential" as used in ORS 701.010(4) means work:

(a) ~~[not of a structural nature]~~ **That does not require a permit;**

(b) ~~[which cannot]~~ **That does not** affect the health or safety of the owner or occupant of the structure~~[-];~~

(c) ~~[the value of which]~~ **For which the aggregate contract price for all work on one structure or project** is less than \$1,000; **and**

(d) ~~[and]~~ **That** does not include work done as a subcontractor to a licensee.

(2) Work involving lead-based paint abatement, inspection, renovation or risk assessment of child-occupied facilities or target housing, as those terms are defined in OAR 812-007-0020, affects the health and safety of owners and occupants and is not "casual, minor or inconsequential" work.

Stat. Auth.: ORS 670.310 and 701.235

Stats. Implemented: ORS 656.027 and 701.010

(4/98, 6/00, 12/13 eff. 1/1/14, 6/14 eff. 7/1/14)

812-003-0120

License Required to Advertise

(1) No person shall advertise or otherwise hold out to the public that person's services as a contractor unless that person holds a current, valid license, nor shall any person claim by advertising or by any other means to be licensed, bonded, or insured unless that person holds a current, valid license.

(2) License number in advertising and contracts:

(a) All newsprint classified advertising and newsprint display advertising for work subject to ORS chapter 701 prepared by a contractor or at the contractor's request or direction, shall show the contractor's license number.

(b) All written bids, written inspection reports and building contracts subject to ORS chapter 701 shall show the contractor's license number.

(c) All telephone directory space ads and display ads shall show the contractor's license number.

(d) All advertisements by audio-only media, such as radio commercials, must contain an audible statement of the contractor's license number.

(e) All advertisements by video media or video and audio combined media, such as television commercials, must show visually the contractor's license number.

(f) All advertising by internet media, including but not limited to, website advertising must show visually the contractor's license number.

(g) All business cards, business letterhead, business signs at construction sites and all other written or visual advertising shall show the contractor's license number. **Written or visual advertising does not include permanently affixed or attached signs at a contractor's place, or places, of business that primarily and prominently display the contractor's name.**

(h) This section does not apply to a company whose primary business is other than construction and has a Standard Industrial Classification (SIC) code from other than Major Groups 15, 16, and 17.

(i) This section does not apply to promotional gifts, including, but not limited to, pencils, pens, cups and items of clothing.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.010 & ~~[701.026]~~ **701.021**

(12/04, 6/08, 5/09, 11/09 eff. 1/1/10, 6/14 eff. 7/1/14)

812-003-0142

License Application Fees

(1) The application fee for all new, renewal, or reissued licenses is \$325.

(2) Except as provided in section (3) of this rule, application fees will not be refunded.

(3) If a licensee submits an application to renew a license and the agency cannot renew the license because the applicant has formed a new business entity, the agency may refund the renewal application fee, less a \$40 processing fee.

(4)(a) Any licensee in the United States armed forces need not pay a license renewal fee if such fee would be due during the licensee's active duty service.

(b) A licensee in the United States armed forces shall pay the next license renewal fee that will become due after the licensee is discharged from active duty service.

(c) The agency may request that the licensee provide documentation of active duty status and of discharge.

(d) Section (4) of this rule applies to licensees that are sole proprietors or partners in a general partnership.

Stat. Auth.: ORS 670.310, 701.238 & 701.235

Stats. Implemented: ORS 701.056, 701.063, & 701.238
(temp. 5/5/14, 6/14 eff. 7/1/14)

812-003-0260

Application for New License

(1) Each entity must complete an application form prescribed by the agency. Information provided on the form must include, but not be limited to:

(a) Name of business entity, all additional business names, including assumed business names, under which business as a contractor is conducted, and Corporation Division registry numbers (if applicable);

(b) Mailing and location address of the business entity;

(c) Legal name and address (which may be the business address) of:

(A) The owner of a sole proprietorship;

(B) All partners of a general partnership or limited liability partnership;

(C) All joint venturers of a joint venture;

(D) All general partners of a limited partnership;

(E) All corporate officers of a corporation;

(F) All trustees of a trust;

(G) The manager and all members of a manager-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph;

(H) All members of a member-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph; or

(I) The responsible managing individual designated by the applicant.

(d) Except for a public company, the date of birth and driver license number of:

(A) The owner of a sole proprietorship;

(B) All partners of a general partnership or limited liability partnership;

(C) All joint venturers of a joint venture;

(D) All general partners of a limited partnership;

(E) All corporate officers of a corporation;

(F) All trustees of a trust;

(G) The manager and all members of a manager-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph;

(H) All members of a member-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph; or

(I) The responsible managing individual designated by the applicant.

(J) For purposes of this subsection, a "public company" means any business entity that offers securities registered for sale by the federal Securities and Exchange Commission to the general public.

(e) Social security number of the owner of a sole proprietorship or partners, if partners are human beings, in a general partnership;

(f) Class of independent contractor license and employer account numbers as required under OAR 812-003-0250;

(g) License endorsement sought, as provided for under OAR 812-003-0131;

(h) The identification number of the responsible managing individual who has completed the education and passed the examination required under ORS 701.122 or is otherwise exempt under division 6 of these rules;

(i) The Standard Industrial Classification (SIC) numbers of the main construction activities of the entity;

(j) Names and certification numbers of all certified locksmiths if the entity is a Residential Locksmith Services Contractor or will do work providing locksmith services under ORS 701.475 to 701.490;

(k) Names and certification numbers of all certified home inspectors if the entity will do work as a home inspector under ORS 701.350;

(L) Names and certification numbers of all certified home energy assessors if the entity is a Home Energy Performance Score Contractor providing home energy performance scores under ORS 701.527 to 701.536 or will do work providing home energy performance scores.

(m) For each person described in subsection (1)(c) of this section, the following information if related to construction activities:

(A) If unsatisfied on the date of application, a copy of a final judgment by a court in any state entered within five years preceding the application date that requires the person to pay money to another person or to a public body;

(B) If unsatisfied on the date of application, a copy of a final order by an administrative agency in any state issued within five years preceding the application date that requires the person to pay money to another person or public body;

(C) If pending on the date of application, a copy of a court complaint filed in any state that alleges that the person owes money to another person or public body; or

(D) If pending on the date of application, a copy of an administrative notice of action issued in any state that alleges that the person owes money to another person or public body.

(n) For each person described in subsection (1)(c) of this section, the following information if related to construction activities;

(A) A copy of a judgment of conviction for a crime listed in ORS 701.098(1)(i), entered within five years preceding the application date; or

(B) A copy of an indictment for a crime listed in ORS 701.098(1)(i), entered within five years preceding the application date.

(C) In addition to documents required in paragraphs (1)(l)(A) and (B) of this section, copies of police reports, parole or probation reports indicating parole or probation officer's name and phone number, and letters of reference.

(o) Independent contractor certification statement and a signed acknowledgment that if the licensee qualifies as an independent contractor the licensee understands that the licensee and any heirs of the licensee will not qualify for workers' compensation or unemployment compensation unless specific arrangements have been made for the licensee's insurance coverage and that the licensee's election to be an independent contractor is voluntary and is not a condition of any contract entered into by the licensee;

(p) Signature of owner, partner, joint venturer, corporate officer, member or trustee, signifying that the information provided in the application is true and correct; and

(2) A complete license application includes but is not limited to:

(a) A completed application form as provided in section (1) of this rule;

(b) The new application license fee as required under OAR [~~812-003-0140~~] **812-003-0142**;

(c) A properly executed bond, letter of credit or assignment of savings as required under OAR 812-003-0152, 812-003-0153, or 812-003-0155; and

(d) The certification of insurance coverage as required under OAR 812-003-0200.

(3) The agency may return an incomplete license application to the applicant with an explanation of the deficiencies.

(4) All entities listed in section (1) of this rule that are otherwise required to be registered with the Oregon Corporation Division must be registered with the Oregon Corporation Division and be active and in good standing. All assumed business names used by persons or entities listed in section (1) of this rule must be registered with the Oregon Corporation Division as the assumed business name of the person or entity using that name.

Stat. Auth.: ORS 670.310 and 701.235

Stats. Implemented: ORS 25.270, 25.785, 25.990, 701.035, 701.050, 701.056, 701.068, 701.073, 701.081, 701.088 and 701.122

(12/04, 8/05, 5/06, 9/06, 12/06, 8/07, 12/07, 2/08, 3/08, 6/08, 9/08, 12/13 eff. 1/1/14, 4/30/14, temp. 5/5/14, 6/14 eff. 7/1/14)

812-003-0340

Inactive Status Request at Renewal

(1) A request to convert a license to inactive status made at the time of renewal of the license must be accompanied by fees required under OAR [~~812-003-0140~~] **812-003-0142**.

(2) If a license is converted to inactive status at the time of renewal of the license, the effective date of the renewed license shall be the expiration date of the previous license. An inactive license, if renewed, shall expire two years after its effective date.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.063

(12/04, 2/08, temp. 5/5/14, 6/14 eff. 7/1/14)

812-003-0350

Inactive Status Request at Interim Renewal Period

(1) A request to convert a license to inactive status made prior to the expiration date of the license, but at a time other than the time of renewal of the license, will be accepted only if the licensee making the request has paid all applicable fees required under OAR [~~812-003-0140~~] **812-003-0142** and 812-003-0320.

(2) If a license is converted to inactive status prior to the expiration date of the license but at a time other than the time of renewal of the license, the effective dates of the license will remain unchanged and the license will expire at the upcoming expiration date.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.063
(12/04, 6/05, 6/08, temp. 5/5/14, 6/14 eff. 7/1/14)

812-003-0360

Inactive Status Request after Lapse

(1) A request to renew a license and convert it to inactive status made after a lapse due to the expiration of the license must be accompanied by fees required under OAR [~~812-003-0140~~] **812-003-0142**.

(2) If a license is renewed and converted to inactive status after a lapse due to expiration of the license, the agency will establish the effective date of the license. An inactive license, if renewed, shall expire two years after its effective date.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.063

(12/04, 2/08, temp. 5/5/14, 6/14 eff. 7/1/14)

812-003-0370

Renewal of Inactive Status

To renew an inactive license in an inactive status:

(1) If the licensee was subject to discipline by the agency, the licensee must satisfy any conditions imposed by the agency as a result of the discipline;

(2) The licensee must submit the request to renew the license in inactive status on forms provided by the agency;
and

(3) The licensee must submit the fees required under OAR [~~812-003-0140~~] **812-003-0142**.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.056 & 701.063

(12/04, 6/08, temp. 5/5/14, 6/14 eff. 7/1/14)

812-003-0380

Converting From Inactive Back to Active Status

(1) To convert from an inactive status to an active status, the licensee must:

(a) Submit a request to convert to an active status on forms provided by the agency; and

(b) Comply with section (3), (4) or (5) of this rule as applicable.

(2) A licensee requesting conversion from an inactive status to an active status at the time of renewal must:

(a) Submit the fees required under OAR [~~812-003-0140~~] **812-003-0142**;

(b) Submit the required surety bond, or letter of credit, or cash deposit, and general liability insurance for the category requested; and

(c) Comply with all other licensing requirements prescribed by the Board.

(3) A licensee requesting conversion from an inactive status to an active status at a time other than renewal and prior to the expiration date of the license must:

(a) Submit all fees to date as required by OAR [~~812-003-0140~~] **812-003-0142** and 812-003-0320;

(b) Submit the required surety bond, or letter of credit, or cash deposit, and general liability insurance for the category requested; and

(d) Comply with all other licensing requirements prescribed by the Board.

(4) A licensee requesting conversion from an inactive status to an active status during a lapse due to the expiration of the license must:

(a) Request the conversion within two years from the date of lapse;

(b) Comply with all licensing requirements prescribed by the Board;

(c) Submit the required surety bond, or letter of credit, or cash deposit, and general liability insurance for the category requested; and

(d) Submit all fees required under OAR [~~812-003-0140~~] **812-003-0142**.

(5) If a license is converted from an inactive to an active status, the agency shall establish the effective date of the license.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.056, 701.063 & 701.088

(12/04, 6/05, 12/07, 6/08, temp. 5/5/14, 6/14 eff. 7/1/14)

812-005-0800

Schedule of Penalties

The agency may assess penalties, not to exceed the amounts shown in the following guidelines:

(1) \$600 for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, which may be reduced to \$200 if the respondent becomes licensed or to \$50 if the advertisement or bid is withdrawn immediately upon notification from the agency that a violation has occurred and no work was accepted as a result of the advertisement or bid; and

(2) \$700 per offense without possibility of reduction for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, when one or more previous violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(3) \$1,000 per offense for performing work as a contractor in violation of ORS 701.021 when the Board has no evidence that the person has worked previously without having a license and no consumer has suffered damages from the work, which may be reduced to \$700 if the respondent becomes licensed within a specified time; and

(4)(a) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when an owner has filed a complaint for damages caused by performance of that work, which may be reduced to \$700 if the contractor becomes licensed within a specified time and settles or makes reasonable attempts to settle with the owner.

(b) A "complaint for damages" as used in section (4) of this rule includes, but is not limited to:

(A) A Construction Contractors Board Dispute Resolution Services (DRS) complaint; or

(B) A letter to Construction Contractors Board indicating that a citizen has been damaged by the contractor; and

(5) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when one or more violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(6) \$500 per offense for failure to respond to the agency's request for the list of subcontractors required in ORS 701.345; and

(7) \$1,000 per offense for hiring an unlicensed subcontractor; and

(8) For failing to provide an "Information Notice to Owners about Construction Liens" as provided in ORS 87.093, when no lien has been filed, \$200 for the first offense, \$400 for the second offense, \$600 for the third offense, \$1,000 for each subsequent offense. Any time a lien has been filed upon the improvement, \$1,000.

(9) Failure to include license number in advertising or on contracts, in violation of OAR 812-003-0120: First offense \$100, second offense \$200, subsequent offenses \$400.

(10) Failure to list with the Construction Contractors Board a business name under which business as a contractor is conducted in violation of OAR 812-003-0260 **or 812-003-0280**: First offense \$50, second offense \$100, subsequent offenses \$200.

(11) Failure to notify the Construction Contractors Board of a new or additional business name or personal surname (for sole proprietors) under which business as a contractor is conducted, in violation of OAR 812-003-0320: First offense ~~warning~~ **\$50**, second offense ~~[\$50]~~ **\$100**, subsequent offenses \$200.

(12) Failing to use a written contract as required by ORS 701.305: \$500 for the first offense; \$1,000 for the second offense; and \$5,000 for subsequent offenses.

(13) Violation of OAR 812-012-0130(1), failure to provide a Consumer Notification form; \$100 first offense; \$500 second offense; \$1,000 third offense; and \$5,000 for subsequent offenses. Civil penalties shall not be reduced unless the agency determines from clear and convincing evidence that compelling circumstances require a suspension of a portion of the penalty in the interest of justice. In no event shall a civil penalty for this offense be reduced below \$100.

(14) Failure to conform to information provided on the application in violation of ORS 701.046(5), issuance of a \$5,000 civil penalty, and suspension of the license until the contractor provides the agency with proof of conformance with the application and the terms of the application.

(a) If the violator is a limited contractor or residential limited contractor working in violation of the conditions established pursuant to OAR 812-003-0130 or 812-003-0131, the licensee shall be permanently barred from licensure in the limited contractor category or residential limited contractor endorsement.

(b) If the violator is a licensed developer, residential developer or commercial developer working in violation of the conditions established pursuant to ORS 701.005(3), (6) or (14) or 701.042, the licensee shall be permanently barred from licensure in the licensed developer category or residential developer or commercial developer endorsement.

(15) Knowingly assisting an unlicensed contractor to act in violation of ORS chapter 701, \$1,000.

(16) Failure to comply with any part of ORS chapters 316, 656, or 657 or with ORS 701.035, 701.046 or 701.091, \$1,000 and suspension of the license until the contractor provides the agency with proof of compliance with the statute.

(17) Violating an order to stop work as authorized by ORS 701.225(6), \$1,000 per day.

(18) Working without a construction permit in violation of ORS 701.098, \$1,000 for the first offense; \$2,000 and suspension of CCB license for three (3) months for the second offense; \$5,000 and permanent revocation of CCB license for the third and subsequent offenses.

(19) Failure to comply with an investigatory order issued by the Board, \$500 and suspension of the license until the contractor complies with the order.

(20) Violation of ORS 701.098(1)(L) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public: first offense, \$1,000, suspension of the license or both; second and subsequent offenses, \$5,000, per violation, revocation or suspension of the license until the fraudulent conduct is mitigated in a manner satisfactory to the agency or both.

(21) Engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public by:

- (a) Not paying prevailing wage on a public works job; or
- (b) Violating the federal Davis-Bacon Act; or
- (c) Failing to pay minimum wages or overtime wages as required under state and federal law; or
- (d) Failing to comply with the payroll certification requirements of ORS 279C.845; or
- (e) Failing to comply with the posting requirements of ORS 279C.840:

\$1,000 and suspension of the license until the money required as wages for employees is paid in full and the contractor is in compliance with the appropriate state and federal laws.

(22) Violation of ORS 701.098(1)(L) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public, as described in sections (20) or (21), where more than two violations have occurred: \$5,000 and revocation of the license.

(23) When, as set forth in ORS 701.098(1)(h), the number of licensed contractors working together on the same task on the same job site, where one of the contractors is licensed exempt under ORS 701.035(2)(b), exceeded two sole proprietors, one partnership, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the contract, as follows: \$1,000 for the first offense, \$2,000 for the second offense, six month suspension of the license for the third offense, and three-year revocation of license for a fourth offense.

(24) Performing home inspections without being an Oregon certified home inspector in violation of OAR 812-008-0030(1): \$5,000.

(25) Using the title Oregon certified home inspector in advertising, bidding or otherwise holding out as a home inspector in violation of OAR 812-008-0030(3): \$5,000.

(26) Failure to conform to the Standards of Practice in violation of OAR 812-008-0202 through 812-008-0214: \$750 per offense.

(27) Failure to conform to the Standards of Behavior in OAR 812-008-0201(2)-(4): \$750 per offense.

(28) Offering to undertake, bidding to undertake or undertaking repairs on a structure inspected by an owner or employee of the business entity within 12 months following the inspection in violation of ORS 701.355: \$5,000 per offense.

(29) Failure to include certification number in all written reports, bids, contracts, and an individual's business cards in violation of OAR 812-008-0202(4): \$400 per offense.

(30) Violation of work practice standards for lead-based paint (LBP) activity pursuant to OAR 812-007-0140 or 812-007-0240 first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 plus suspension of license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(31) Violation of work practice standards for LBP renovation pursuant to OAR 812-007-0340 or violation of recordkeeping and reporting requirements pursuant to OAR 333-070-0110: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 and suspension of the certified LBP renovation contractor license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(32) Violation of OAR 812-007-0100, 812-007-0200 or 812-007-0300: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000. The civil penalty is payable to the Construction Contractors Board Lead-Based Paint (LBP) Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(33) Violation of ORS 279C.590:

(a) Imposition of a civil penalty on the contractor of up to ten percent of the amount of the subcontract bid submitted by the complaining subcontractor to the contractor or \$15,000, whichever is less; and

(b) Imposition of a civil penalty on the contractor of up to \$1,000; and

(c) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to six months for a second offense if the offense occurs within three years of the first offense.

(d) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to one year for a third or subsequent offense if the offense occurs within three years of the first offense.

(34) Violation of ORS 701.315, inclusion of provisions in a contract that preclude a homeowner from filing a breach of contract complaint with the Board: \$1,000 for the first offense, \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(35) Violation of ORS 701.345, failure to maintain the list of subcontractors: \$1,000 for the first offense; \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(36) Violation of 701.098(1)(f), knowingly providing false information to the Board: \$1,000 and suspension of the license for up to three months for the first offense; \$2,000 and suspension of the license for up to one year for the second offense; and \$5,000 and permanent revocation of license for the third offense.

(37) Failing to provide a written contract with the contractual terms provided by ORS 701.305 or OAR 812-012-0110: \$200 for the first offense; \$500 for the second offense; and \$1,000 for subsequent offenses.

(38) Working while the license is suspended if the licensee was required to provide an increased bond under ORS 701.068(5), 701.068(6), or OAR 812-003-0175: revocation.

(39) Working while the license is suspended for any violation of ORS 701.098(4)(a)(A) or ORS 701.098(4)(a)(B): \$5,000 for first offense, and revocation for second or subsequent offense.

(40) Working while the license is suspended for any reason except as otherwise provided for by this rule: revocation.

(41) Failure to comply with ORS 701.106(1)(a); \$1,000 for the first offense, \$5,000 for the second offense; \$5,000 and permanent revocation of CCB license for the third offense.

(42) Failure to deliver as required by ORS 701.109(2) a copy of a final judgment; \$200 first offense, \$400 second offense; \$600 for the third offense; \$1,000 for each subsequent offense.

(43) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is no claim of loss submitted to the insurance company: first offense, \$500; second offense, \$1,000; third and subsequent offenses, \$5,000.

(44) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is a claim of loss submitted to the insurance company: first offense, \$2,000; second and subsequent offenses, \$5,000.

(45) Undertaking, offering to undertake, or submitting a bid to work as a locksmith when an individual is not certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(46) Undertaking, offering to undertake, or submitting a bid to provide locksmith services when a business is not a licensed construction contractor or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(47) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the individual is a locksmith, unless an individual is certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(48) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the business providing locksmith services, unless a business: (a) is a licensed construction contractor, and (b) is owned by or employs a certified locksmith or is otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(49) Violating any applicable provision of the rules in division 30, including violating any standard of professional conduct other than OAR 812-030-0300(4): first offense, \$1,000; second offense, \$3,000; third offense, \$5,000 and revocation of the certificate.

(50) Violating OAR 812-030-0300(4): first offense, \$200; second offense, \$500; third offense, \$1,000.

Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235, 701.515, 701.992 & 701.995

Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.021, 701.026, 701.042, 701.046, 701.073, 701.091, 701.098, 701.106, 701.109, 701.227, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.510, 701.515, 701.992 & 701.995

(4/82, 10/82, 1/83, 3/83, 10/83, 3/84, 5/84, 3/85, 4/85, 1/87, 3/87, 1/88, 2/88, 6/88, 1/89, 11/89, 2/90, 3/90, 4/90, 5/90, 6/90, 7/90, 10/90, 11/90, 3/91, 9/91, 1/92, 2/92, 4/92, 6/92, 5/93, 12/93, 1/95, 9/95, 10/95, 8/96, 10/98), temp. 11/99, 5/00, 6/00, temp. 11/00, 4/01, 12/01, temp. 3/02, 3/02, 6/02, 9/02, 12/03, 6/04, 12/04, 12/05, 1/06, 6/06, 12/06, 6/07, 2/08, 6/08, 9/08, 11/08, 1/09 eff. 2/1/09, 5/09, 2/10, 4/10, temp. 7/10, 2/11 eff. 3/1/11, 6/11 eff. 7/1/11, 9/11 eff. 10/1/11, 12/11 eff. 1/1/12, 3/12, 4/12 eff. 5/1/12, 6/14 eff. 7/1/14)

812-006-0200

Pre-Licensure Training Provider Approval

(1) No pre-licensure training shall meet the requirements of ORS 701.122 unless it is offered by a pre-licensure training provider approved by the agency.

(2) To receive agency approval, individuals and organizations shall make application and sign an agreement with the agency prior to offering the pre-licensure training.

(3) The pre-licensure training provider application shall include, but will not be limited to, provisions for:

(a) Recording the name, address, contact information, and name of responsible administrator of the pre-licensure training provider.

(b) Submitting trainer resumes or work summaries that demonstrate that all its trainers have at least four years work experience or four years education, or any combination of both, in subject areas that they instruct as outlined in the Oregon Contractors Reference Manual.

(4) No pre-licensure training provider may offer or provide any pre-licensure training until there is a fully executed agreement between the pre-licensure training provider and the agency.

(5) No pre-licensure training provider may offer or provide any pre-licensure training if, at the time of offering or providing the pre-licensure training, the pre-licensure training provider is an RMI of a licensee.

(6) A pre-licensure training provider must comply at all times with the following requirements:

(a) The pre-licensure training provider will provide 16-hours of training under OAR 812-006-0150.

(b) The pre-licensure training provider will verify that each student taking the pre-licensure training has a current agency-approved manual.

(c) The pre-licensure training provider will use agency-approved curriculum and the agency-approved Oregon Contractors Reference Manual.

(d) The pre-licensure training provider will send electronic records of completion to the agency in a format approved by the agency and keep records of completion for a minimum of six years.

(e) The pre-licensure training provider will communicate law changes and program procedural changes received from the agency to the pre-licensure training provider's trainers and will implement these changes within 30 business days.

(f) The pre-licensure training provider will use only approved trainers who have at least four years work experience or four years education, or any combination of both, in the subject that they instruct as outlined in the Oregon Contractors Reference Manual. CCB will not approve as a trainer any individual who, at the time of offering or providing the pre-licensure training, is an RMI of a licensee.

(g) The pre-licensure training provider will request and receive, in writing, agency approval of all trainers at least 10 business days before trainers are scheduled to teach.

(h) The pre-licensure training provider will provide a mechanism for students to contact their trainer(s) outside of class for a minimum of one hour per week for 90 days from date of enrollment.

(i) The pre-licensure training provider will give all students information about how to contact trainers and hours of availability before the end of the pre-licensure training.

(j) The pre-licensure training provider will comply with all applicable federal and state laws.

(k) Except as provided in OAR 812-006-0205(2), the pre-licensure training provider will obtain and maintain a surety bond as described in OAR 812-006-0205 in the amount of \$10,000 obligating the surety to pay the State of Oregon for the benefit of third-parties.

(7) The agency may publicize a pre-licensure training provider's test passage rate for its students.

(8) The agency may revoke a pre-licensure training provider's right to offer training and terminate the agreement of a pre-licensure training provider at any time the pre-licensure training provider fails to:

(a) Meet any requirement of the agreement; or

(b) Comply with these rules.

(9) The agency may revoke a pre-licensure training provider's right to offer pre-licensure training and terminate the agreement of a pre-licensure training provider:

(a) Whose students do not pass the agency test on their first attempt at least 70 percent of the time after the pre-licensure training provider has provided pre-licensure training for at least three months, or whose students fail to maintain the 70 percent first attempt test passing rate during the remaining period of the agreement; or

(b) Who acquires or attempts to acquire agency test questions by unauthorized means, including but not limited to, photographing, photocopying or videotaping any part of the agency's test or paying or offering incentives to individuals or business entities to write down, photograph or videotape any part of the agency's test.

Stat. Auth.: ORS 670.310, 701.122 & 701.235

Stats. Implemented: ORS 701.122

(1/92, 2/92, 5/00, 12/01, 5/02, 6/03, temp. 1/05, 6/05, 8/05, 12/05, 9/06, 6/08, temp. 5/5/14, 6/14 eff. 7/1/14)

(Amended and renumbered from 812-006-0030, 9/06, 11/08, 4/13 eff. 5/1/13)

812-006-0205

Surety Bond to Assure Performance of Agency Agreements

(1) Providers approved under OAR 812-006-0200 will maintain a surety bond in the amount of \$10,000, issued by a surety company authorized to do business in the State of Oregon, for the benefit of the State of Oregon, Construction Contractors Board. The bond must be in the form "Approved Pre-Licensure Training Provider Surety Bond," dated June 24, 2014.

(2) Section (1) of this rule does not apply to Oregon public community colleges or small business development centers (including BizCenter Online Learning).

Stat. Auth.: ORS 670.310, 701.122 & 701.235

Stats. Implemented: ORS 701.122
(temp. 5/5/14, 6/14 eff. 7/1/14)

812-009-0340

Agency Representation by Officer or Employee

(1) Subject to the approval of the Attorney General as provided in ORS 183.452, agency officers and employees may appear, but not make legal argument, on behalf of the agency in the following types of hearings conducted by the agency:

- (a) Hearings involving the possible imposition of civil penalties for violations of statutes or regulations;
- (b) Hearings involving refusals to issue, reissue or renew, or suspensions, which will be lifted upon correction of a deficiency, payment of a penalty or payment of a construction debt, based upon:
 - (A) ORS 701.098(4)(a)(A) (no bond);
 - (B) ORS 701.098(4)(a)(B) (no insurance);
 - (C) ORS 701.098(4)(a)[~~(E)~~] **(F)** (unpaid construction debt);
 - (D) ORS 701.102 (unpaid construction debt);
 - (E) ORS 701.106, where the violation is based on a final order issued by:
 - (i) Department of Consumer and Business Services, Building Codes Division;
 - (ii) Department of Consumer and Business Services, Workers' Compensation Division;
 - (iii) Department of Consumer and Business Services, Oregon-OSHA,
 - (iv) Employment Department;
 - (v) Department of Revenue; or
 - (vi) Landscape Contractors Board.
 - (F) Failure to pay an outstanding obligation, as required by OAR 812-005-0280[~~(+)~~] **(2)**;
 - (G) Failure to obtain or maintain an increased bond, as required by ORS 701.068(5) or (6).
 - (H) Failure to provide information [~~such as a date of birth or driver's license number,~~] as required under ORS 701.046 **and OAR 812-003-0260**.

(2) The agency representative may not make legal argument on behalf of the agency.

(a) "Legal argument" includes argument on:

- (A) The jurisdiction of the agency to hear the contested case;
- (B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and
- (C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual argument or arguments on:

- (A) The application of the statutes or rules to the facts in the contested case;
- (B) Comparison of prior actions of the agency in handling similar situations;
- (C) The literal meaning of the statute or rules directly applicable to the issues in the contested case;
- (D) The admissibility of evidence;
- (E) The correctness of procedures being followed in the contested case hearing.

Stat. Auth.: ORS 183.310 to 183.550, 670.310 & 701.235

Stats. Implemented: ORS 183.450

(3/87, 12/87, 1/88, 5/93, 12/93, 1/94, 6/94, 7.94, 10/98, 6/00, 6/08, 2 temp. 2/10 eff. 2/3/10, 4/10, 6/14 eff. 7/1/14)

812-020-0050

Authority, Purpose, and Scope of Rules – Continuing Education for Commercial Contractors

(1) Authority. These rules are promulgated in accordance with ORS 670.310(1) and [~~701.124~~] **701.086**, which authorize CCB to adopt rules to administer a continuing education system for commercial contractors.

(2) Purpose. The purpose of these rules is to further explain and detail the requirements for continuing education under ORS [~~701.124~~] **701.086**.

(3) Scope. These rules establish:

- (a) Procedures for commercial contractors to report continuing education hours;
- (b) Sanctions for commercial contractors failing to comply; and
- (c) Processes for prorating requirements.

Stat. Auth.: ORS 670.310, [~~701.124~~] **701.086** & 701.235

Stats. Implemented: [~~701.124~~] **701.086**

(11/08, 6/14 eff. 7/1/14)

812-020-0055

Definitions – Continuing Education for Commercial Contractors

The following definitions apply to OAR 812-020-0050 to 812-020-0073:

(1) “Building code” means a specialty code as defined in ORS 455.010(7).
(2) “Commercial contractor” means a licensed contractor as defined under ORS 701.005(2).
(3) “Inactive commercial contractor” means a commercial contractor that has voluntarily placed its license in inactive status in accordance with OAR 812-003-0330 to 812-003-0370 and has not converted the license back to active status in accordance with ORS 812-003-0380.

(4) “Lapse in license” has the meaning given that term by OAR 812-002-0420.

(5) “License period” means the two-year period from the date a contractor’s license is first issued or last renewed until the date the license is next scheduled to expire.

Stat. Auth.: ORS 670.310, [701.124] 701.086 & 701.235

Stats. Implemented: [701.124] 701.086

(11/08, temp. 5/10, 8/10 eff. 9/1/10, 6/14 eff. 7/1/14)

812-020-0060

Effective Date – Continuing Education for Commercial Contractors

OAR 812-020-0050 to 812-020-0073 and the amendment to OAR 812-003-0280(2) take effect upon passage, and apply to commercial contractors that renew their licenses on and after July 1, 2010.

Stat. Auth.: ORS 670.310, [701.124] 701.086 & 701.235

Stats. Implemented: [701.124] 701.086

(11/08)

812-020-0062

Exemptions – Continuing Education for Commercial Contractors

(1) Commercial contractors subject to regulation under ORS 479.510 to 479.945 or 480.510 to 480.670 or ORS chapter 693 do not need to satisfy the continuing education requirements. These contractors include, but are not limited to:

- (a) Electrical contractors subject to regulation under ORS 479.510 to 479.945.
- (b) Plumbing contractors subject to regulation under ORS chapter 693~~[701.086]~~.
- (c) Boiler contractor subject to regulation under ORS 480.510 to 480.670.
- (d) Elevator contractors subject to regulation under ORS 479.510 to 479.945.
- (e) Renewable energy contractors subject to regulation under ORS 479.510 to 479.945.
- (f) Pump installation contractors subject to regulation under ORS 479.510 to 479.945.
- (g) Limited sign contractors subject to regulation under ORS 479.510 to 479.945.

(2) Commercial contractors endorsed only as commercial developers do not need to satisfy the continuing education requirements.

(3) If, during the two years immediately preceding the expiration date of the license, a commercial contractor served on active duty in the United States armed forces, including but not limited to mobilization or deployment, the continuing education requirement is waived for that two-year period. This exemption applies only if the commercial contractor is a:

- (a) Sole proprietor;
- (b) Sole owner of a corporation; or
- (c) Sole member of a limited liability company.

Stat. Auth.: ORS 670.310, [701.124] 701.086 & 701.235

Stats. Implemented: [701.124] 701.086

(11/08, 11/09 eff. 1/1/10, 6/14 eff. 7/1/14)

812-020-0065

Minimum Requirements – Continuing Education for Commercial Contractors

(1) Commercial contractors shall have a key employee, or combination of key employees, who complete continuing education.

(2) Education hours may be earned by attending offerings provided by any of the following:

- (a) Post-secondary institutions such as colleges or universities;
- (b) Trade schools;
- (c) Trade associations;
- (d) Professional societies;
- (e) Private companies;
- (f) Public agencies;
- (g) Business associations; or
- (h) Contractor-provided in-house training programs.

(3) Courses shall be a minimum of one clock hour to qualify for one hour of continuing education credit.

(4) Credit shall not be applied for the same key employee repeating the same continuing education course during a two-year period.

Stat. Auth.: ORS 670.310, [~~701.124~~] **701.086** & 701.235

Stats. Implemented: [~~701.124~~] **701.086**

(11/08, 6/14 eff. 7/1/14)

812-020-0070

Certification of Hours – Continuing Education for Commercial Contractors

(1) Upon renewal, a commercial contractor must certify that one or more key employees obtained the continuing education required by OAR 812-020-0050 to 812-020-0073.

(2) For a commercial general or specialty contractor – level 1 with five or more key employees, the commercial contractor must certify that one or more key employees completed at least 80 hours during the preceding license period.

(3) For a commercial general or specialty contractor – level 1 with four or fewer key employees, the commercial contractor must certify as follows:

(a) With four key employees, that one or more key employees completed at least 64 hours during the preceding license period.

(b) With three key employees, that one or more key employees completed at least 48 hours during the preceding license period.

(c) With two key employees, that one or more key employees completed at least 32 hours during the preceding license period.

(d) With one key employee, that the key employee completed at least 16 hours during the preceding license period.

(4) For a commercial general or specialty contractor – level 2, the commercial contractor must certify that one or more key employees completed at least 32 hours during the preceding license period.

(5) For purposes of this rule, the required amount of continuing education hours for the renewing contractor is determined based on the contractor's endorsement status as of the previous date of license issuance, reissuance or renewal. If the contractor was not endorsed as a commercial contractor on the previous date, continuing education does not apply.

(6) For purposes of this rule, if a contractor is subject to the continuing education requirement, the number of key employees is the number of such persons employed by the commercial contractor as of the previous date of license issuance, reissuance or renewal as a commercial contractor.

Stat. Auth.: ORS 670.310, [~~701.124~~] **701.086** & 701.235

Stats. Implemented: [~~701.124~~] **701.086**

(11/08, 1/09 eff. 2/1/09, 2/10, 6/14 eff. 7/1/14)

812-020-0071

Hours Earned as Residential Contractor – Continuing Education for Commercial Contractors

(1) Until December 31, 2015, a [A] commercial contractor also endorsed as a residential contractor may take credit for continuing education earned under ORS 701.126 and OAR division 21 before January 1, 2014.

(2) A commercial contractor also endorsed as a residential contractor may take credit for continuing education earned under ORS 701.082 and OAR division 22.

Stat. Auth.: ORS 670.310, [~~701.126~~] **701.086** & 701.235

Stats. Implemented: ORS [~~701.126~~] **701.082 & 701.086**

(6/09, 6/14 eff. 7/1/14)

812-020-0072

Recordkeeping and Review – Continuing Education for Commercial Contractors

(1) Every commercial contractor shall maintain records of its key employees' participation in continuing education activities for a period no less than 24 months after the renewal date.

(2) The agency may request any commercial contractor's continuing education records for review.

(3) If a commercial contractor cannot prove that the commercial contractor's key employees completed the continuing education, the agency may suspend the license until the commercial contractor proves compliance or the commercial contractor's key employees complete the missing courses.

Stat. Auth.: ORS 670.310, [~~701.124~~] **701.086** & 701.235

Stats. Implemented: [~~701.124~~] **701.086**

(11/08, 6/14 eff. 7/1/14)

812-020-0080

Inactive Commercial Contractor – Continuing Education for Commercial Contractors

If a commercial contractor's license is placed in an inactive status during any part of the license period, the commercial contractor needs only complete the continuing education hours for the period the license was active. The continuing education hours required under OAR 812-020-0070 will be prorated for the period that the license was active. For example, if a commercial contractor is inactive 6 months during the license period (inactive 25% of the time), the contractor needs to certify completion of 75% of the hours otherwise required.

Stat. Auth.: ORS 670.310, ~~[701.124]~~ 701.086 & 701.235

Stats. Implemented: ~~[701.124]~~ 701.086

(11/08, 6/14 eff. 7/1/14)

812-020-0085

Lapse in License – Continuing Education for Commercial Contractors

If a license expires and is not renewed for a period not exceeding one year, the commercial contractor may seek renewal and backdating of the license. To renew the license, the commercial contractor must certify that it has satisfied the continuing education requirements either during the license period or during the lapse in license period, or both.

Stat. Auth.: ORS 670.310, ~~[701.124]~~ 701.086 & 701.235

Stats. Implemented: ~~[701.124]~~ 701.086

(11/08, 6/14 eff. 7/1/14)

812-020-0087

Courses Completed by Key Employees – Continuing Education for Commercial Contractors

A commercial contractor may certify continuing education hours based upon courses completed by its key employees; provided that a key employee was employed by the commercial contractor when he or she completed a course. If a commercial contractor employs a key employee who completed continuing education course(s) before being hired by the commercial contractor, the commercial contractor may not include those hours to certify that it satisfied the continuing education requirement.

Stat. Auth.: ORS 670.310, ~~[701.124]~~ 701.086 & 701.235

Stats. Implemented: ~~[701.124]~~ 701.086

(11/08, 6/14 eff. 7/1/14)

812-020-0090

Key Employee of More than One Commercial Contractor – Continuing Education for Commercial Contractors

If a key employee who completes a continuing education course is employed by more than one commercial contractor when the course is completed, each commercial contractor may include those hours to certify that it satisfied the continuing education requirement.

Stat. Auth.: ORS 670.310, ~~[701.124]~~ 701.086 & 701.235

Stats. Implemented: ~~[701.124]~~ 701.086

(11/08, 12/10 eff. 1/1/11, 6/14 eff. 7/1/14)

812-022-0010

Effective Date – Continuing Education for Residential Contractors (SB 783)

(1) OAR 812-022-0000 to 812-022-0047 apply to residential contractors:

(a) That have active, non-lapsed licenses that expire on or after January 1, 2014.

(b) That renew lapsed licenses with expiration dates on or after January 1, 2014.

(c) That renew lapsed licenses with expiration dates before January 1, 2014, but that are renewed on or after January 1, 2014.

(2) Notwithstanding section (1), until December 31, ~~[2014]~~ 2015, a residential contractor may apply hours earned from attending the courses, completed during the licensing period immediately preceding January 1, 2014, towards the new residential continuing education requirements regardless of whether the courses would qualify under the new law. These courses may include ~~[;]~~ the following.

(a) Construction Contractor Board laws, regulations and business practices (up to three hours)~~[;]~~. Hours earned will be applied towards the three hours of Construction Contractor Board laws, regulations and business practices required for the new residential continuing education.

(b) Building codes courses approved by CCB before January 1, 2014, (up to two hours)~~[;]~~. Hours earned will be applied towards the five hours of Series A courses required for the new residential continuing education.

(c) Building Exterior Shell Training (BEST) (up to three hours)~~[; and]~~. Hours earned will be applied towards the five hours of Series A courses required for the new residential continuing education.

(d) Elective courses. Hours earned will be applied towards the eight hours of Series B courses required for the new residential continuing education for contractors licensed less than six years.

(3) Notwithstanding section (1), a residential contractor renewing a license on or after January 1, 2014, that expired before October 1, 2013, must complete three hours of BEST and two hours of building code courses. The BEST and building code course hours will substitute for required Series A Course hours.

(4) Notwithstanding section (1), a residential contractor renewing a license on or after January 1, 2014, which expired between October 1, 2013, and December 31, 2013, must complete two hours of building code course. The hours will substitute for required Series A Course hours.

(5) Notwithstanding OAR 812-021-0028(7) and (8), providers approved pursuant to OAR 812-021-0025 or 812-022-0025 may continue to offer BEST or building codes courses previously approved by CCB under OAR 812-021-0028 without submitting additional application or fees for provider or course approval.

(6) Notwithstanding section (1), a contractor renewing its license between January 1, 2014, and March 31, 2014, may elect to renew the license pursuant to OAR 812-021-0015 rather than renewing its license pursuant to this rule. A contractor making this election will need to maintain record of the continuing education courses it completes to satisfy OAR 812-021-0015 for which the provider does not otherwise submit notification of completion of core hours.

Stat. Auth.: ORS 670.310, 701.082, 701.126 and 701.235

Stats. Implemented: ORS 701.082

(10/24/13, temp. 10/29/13, 2/6/14, temp. 3/26/14, 6/14 eff. 7/1/14)

812-022-0015

Minimum Continuing Education Requirements – Continuing Education for Residential Contractors (SB 783)

(1) Except as provided in section (3), residential contractors shall have an owner, officer, RMI or employee, or a combination of those persons, who complete a minimum of eight hours of continuing education every licensing period as described in sections (2) and (3).

(2) Residential continuing education hours consist of the following:

(a) Three hours of education on laws, regulations and business practices offered by the agency or by an approved provider under an agreement with the agency; and

(b) Five hours of Series A Courses, approved by the agency and offered by approved providers, in one or more of the following subjects:

(A) Construction business practices;

(B) Marketing;

(C) Customer service;

(D) Accounting;

(E) Business law;

(F) Bidding;

(G) Building Codes; or

(H) Safety.

(3) Residential contractors that have not been licensed as a residential contractor during any part of the six-years immediately preceding their scheduled renewal date must complete an additional eight hours of residential continuing education offered by an approved provider. The education hours may include:

(a) Series A Courses described in section (2)(b); ~~or~~

(b) Series B Courses in one or more of the following subjects:

(A) Energy efficiency; or

(B) Trade specific subjects, such as roofing, excavation, or exterior shell construction, as selected by the contractor~~[-];~~ **or**

(c) Courses in excess of three hours of education on laws, regulations and business practices offered by the agency, or by an approved provider under an agreement with the agency, as described in section (2)(a).

(4) Courses shall be a minimum of 50 minutes to qualify for one hour of residential continuing education credit. Courses shall be at least one credit hour.

(5) Credit shall not be given for an individual student repeating the same residential continuing education course during a two-year licensing period.

(6) If, during the two years immediately preceding the expiration date of the license, a residential contractor served on active duty in the United States armed forces, including but not limited to mobilization or deployment, the residential continuing education requirement is waived for that two-year licensing period. This exemption applies only if the residential contractor is a:

(a) Sole proprietor without employees;

(b) Sole owner of a corporation; or

(c) Sole member of a limited liability company.

Stat. Auth.: ORS 670.310, 701.082, & 701.235

Stats. Implemented: ORS 701.082

(10/24/13, temp. 11/26/13, 2/6/14, 6/14 eff. 7/1/14)

812-022-0021

[Plumbing and Electrical Contractor] Exemptions from Continuing Education – Continuing Education for Residential Contractors (SB 783)

~~[(1) Subject to section (2) of this rule, the] **The** following [persons] **contractors** are exempt from [completing Series A Courses required under OAR 812-022-0015(2)(b) and Series B Courses required under OAR 812-022-0015(3)(b)] **continuing education requirements as required by OAR division 22:**~~

~~[(a)]~~ **(1)** Contractors licensed as plumbing contractors under ORS 447.010 to 447.156; ~~[and]~~

~~[(b)]~~ **(2)** Contractors licensed as electrical contractors under ORS 479.630[-];

(3) Contractors owned by, or having an officer who is, an architect registered under ORS 671.010 to 671.220;
and

(4) Contractors owned by, or having an officer who is, a professional engineer licensed under ORS 672.002 to 672.325

~~[(2) A contractor that is exempt under this rule and has been licensed as a residential contractor during all of the six years immediately preceding renewal must complete sufficient course hours in trade licensing continuing education or Series A Courses to total five hours. To qualify for the exemption, an owner or employee of the contractor must complete the trade licensing continuing education.]~~

~~[(3) A contractor that is exempt under this rule and has not been licensed as a residential contractor during any part of the six years immediately preceding renewal must:~~

~~(a) Complete sufficient course hours in trade licensing continuing education or Series A Courses to total five hours;~~
~~and~~

~~(b) Complete sufficient course hours in trade licensing education, Series A Courses, or Series B Courses to total eight hours.~~

~~(c) To qualify for the exemption, an owner or employee of the contractor must complete the trade licensing continuing education.]~~

Stat. Auth.: ORS 670.310, 701.082, 701.083, & 701.235

Stats. Implemented: ORS 701.082 and 701.083

(10/24/13, temp. 11/26/13, 2/6/14, temp. 3/26/14, 6/14 eff. 7/1/14)

812-022-0022 Experience Exemptions from Continuing Education – Continuing Education for Residential Contractors (SB 783)

(1) Notwithstanding ORS 701.082(2), if a contractor was licensed for at least six years before the contractor's renewal date, the contractor may qualify for renewal by completing eight hours of continuing education as provided in ORS 701.082(1).

(2) Notwithstanding ORS 701.082(2), if a contractor's RMI was an RMI for any contractor for at least six years before the contractor's renewal date, the contractor may qualify for renewal by completing eight hours of continuing education as provided in ORS 701.082(1).

(3) The licensing for the contractor or experience for the RMI does not need to be continuous.

Stat. Auth.: ORS 670.310, 701.082 and 701.235

Stats. Implemented: ORS 701.082 and 701.265

(temp. 3/26/14, 6/14 eff. 7/1/14)