

Construction Contractors Board

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State of Oregon
Honorable John A. Kitzhaber, MD,
Governor



Berri Leslie, Interim Administrator

DRAFT

6/13/14

NOTICE OF PUBLIC MEETING

CCB Board Meeting

Tuesday, June 24, 2014

8:30 a.m.—1:00 p.m.

West Salem Roth's IGA Hospitality Center, Oregon Room
425 Glen Creek Rd NW
Salem, Oregon

<i>8:30 a.m.</i>	A. Meeting Called to Order	(PAGE #)
	B. Approval of the Agenda.....	(pg 1-2)
	C. Executive Session:.....	(pg 3)
	Executive Session, pursuant to ORS 192.660(2)(f) (consideration of an exempt public record) and 192.660(2)(h) (consultation with counsel regarding pending or threatened litigation).	
<i>9:00 a.m.</i>	D. Appeal Committee Meeting:.....	(pg 4)
<i>10:00 a.m.</i>	E. Approval of Minutes (6/3/14 & 4/22/14).....	(pg 5-23)
	F. Administrator's Report – (Berri).....	(pg 24-25)
<i>10:20 a.m. Break</i>		
<i>10:30 a.m.</i>	G. Follow up items from April 22 nd board meeting:.....	(pg 26)
	1. Use of Lay Representatives in Contested Case Hearings (Dahlin)	
	a. Memo (May 3, 2014, Dahlin to Leslie)	(pg 27-29)
	b. Proposed Rule (rulemaking scheduled June 24, 2014).....	(pg 30-31)
	c. Chart for Reporting to DOJ (2015 – 17).....	(pg 32)
	2. Public Records Fee Rules (Dahlin)	
	a. Memo (May 7, 2014, Dahlin to Leslie)	(pg 33-36)
	b. Proposed Rule (first look June 24, 2014).....	(pg 37-38)
	3. Attorney Fees Recovery (Dahlin)	
	a. Memo (May 9, 2014, Dahlin to Leslie)	(pg 39-41)
<i>10:45 a.m.</i>	H. Administrative Rules:	
	1. Administrative Rules: (Kathi)	
	a. Review of Rules and Discussion	(pg 42-120)

11:00 a.m.

- 2. Public Rulemaking Hearing June 24, 2014 @ 11:00 a.m.: (Action Item)
RCE, definition of “casual, minor or inconsequential”, penalties, advertising, pre-licensure provider bond, fees, housekeeping
 - a. Chair reads statement and opens rulemaking hearing..... (Handout/Chair)
 - b. Administrative Rule Hearing (Public Testifies) (no attach)
 - c. Chair closes rulemaking hearing (no attach)
 - d. Board takes action to approve, modify, or disapprove each rule (no attach)
 - e. Rule documents:
 - 1) Cover memo..... (pg 42-44)
 - 2) Notice (forms)..... (pg 45-54)
 - 3) Rule Language Chart (pg 55-75)**
 - 4) Background memos (pg 76-103)
 - 5) Memo re: Surety Bonds..... (pg 104-105)
 - 6) Correspondence from stakeholders..... (pg 106-119)
- 3. Temporary Rules Filed (no action needed – part of rulemaking hearing)..... (pg 120-137)

11:30 a.m.

- I. Public Comment¹ (pg 138)

12:00 p.m. Working Lunch

- J. New Business:
 - 1. Home Inspector Testing (pg 139-143)
 - 2. Board Strategic Planning..... (pg 144)
 - 3. Other
- K. Board Calendar..... (pg 145)
- Adjournment

Times are Staff Estimates Only – Actual Agenda Item Times are Subject to Change by Chair

The Board may meet in executive session under authority of ORS 192.660 from time to time. The specific statutory basis for the executive session will be announced on the record prior to the commencement of the executive session. Executive sessions are closed to the public.

The Board will be meeting in executive session pursuant to ORS 192.660(2)(f) and (h) to consider information or records that are exempt from public disclosure and consultation with legal counsel on threatened or pending litigation. This executive session will be closed to the public.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Catherine Dixon (503) 934-2185 or Oregon Relay 7-1-1.

¹ This time is set aside for persons wishing to address the Board on any matter of interest. Speakers will be limited to five minutes, unless extended by the Board chair. The Board chair reserves the right to further limit or exclude repetitious or irrelevant presentations. **If written material is included, 20 three-hole punched copies of all information to be distributed to Board members should be given to the Recorder prior to the meeting. Action will not be taken at this meeting on citizen comments.** The Board, however, after hearing from interested citizens, may place items under new business on a future agenda so proper notice may be given to all interested parties. If no one wishes to comment, the next scheduled agenda item will be considered.

Executive Session

The Board Chair will read a brief statement calling the Board into executive session under authority of ORS 192.660(2)(f) (consideration of an exempt public record) and 192.660(2)(h) (consultation with counsel regarding pending or threatened litigation).

NOTICE OF PUBLIC MEETING
REVISED
APPEAL COMMITTEE
CONSTRUCTION CONTRACTORS BOARD, STATE OF OREGON

The Construction Contractors Board Appeal Committee
is scheduled to meet on Tuesday, June 24, 2014
In the Oregon Room, Roth's West Salem (Hospitality Center)
425 Glen Creek Road NW
Salem, Oregon

The entire Construction Contractors Board will sit as the Appeal Committee

A G E N D A

Times are estimates only – actual times may vary

(Parties limit your presentation to the Committee to no more than five minutes)

Time	Item
9:00 a.m.	I. Call to Order (Chair)
	II. Approval of Agenda and Order of Business (Chair) (Action Needed)
	III. New Business: Consideration of cases for which exceptions to Proposed Orders or Petitions for Reconsideration of Final Orders have been received. (Statement to parties)
9:05 a.m.	A. CCB Enforcement (ENF):
	<ol style="list-style-type: none"> 1. Enforcement No. 101334, In Phillip Chung (Respondent). In the matter of imposition of a civil penalty. 2. Enforcement No. 100391, Michael P. Bieker (Respondent). In the matter of imposition of a civil penalty. 3. Enforcement No. 99235, William Bunch dba Awesome Transformation Remodel Design LLC (Respondent). In the matter of revocation of license no. 181204.
	B. Recess to deliberate privately, under authority of ORS 192.690(1)
	C. Return to Session, Board votes on ENF Cases (Action Needed)
	IV. Adjournment (Action Needed)

The Appeal Committee may recess the public meeting after oral argument, in order to deliberate privately, under authority of ORS 192.690(1). The public meeting will then reconvene for the purpose of decision-making.

The Board may meet in executive session under authority of ORS 192.660 from time to time. The specific statutory basis for the executive session will be announced on the record prior to the commencement of the executive session. Executive sessions are closed to the public.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Catherine Dixon (503) 934-2185 or Oregon Relay 7-1-1.

DRAFT

6/11/14

**MINUTES OF THE JUNE 3, 2014 SPECIAL
CONSTRUCTION CONTRACTORS BOARD MEETING**

The Construction Contractors Board (CCB) met on Tuesday, June 3, 2014, in Conference Room B, 700 Summer St NE, Salem, Oregon.

Attendees:

Board Members: Board Chair, Rob Yorke, and Board Members: Simone Neall, Roger Nyquist, Melvin Oden-Orr, Jim Patrick, Sandi Warren, and Kimberly Wood.

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

Guests: Jennifer Webster, Bonnie Sullivan, Jason Yarashes, Dustin Ball, and Robert Newton.

A. PROCEDURAL

1. Call to Order:

Chair Rob Yorke called the meeting to order at 1:00 p.m.

2. Approval of Agenda and Order of Business:

The Board made the following motion:

MOTION: Jim Patrick moved to approve the June 3, 2014, Board meeting agenda.

VOTE: 5-0, Ayes— Nyquist, Patrick, Warren, Wood, and Yorke.

3. Board member Roger Nyquist reported that his term of office ends June 30, 2014 and that he does not intend to seek a second term on the Board.

B. Board Strategic Planning: (Jennifer Webster, Facilitator)

Jennifer Webster, a facilitator under contract with CCB, divided Board members and leadership staff into small groups to further define items outlined on the list from the April 22, 2014 meeting. The small groups then came back with suggestions and shared them with the entire group.

Discussion ensued including what the Board's role should be and what topics Board members would like to see on the agenda at Board meetings.

Ms. Leslie will provide a written report about the decisions made.

C. Recruitment of Administrator:

Interim Administrator Berri Leslie and DCBS Recruitment Manager Robert Newton discussed the administrator recruitment with Board members.

The Board member consensus was that Robert Newton will screen the applicants down to five to seven applicants for panel interviews.

The consensus of Board members was to have three screening panels consisting of:

1. Employees/Leadership
2. Stakeholders
3. Board member Simone Neall and Interim Administrator Berri Leslie will serve as the initial screening panel of the applicants and will make recommendations of three finalists to the entire Board

The Board suggested the following parties be invited to participate in the stakeholder panel:

- Scott Barrie
- John Rakowitz
- Phil Peach
- Laurie Kendall
- Someone from the Oregon Remodelers Association

The role of the employee/leadership and stakeholder screening panels will be to state what they like or dislike and express any concerns they may have about the applicants.

Mr. Newton suggested that the screening interviews of applicants who may be from out of state should be given the option to attend via Skype.

The Board approved by consensus that the agency would pay the travel expenses for out of state finalists to attend the final interview in person.

Mr. Newton will need approximately three days to check references of the three finalists.

The full Board will interview the three finalists at a special Board meeting in July.

The consensus of the Board members was to find a second interim administrator in waiting, just in case more time is needed before the new administrator is able to start since Ms. Leslie is scheduled to leave August 13, 2014. As a backup plan, Ms. Leslie and Mr. Newton will work together to find a second interim administrator.

Sincerely,

Catherine Dixon
Board Secretary

2014 6-3 mins.docx

DRAFT

5/20/14

**MINUTES OF THE APRIL 22, 2014
CONSTRUCTION CONTRACTORS BOARD MEETING**

The Construction Contractors Board (CCB) met on Tuesday, April 22, 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, Roger Nyquist, Melvin Oden-Orr, Jim Patrick, Sandi Warren, and Kimberly Wood.

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

Guests: Bonnie Sullivan, Jason Yarashes, Kate Newhall, Flip Pennington, Jennifer Webster, Steve Lippold, Jessica Spooner, and Mike Eliason.

A. PROCEDURAL

1. Call to Order:

Chair Rob Yorke called the meeting to order at 10:30 a.m.

2. Approval of Agenda and Order of Business:

Chair Yorke approved the agenda.

3. Approval of Minutes of the January 28, 2014 and February 13, 2014, Board Meetings:

The Board made the following motion:

MOTION: Melvin Oden-Orr moved to approve the January 28, 2014 and February 13, 2014, Board meeting minutes with the amendment on page one of the February 13, 2014 minutes, last paragraph, replace the word "held" with the word "help."

VOTE: 7-0, Ayes—Neall, Nyquist, Oden-Orr, Patrick, Warren, Wood, and Yorke.

4. Board Member Reports:

Board members reported on current CCB related events in the geographic region, in which they live and work. Construction is improving in most regions and members are cautiously optimistic.

5. Mission and Goals:

Interim Administrator Leslie reported that the mission and goals have two small editorial revisions.

MOTION: Roger Nyquist moved to approve the March 11, 2014 mission and goals document.

VOTE: 7-0, Ayes—Neall, Nyquist, Oden-Orr, Patrick, Warren, Wood, and Yorke.

6. Delegations and Signature Authority:**a. Rulemaking Authority:**

Board members discussed the staff recommendations and made the following motion:

MOTION: Roger Nyquist moved to continue the current practice as recommended on page 27. Cathy Dixon will continue as the agency's rules coordinator with delegated authority, Interim Administrator Berri Leslie has delegated authority for rulemaking, and remove delegated authority for Mr. Smith.

VOTE: 7-0, Ayes—Neall, Nyquist, Oden-Orr, Patrick, Warren, Wood, and Yorke.

b. Business Operations:

Board members discussed the staff recommendations on:

- 1) Expenditure for the Agency.
- 2) Review, Sign and Approval of Board member travel reimbursements.

Board members discussed the staff recommendations on pages 29-31 of the Board packet and made the following motion:

MOTION: Roger Nyquist moved that the Chair sign the revised DAS Controller Division-Shared Client Services form authorizing the Administrator to approve all expenditures for the agency and Budget and Finance Manager to authorize certain expenditures. Member Nyquist also moved that the Administrator review, sign and approve Board member travel reimbursement and private vehicle use authorization forms.

VOTE: 7-0, Ayes—Neall, Nyquist, Oden-Orr, Patrick, Warren, Wood, and Yorke.

c. Enforcement:

Board members determined that they needed further information and recommendations from the agency's legal counsel regarding delegation of authority with respect to subpoenas, notices and proposed orders, and final orders. This item is to be discussed further at the next Board meeting.

(Staff Action item 4.22.A6c)

7. CCB Interagency Agreement with DCBS:

Interim Administrator Leslie discussed the two interagency agreements (handouts) CCB entered into with the Department of Consumer and Business Services.

MOTION: Rob Yorke moved to approve the two interagency agreements CCB entered into with DCBS.

VOTE: 7-0, Ayes—Neall, Nyquist, Oden-Orr, Patrick, Warren, Wood, and Yorke.

B. 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: Roger Nyquist moved to adopt the proposed rules as recommended by staff on pages 40 thru 46 of the Board packet.

VOTE: 7-0, Ayes—Neall, Nyquist, Oden-Orr, Patrick, Warren, Wood, and Yorke.

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

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

3. Permanent Rules Filed:

Interim Administrator Leslie reported that the rules adopted at the last Board meeting have been filed permanent.

4. Temporary Rules Filed:

Interim Administrator Leslie asked if Board members had any concerns regarding the temporary rules filed (page 89-97 of Board packet). No concerns were raised.

5. First Look for June:

Interim Administrator Leslie discussed the first look proposed rule changes on pages 98-129 of the Board packet and the handout with Board members.

Some Board members expressed concerns with the rule amendment regarding advertising and signs on buildings.

AAG Susan Bischoff recommends that at the time of the rulemaking hearing Board members state their concerns/comments on the record so they can be made part of the record of the rulemaking hearing.

The consensus of Board members was to proceed with rulemaking hearing on the proposed rules amendments.

PUBLIC COMMENT:

- Bonnie Sullivan stated that C&R Remodeling received the Best of Houzz award. The remodeling business was chosen by more than 16 million monthly users. The Court House Square in Salem was rededicated April 4, 2014. Ms. Sullivan thanked CCB Interim Administrator Leslie for sending the flyer by mail to residential construction contractors regarding residential continuing education. Ms. Sullivan expressed concern whether out of state education providers have been approved by CCB because she is still receiving a great deal of advertising mail. She reported that a business in Salem has sent out an Annual Records Solicitation form for the past three years and do not appear to be affiliated with the Secretary of State Corporation Division. She expressed concern that it could be some sort scam.

The following discussion touched on subjects in a current CCB enforcement investigation.

- Flip Pennington testified that he wanted to bring to light about the mortgage field industry, how that industry affects the State of Oregon, and changes he thinks need to be made. Mr. Pennington stated that the industry needs to be regulated and governed through the state. He wants to make sure the parties that are ordering work to be done are licensed in the state and that the contractors that are used are licensed in the state. He does not think this has not been regulated for a long time.

A Board member inquired what is the mortgage field industry.

Flip Pennington responded that when a home goes into foreclosure, the lender hires one of several companies to take care of the property for them. The work ranges from changing locks to doing repairs, winterizing, lawn maintenance, taking care of the property until it either conveys to the government or is fully foreclosed on and then the lender takes over to sell it. Those companies may be hiring companies and individuals to perform work such as contracting or home inspecting. Those companies and individuals should be licensed and may not be. Mr. Pennington expressed interest that the Board that could help oversee this industry. He feels it is large due to the number of foreclosed homes.

AAG Bischoff stated that this issue is the current subject of an enforcement investigation, so it may come before the Board at a later time. She went on to further clarify that whether the contractors are actually performing construction contracting work are subject to CCB rules and statutes. The companies arranging the hiring of contractors to perform the work are currently the subject of an enforcement investigation. Ms. Bischoff stated that she encouraged public comment and would advise the Board to refrain from asking specific questions that would become a part of formal record, and could affect the investigation. She suggested that this situation was similar to the home warranty companies. That situation was brought that to the Board's attention and was ultimately resolved by legislative action and a special type of licensure. She is currently assessing whether, in fact, that industry arranges for contracting services, which would require licensing and that would ensure that the companies with whom they do business are also licensed. Ms. Bischoff stated that she views it as an enforcement question and suspects the mortgage field industry will take a look at potential issues.

The Board stated that at this time it sounded like while the situation is being reviewed, CCB has statutes and rules to deal with unlicensed activity issue. The Board asked that Mr. Pennington come back when the investigation is concluded and he is able to discuss the issues.

(Staff Action item 4.22.Public Comment.1)

Jennifer Newhall testified that she works for Safe Guard Properties. Because of the concerns that have been raised about Safe Guard Properties, she wanted to a brief overview of Safe Guard's operations, how they work, and what type of services they provide. Ms. Newhall asked AAG Bischoff and Gabliks to let her know if she spoke about something that she should not in regard to the current investigation. Ms. Newhall stated that she believes Safe Guard is operating fully in compliance with the law and using licensed contractors where that is necessary and appropriate.

AAG Gabliks stated to the CCB Chair that she was not comfortable with further comment from the Safe Guard employee, Ms. Newhall because of the pending enforcement action. Ms. Gabliks explained that if any enforcement action is taken, Safe Guard would be given due process right including a hearing. She stated concern that any further discussion may compromise the current

investigation and pending enforcement action. Once the ALJ presents the investigation results and his/her recommendation, the Board would then decide how to proceed.

C. ONGOING ISSUES:

No issues were discussed.

D. EXECUTIVE SESSION:

The Board went into executive session at 11:45 a.m. pursuant to ORS 192.660(2)(f) and (h) to consider information or records that are exempt from public disclosure and consultation with legal counsel on threatened or pending litigation.

E. Jennifer Webster (Facilitator):

Jennifer Webster, a facilitator under contract with CCB, separated Board members and leadership staff into small groups to brainstorm the question “what should the agency look like.” Small groups then came back with suggestions and read them to the entire group.

Discussion ensued including what the Board’s role should be, what topics Board members would like to see on the agenda at Board meetings and the recruitment process for a new administrator was also discussed.

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 1-28 mins.docx

ATTACHMENT A
Rules Adopted 4-22-14

812-002-0640

Renewal

“Renewal” (of license) as used in ORS 701.063, 701.068, and 701.131 includes but is not limited to the act of submitting a replacement bond, a bond rider, or letter of credit or cash deposit, a certificate of insurance, a fee, the renewal form, any employer account numbers, and any pre-licensure training.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 670.310, 701.056, 701.063, 701.068, 701.073, 701.088, [~~701.105,~~] 701.131 & 701.238

(4/98, 9/98, 6/00, 6/03, 12/05, 12/07, 6/08, 4/11 (eff. 5/1 11), 4/13 (eff. 5/1/13), 4/30/14)

812-003-0100

Licensing Generally

(1) A license and its identifying license number will be issued to one entity only. Other entities shall not be included in that license, but each shall be separately licensed and shall separately meet the licensing requirements. No entity may perform work subject to ORS chapter 701 through the use of another entity's license.

(2) Entities shall include but not be limited to the following:

(a) Sole proprietorship;

(b) Partnership, limited liability partnership or joint venture;

(c) Limited partnership

(d) Corporation;

(e) Limited liability company; or

(f) Trust. For purposes of licensing, a trust will be treated the same as a corporation.

(3) All partners or joint venturers listed in subsection (2)(b) of this rule shall be on record with the agency.

(4) All general partners listed in subsection (2)(c) of this rule shall be on record with the agency. The agency shall not maintain a record of limited partners.

(5) If an entity listed in section (2) of this rule seeks to change to another entity, the former license may be terminated. The new entity must license anew.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS [~~701.055-(2005)]~~ 701.021

(12/04, 8/05, 4/30/14)

812-003-0160

Entity Name Required on Bond, Letter of Credit or Cash Deposit

(1) The name of the entity as it appears on the bond, letter of credit or cash deposit must be the same as the name on the application and entity name filed at the Oregon Corporation Division (if applicable).

(a) If the entity is a sole proprietorship, the bond, letter of credit or cash deposit must include the name of the sole proprietor;

(b) If the entity is a partnership, or joint venture, the bond, letter of credit or cash deposit must include the names of all partners (except limited partners);

(c) If the entity is a limited liability partnership, the bond, letter of credit or cash deposit must be issued in the name of all partners and the name of the limited liability partnership;

(d) If the entity is a limited partnership, the bond, letter of credit or cash deposit must be issued in the name of all general partners and the name of the limited partnership and any other business name(s) used. Limited partners do not need to be listed on the bond, letter of credit or cash deposit;

(e) If the entity is a corporation or trust, the bond, letter of credit or cash deposit must be issued showing the corporate or trust name; or

(f) If the entity is a limited liability company, the bond, letter of credit or cash deposit must be issued in the name of the limited liability company.

(2) If at any time an entity amends its entity name, the agency must be notified within 30 days of the date of the change.

(3) The inclusion or exclusion of business name(s) on a bond, letter of credit or cash deposit does not limit the liability of an entity. Complaints against a licensed entity will be processed regardless of business names used by an entity.

Stat. Auth.: ORS 670.310, [~~701.085-(2005);~~] 701.068, 701.088 & 701.235

Stats. Implemented: ORS 701.068[~~, 701.085-(2005)]~~ & 701.088

(12/04, 12/06, 12/07, 6/08, 4/30/14)

812-003-0190

New Bond, Letter of Credit or Cash Deposit Required for Change in Entity

(1) If an entity licenses as a sole proprietorship, partnership, limited liability partnership, limited partnership, joint venture, corporation, limited liability company, business trust or any other entity and seeks to change the licensed entity to one of the other entity types, the application must be accompanied by a new:

- (a) Bond separate from the bond held for the previous entity;
- (b) Letter of credit separate from the letter of credit held for the previous entity; or
- (c) Cash deposit separate from the previous cash deposit held for the previous entity.

(2) Riders to existing bonds changing the type of entity bonded will be construed as a cancellation of the bond and will not be otherwise accepted.

Stat. Auth.: ORS 670.310, [~~701.085 (2005)~~], 701.068, 701.088 & 701.235

Stats. Implemented: ORS 701.068[~~, 701.085 (2005)~~] & 701.088

(12/04, 12/07, 6/08, 4/30/14)

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 [~~Oregon Laws 2013, chapter 383, sections 3 through 7~~] 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;

(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 & 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 & 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)

812-003-0390

Revocation or Suspension of License

(1) Except as provided in section (2) of this rule, if the agency issues a final order, arbitration award, or determination directing a licensee to pay monetary damages and the licensee or the licensee's surety fails to pay the order, award or determination in full, the agency will revoke, suspend, or refuse to issue or reissue a license.

(2) Section (1) of this rule shall not apply if the licensee submits proof to the agency that:

(a) A United States Bankruptcy Court issued an automatic stay under Title 11 of the United States Bankruptcy Code and that stay is currently in force; or

(b) The order, award or determination described in section (1) of this rule arises from a debt that:

(A) Is included in an order of discharge issued by a United States Bankruptcy Court; or

(B) Is included in a chapter 11 plan and order conforming the plan issued by a United States Bankruptcy Court that prohibits the agency from revoking, suspending, or refusing to issue or reissue the licensee's contractor's license and the licensee is in compliance with the terms of the plan and order.

(3) The agency shall revoke, suspend, or refuse to issue or reissue a license under section (1) of this rule if:

(a) The agency previously was prevented from revoking or suspending a license or was required to issue or reissue a license under section (2) of this rule; and

(b) The licensee's bankruptcy discharge is revoked or the bankruptcy stay is lifted.

Stat. Auth.: ORS 183.310 to 183.545, 670.310, 701.235 & 701.280

Stats. Implemented: ORS 701.098 [~~and 701.100~~]

(6/76, 7/76, 1/78, 5/78, 6/80, 11/80, 5/81, 12/81, 1/82, 3/82, 4/82, 10/82, 1/83, 3/83, 10/83, 3/84, 5/84, 3/87, 12/87, 1/88, 2/95, 6/00, 5/02, 12/04, 6/08, 12/13 eff. 1/1/14, 4/30/14)

(Amended and renumbered from 812-003-0030, 12/04)

812-005-0200

Unpaid Final Orders, Arbitration Awards or Determinations that Exceed the Contractor's Bond, Letter of Credit or Cash Deposit

(1) Under ORS 701.068(5), the agency must suspend the license of a licensee if the agency issues a final order, arbitration award or determination on a complaint that exceeds the amount of the bond, letter of credit or cash deposit available to pay the order, arbitration award or determination.

(2) A suspension issued under section (1) of this rule must remain in effect until the unpaid amount of the order, arbitration award or determination is paid or until the license of the licensee expires.

(3) The agency may not reinstate or renew a license suspended under section (1) of this rule until the final order, arbitration award or determination described in section (1) of this rule and any subsequently issued order, arbitration award or determination that is unpaid, is paid, or discharged in bankruptcy.

(4) As a condition of ending a suspension or renewing a license that was suspended under ORS 701.068, and section (1) of this rule, the agency may require a licensee to file a bond, letter of credit or cash deposit up to five times as much as the amount required of a licensee under ORS 701.081 or 701.084. The amount of the increased bond, letter of credit or cash deposit required must conform to the following schedule:

(a) If the sum of unpaid amounts on final orders, arbitration awards and determinations described in section (4) of this rule exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require a bond, letter of credit or cash deposit two times the amount required under ORS 701.081 or 701.084.

(b) If the sum of the unpaid final orders, arbitration awards and determinations described in section (4) of this rule exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require a bond, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(c) If the sum of unpaid amounts on final orders, arbitration awards and determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require a bond, letter of credit or cash deposit in the amount of five times the normal amount required under ORS 701.081 or 701.084.

(d) For purposes of this section, if a contractor has both residential and commercial bonds, the increased bond requirement will apply to both bonds, even if the unpaid amounts occurred only with respect to one of the two bonds.

Stat. Auth.: ORS 670.310, 701.068[~~, 701.085 (2005),~~] 701.088 & 701.235

Stats. Implemented: ORS 701.068[~~, 701.085 (2005)~~] & 701.088

(12/04, 6/05, 12/05, 12/06, 12/07, 6/08, 4/12 (eff. 5/1/12), 4/30/14)

812-005-0210

Conditions to Require an Increased Bond, Letter of Credit or Cash Deposit

(1) Under ORS 701.068(6), the agency may require a bond, letter of credit or cash deposit of up to five times the normally required amount, if it determines that a licensee or a current or previous owner, officer or responsible managing individual, as those terms are defined in division 2 of these rules, has:

(a) A history of unpaid final orders, arbitration awards or determinations consisting of two or more final orders, arbitration awards or determinations, which remain unpaid for longer than thirty (30) days following the date of issuance.

(b) Five or more complaints filed under ORS 701.140 and processed under ORS 701.145 or 701.146 by five or more separate complainants within a one-year period from the date of filing of the most recent Dispute Resolution Services complaint.

(c) An unpaid construction debt as defined in ORS 701.005(4) or unpaid judgment arising from construction activity that exceeds the amount of the bond, letter of credit or cash deposit.

(d) Board final orders, arbitration awards or determinations issued in favor of one or more complainants under ORS 701.145 where the amount that must be paid exceeds the amount of the residential bond.

(e) Board final orders or determinations issued in favor of one or more complainants under ORS 701.146 where the amount that must be paid exceeds the amount of the commercial bond.

(2) The amount of the increased bond, letter of credit or cash deposit required under subsection (1)(a) of this rule must conform to the following schedule:

(a) If the sum of unpaid amounts on final orders, arbitration awards and determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require a bond, letter of credit or cash deposit two times the amount required under ORS 701.081 or 701.084.

(b) If the sum of the unpaid final orders, arbitration awards and determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require a bond, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(c) If the sum of unpaid amounts on final orders, arbitration awards and determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require a bond, letter of credit or cash deposit in the amount of five times the normal amount required under ORS 701.081 or 701.084.

(d) For purposes of this section, if a contractor has both residential and commercial bonds, the increased bond requirement will apply to both bonds, even if the unpaid amounts occurred only with respect to one of the two bonds.

(3) The amount of increased bond, letter of credit or cash deposit the agency may require under subsection (1)(b) of this rule will be based on the number of complaints filed and the time period that the complaints were received as follows:

(a) Two times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084 if five or more complaints are received in any twelve-month period.

(b) Three times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084 if five or more complaints are received in any six-month period.

(c) Five times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084 if five or more complaints are received in any three-month period.

(d) For purposes of this section, if a contractor has both residential and commercial bonds, the increased bond requirement will apply to both bonds, even if the unpaid amounts occurred only with respect to one of the two bonds.

(4) The amount of the increased bond, letter of credit or cash deposit required under subsection (1)(c) of this rule must conform to the following schedule:

(a) If the sum of the unpaid construction debt or judgment exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require a bond, letter of credit or cash deposit two times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(b) If the sum of the unpaid construction debt or judgment exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require a bond, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(c) If the sum of the unpaid construction debt or judgment exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require a bond, letter of credit or cash deposit five times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(d) For purposes of this section, if a contractor has both residential and commercial bonds, the increased bond requirement will apply to both bonds, even if the unpaid amounts occurred only with respect to one of the two bonds.

(5) The amount of the increased bond, letter of credit or cash deposit required under subsection (1)(d) of this rule must conform to the following schedule:

(a) If the amount of the board final orders, arbitration awards or determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require bonds, letter of credit or cash deposit two times the bond, letter of credit or cash deposit amount required under ORS 701.081 and 701.084.

(b) If the amount of the board final orders, arbitration awards or determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require bonds, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.081 and 701.084.

(c) If the amount of the board final orders, arbitrations or determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require bonds, letter of credit or cash deposit five times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(6) Notwithstanding sections (2) through (5) of this rule, a business (including an individual person) licensed as a residential general contractor or residential specialty contractor that applies to be licensed as, or seeks to change its endorsement to, a residential limited contractor must file a residential bond, letter of credit or cash deposit in an amount of five times the amount of the residential limited contractor bond, namely \$50,000, if the business or its previous owner, officer or responsible managing individual has:

(a) A history of unpaid final orders, arbitration awards or determinations consisting of two or more final orders, arbitration awards or determinations unpaid for longer than thirty (30) days following the date of issuance.

(b) Five or more complaints filed under ORS 701.140 and processed under ORS 701.145 by five or more separate complainants within a one-year period from the date of filing of the most recent Dispute Resolution Services complaint.

(c) An unpaid construction debt as defined in ORS 701.005(4) that exceeds the amount of the residential bond, letter of credit or cash deposit previously held by the business.

(d) Board final orders, arbitration awards or determinations issued in favor of one or more complainants under ORS 701.145 where the amount that must be paid exceeds the amount of the residential bond previously held by the business.

Stat. Auth.: ORS 670.310, 701.068, [~~701.085 (2005);~~] 701.088 & 701.235

Stats. Implemented: ORS 701.005, 701.068, [~~701.085 (2005);~~] 701.088 & 701.094

(12/04, 6/05, 12/05, 6/06, 9/06, 12/06, 8/07, 12/07, 6/08, 9/08, 8/10 eff. 9/1/10, 4/12 (eff. 5/1/12), 4/30/14)

812-005-0250

Repeal of Increased Bond, Letter of Credit or Cash Deposit Requirement

(1) Under ORS 701.068 or 701.088 after three years of operating under the increased bond, letter of credit or cash deposit, an applicant or licensee may submit a written request to the agency to be relieved of that obligation after demonstrating three full years of acceptable business practices while having posted the increased bond, letter of credit or cash deposit.

(2) Petitions for return to normal bond, letter of credit or cash deposit requirements under ORS 701.068 or 701.088 must be made in writing and delivered to the agency. The petition should address each requirement set forth in section (3) of this rule.

(3) The agency shall consider the applicant's or licensee's petition. The agency shall grant the petition for return to a normal bond if, within three-years period in which the increased bond was in effect, applicant or licensee satisfies all of the following requirements.

(a) The applicant or licensee paid Dispute Resolution Services final orders, arbitration awards and determinations within thirty (30) days of its issuance.

(b) The applicant or licensee paid unpaid construction related court judgments issued against the applicant or licensee.

(c) The agency did not issue any enforcement final order against the applicant or licensee.

(d) There were no criminal convictions for any of the crimes set forth in ORS 701.098(i) entered against the [~~against the~~] applicant or licensee, its owners or officers.

(4) If the applicant or licensee fails to satisfy all of the conditions set forth in section (3), the agency will require the applicant or licensee to maintain the increased bond for an additional three years from the date of the agency's decision. After that three year period, the applicant or licensee may again petition to return to a normal bond.

(5) The agency shall notify the licensee or applicant in writing of the agency's decision within 30 days of receiving the petition.

(6) If the agency denies the petition, the agency shall notify the licensee or applicant of the reasons for the denial. The licensee or applicant may seek judicial review of the agency's denial as an order in other than a contested case.

Stat. Auth.: ORS 670.310, 701.068, [~~701.085 (2005);~~] 701.088 & 701.235

Stats. Implemented: ORS 701.068, [~~701.085 (2005);~~] 701.088

(9/06, 12/07, 6/08, 3/12, 4/30/14)

812-020-0071

Hours Earned as Residential Contractor – Continuing Education for Commercial Contractors

A commercial contractor also endorsed as a residential contractor may take credit for continuing education earned under ORS [~~701.126~~] 701.082 & OAR division [~~21~~] 22.

Stat. Auth.: ORS 670.310, [~~701.126~~] 701.082 & 701.235

Stats. Implemented: ORS [~~701.126~~] 701.082

(6/09, 4/30/14)

812-022-0000

Authority, Purpose, Scope, Applicable Dates – Continuing Education for Residential Contractors (SB 783)

(1) Authority. These rules are promulgated in accordance with [~~Oregon Laws 2013, chapter 718~~] **ORS 701.082**, which requires CCB to establish a residential continuing education system for licensed residential contractors, other than developers.

(2) Purpose. The purpose of these rules is to create a residential continuing education system. The Board shall adopt minimum standards for:

- (a) Approving providers of residential continuing education;
- (b) Approving courses for residential continuing education; and
- (c) Where available, giving consideration to any residential continuing education program adopted by national construction licensing trade associations.

(3) Scope.

(a) These rules establish the content and hours required for residential continuing education.
(b) These rules establish procedures for recordkeeping, for verifying attendance or completion of residential continuing education hours and for sanctions for failing to comply.

(c) These rules establish procedures and standards for provider and course approval.

(d) These rules establish fees for:

- (A) Provider approvals;
- (B) Course approvals;
- (C) Specialized education program approvals;
- (D) Per attendee charge to providers for each completed approved course;
- (E) Training offered by the agency; and
- (F) Charge to providers that, by agreement, offer the agency-developed training.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] **ORS 701.082**

(10/24/13, 4/30/14)

812-022-0005

Definitions – Continuing Education for Residential Contractors (SB 783)

The following definitions apply to OAR 812-022-0000 to 812-022-0047:

(1) “Employee” means:

- (a) Any individual employed by a contractor; or
- (b) A leased worker provided to a contractor by contract with a worker leasing company defined under 701.005(19) (2013) or licensed under ORS 656.850(2).

(c) “Employee” does not include a subcontractor, which is an independent contractor, or a temporary employee.

(2) “Instructor” means:

- (a) Any individual who develops, or assists in developing, curriculum for any course;
- (b) Any individual who presents a course in live format; or
- (c) Any individual who is available to answer questions from course attendees or participants.

(3) “Licensing 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.

(4) “Officer” means an individual person as defined in ORS 701.005(12).

(5) “Owner” means an individual person as defined in OAR 812-002-0537.

(6) “Residential contractor” means a licensed contractor as defined in ORS 701.005(13).

(7) “Responsible managing individual (RMI)” means an individual person as defined in ORS 701.005(16).

(8) “Series A Courses” means courses required under OAR 812-022-0015(2)(b) that CCB has approved pursuant to OAR 812-022-0028.

(9) “Series B Courses” means courses satisfying requirements under OAR 812-022-0015(3)(b) that do not require CCB approval.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] **ORS 701.082**; [~~Or Laws 2013, Chapter 300 (SB 207)~~] **701.005 & 701.035**

(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0011

Residential Developer Exemption – Continuing Education for Residential Contractors (SB 783)

Residential developers are exempt from the residential continuing education requirements in OAR 812-022-0000 to 812-022-0047.

Stat. Auth.: ORS 670.310, [701-126] 701.082 & 701.235
Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] ORS 701.082
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0016

Fees for Agency Courses – Continuing Education for Residential Contractors (SB 783)

(1) The agency may charge a fee of \$15 per course hour for courses in laws, regulations, and business practices, offered by the agency as provided in OAR 812-022-0015(2)(a).

(2) In addition to the fee for the course, CCB may charge for processing, shipping and handling course materials made available other than online.

(3) If the agency enters into agreements with providers to provide the agency's courses on laws, regulations and business practices, the agency may charge providers an additional fee of \$4 per student per course hour, in addition to the fees charged in section (1).

Stat. Auth.: ORS 670.310, [701-126] 701.267 & 701.235
Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] ORS 701.267
(10/24/13, 4/30/14)

812-022-0018

Agreements to Offer Agency Courses – Continuing Education for Residential Contractors (SB 783)

The agency may enter into agreements with approved providers to provide the agency's courses on laws, regulations and business practices.

Stat. Auth.: ORS 670.310, [701-126] 701.267 & 701.235
Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] ORS 701.267
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0033

Provider Rosters, Notification of Completion and Certificates of Completion for Series A Course Hours – Continuing Education for Residential Contractors (SB 783)

(1) Providers will maintain rosters capturing data for all contractors that complete Series A Courses, as described in 812-022-0015(2)(b). Rosters will contain the following information:

- (a) Course name and any other information identifying course, as required by agency;
- (b) Contractor's name;
- (c) Contractor's license number;
- (d) Name of individual attending or completing the course;
- (e) Relationship of individual completing the course to contractor (e.g. owner, officer, member, employee);
- (f) Date individual attended or completed the course;
- (g) Number of hours credit obtained by attending or completing the course; and
- (h) Certification by individual completing the course that the identified individual:
 - (A) Attended or completed the entire course; and
 - (B) No other individual attended, completed or assisted in completing the course in place of the individual.

(2) Providers will transmit data, as directed by the agency, containing the information in section (1) and notifying the agency when a contractor completes a Series A Course. Providers must submit data by 12:00 noon of the business day following the date the contractor completes the course.

(3) Upon satisfactory completion of each Series A Course, providers will prepare a certificate of completion for the person completing the course. The certificate of completion will contain the following information:

- (a) Provider name;
- (b) Provider number assigned by the agency;
- (c) Course name;
- (d) Course number assigned by the agency;
- (e) Number of credit hours;
- (f) Date of course completion;
- (g) Student name;
- (h) Name of contractor with which student is associated;
- (i) Contractor CCB number; and
- (j) Any other information required by the agency.

Stat. Auth.: ORS 670.310, [701-126] 701.267 & 701.235
Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] ORS 701.267
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0036

Agency Tracking of Hours – Continuing Education for Residential Contractors (SB 783)

- (1) The agency will track completion of Series A and Series B Course hours.
 - (2) The agency may notify contractors, in advance of their renewal dates, of the number of Series A Course hours left to be completed before renewal.
 - (3) The agency may notify contractors, in advance of their renewal dates, of reported Series B.
- Stat. Auth.: ORS 670.310, [~~701.126~~] 701.082 & 701.235
Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] ORS 701.082
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0037

Certification, Recordkeeping, and Review – Continuing Education for Residential Contractors (SB 783)

- (1) Contractors shall maintain records of continuing education courses completed for a period of:
 - (a) 24 months after the renewal date for which the residential continuing education was reported; or
 - (b) For a lapsed license, a period of 24 months after the date the license ceased to be lapsed.
 - (2) The agency may request any contractor's residential continuing education records for review.
 - (3) If a contractor cannot prove that it completed the residential continuing education, the agency may suspend or refuse to renew the license until the contractor proves compliance or completes the missing courses.
- Stat. Auth.: ORS 670.310, [~~701.126~~] 701.082 & 701.235
Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] ORS 701.082
(10/24/13, 4/30/14).

Operative 1-1-14

812-022-0040

Inactive Status During the License Period or Upon Renewal – Continuing Education for Residential Contractors (SB 783)

- (1) If a contractor is inactive for less than one year and seeks to renew in active status, the contractor must complete all residential continuing education required under OAR 812-022-0015. The contractor may satisfy the requirement by residential continuing education completed during the inactive period.
 - (2) If a contractor is inactive for one year or more during the licensing period and seeks to renew in active status, the contractor is not required to complete the residential continuing education requirements under OAR 812-022-0015.
 - (3) If a contractor is inactive for any period of time and seeks to renew in inactive status, the contractor is not required to complete residential continuing education required under OAR 812-022-0015.
 - (4) If a contractor is active at the time of renewal and seeks to renew in inactive status, the contractor is not required to complete the residential continuing education requirements under OAR 812-022-0015.
 - (5) Notwithstanding section (4), if an inactive contractor renews to inactive status and seeks to change to active status during the two-year licensing period, the contractor must complete residential continuing education required in OAR 812-022-0015. The contractor may satisfy the requirement by residential continuing education completed during the inactive period. Hours completed and credited towards this renewal may not be included for contractor's next renewal.
 - (6) Hours completed and credited towards one renewal may not be included for contractor's next renewal.
- Stat. Auth.: ORS 670.310, [~~701.126~~] 701.082 & 701.235
Stats. Implemented: [~~Oregon Laws 2013, Chapter 718 (SB 783)~~] ORS 701.063 & 701.082
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0042

Lapse in License – Continuing Education for Residential Contractors (SB 783)

- If a license lapses and a contractor applies for renewal as provided in ORS 701.063(4) and OAR 812-003-0300, the contractor must satisfy the residential continuing education requirements of OAR 812-022-0015. The contractor may satisfy the requirement by residential continuing education completed during the lapse period.
- Stat. Auth.: ORS 670.310, [~~701.126~~] 701.082 & 701.235
Stats. Implemented: [~~Oregon Laws 2013, Chapter 718 (SB 783)~~] ORS 701.063 & 701.082
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0045

Claiming Continuing Education Credits – Continuing Education for Residential Contractors

(1) A contractor may claim continuing education hours for courses completed during the time an employee is employed by the contractor. If the employee is a leased worker, the employee must complete the continuing education hours while leased to the contractor.

(2) If an employee completed continuing education before being hired by a contractor, the contractor may not claim those hours to satisfy its continuing education requirement.

(3) A contractor may claim continuing education hours for courses completed at the time the owner, officer or RMI is associated with the contractor.

(4) If an owner, officer or RMI completed continuing education before associating with a contractor, the contractor may not claim those hours to satisfy the continuing education requirement.

Stat. Auth.: ORS 670.310, [~~701.126~~] 701.082 & 701.235

Stats. Implemented: [~~Oregon Laws 2013, Chapter 718 (SB 783)~~] ORS 701.082

(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0047

Personnel of More than One Contractor– Continuing Education for Residential Contractors

(1) If an employee who completes a continuing education course is employed by more than one contractor at the time the employee completes the course, each employing contractor may claim the continuing education hours. For purposes of this rule, “employed by more than one contractor” does not include leased workers leased by more than one contractor. For leased workers, only one contractor may claim the continuing education credits.

(2) If an owner, officer or RMI who completes a continuing education course is associated with more than one contractor at the time the owner, officer or RMI completes the course, each affiliated contractor may claim the continuing education hours.

Stat. Auth.: ORS 670.310, [~~701.126~~] 701.082 & 701.235

Stats. Implemented: [~~Oregon Laws 2013, Chapter 718 (SB 783)~~] ORS 701.082

(10/24/13, 4/30/14)

812-032-0000

General Definitions

The following definitions apply to OAR 812-032-0000 to 812-032-0150:

(1) “Certificate” means the authorization issued by the board to an individual home energy assessor.

(2) “License” means the construction contractor license issued by the board under ORS 701.046 to a business offering or providing home energy performance scores, including, but not limited to, a home energy performance score contractor.

Stat. Auth.: ORS 670.310, 701.235

Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] ORS 701.527 to 701.536

(12/13 eff. 1/1/14, 4/30/14)

812-032-0100

General Application Requirements

An individual must submit the following to qualify for a home energy assessor certificate:

(1) An application on a form provided by the board;

(2) Proof of passing a training program designated by the Department of Energy;

(3) If applicable, the CCB license number of the business owned by or employing the applicant; and

(4) The fee established in OAR 812-032-0150.

Stat. Auth.: ORS 670.310, 701.235 & 701.532

Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] ORS 701.527 to 701.536

(12/13 eff. 1/1/14, 4/30/14)

812-032-0110

Certificate Issuance

(1) The effective date of the certificate will be the date that the applicant meets all board requirements, including paying the fee required under OAR 812-032-0150.

(2) A unique number will be assigned to each certificate.

(3) If the board issues a certificate, it will mail the certificate to the applicant.

(4) If the board denies a certificate, it will state, in writing, the reasons for denial.

(5) A certificate shall be non-transferable.

(6) A certificate shall be effective for one year from the date of issue.
Stat. Auth.: ORS 670.310, 701.235 & 701.532
Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] ORS 701.532
(12/13 eff. 1/1/14, 4/30/14)

812-032-0120

Requirements for Certificate Renewal

A certified home energy assessor shall submit the following to the board for renewal of the home energy assessor's certificate:

- (1) Renewal application information as required by the board;
- (2) If applicable the CCB license number of the business owned by or employing the applicant; and
- (3) The fee established in OAR 812-032-0150.

Stat. Auth.: ORS 670.310, 701.235 & 701.532
Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] ORS 701.532
(12/13 eff. 1/1/14, 4/30/14)

812-032-0123

Certificate Cards

(1) The agency shall issue a certificate and pocket card effective on the date on which the certificate becomes effective under OAR 812-032-0110 or 812-032-0120.

- (2) A certificate and pocket card is valid for the term for which it is issued.
- (3) If a certificate becomes invalid, the agency may require the return of the certificate and pocket card.
- (4) There is no charge for the original certificate and pocket card issued by the agency.
- (5) There is a \$10 fee to replace a certificate and pocket card.

Stat. Auth.: ORS 670.310, 701.235 & 701.532
Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] ORS 701.532
(12/13 eff. 1/1/14, 4/30/14)

812-032-0130

Certificate Renewal – Effective Date; Effect of Lapse

(1) A renewed certificate shall be effective on the day following the expiration date for which the renewal is sought if the certified home energy assessor fulfills all of the requirements in OAR [~~812-032-0120~~] 812-032-0120 on or before the expiration date.

(2) Except as provided in subsection (4), if a certified home energy assessor fails to fulfill all of the requirements in OAR 812-032-0120 on or before the expiration date, but fulfills the requirements at a future date, the renewal shall be effective on the date that all the requirements for renewal have been fulfilled. During the period from the expiration date to the effective date, the certificate is deemed to have lapsed.

(a) A home energy assessor may not offer to assign, or assign, home energy scores while the certificate is lapsed.

(b) A home energy assessor may not use the title of home energy assessor or similar other title while the certificate is lapsed.

(3) If the certificate lapses for one year or less, the applicant may renew its certification by renewing the certificate as provided for in OAR 812-032-0120.

(4) If the certificate lapses for more than one year, the applicant must apply for a new certificate as provided for in OAR 812-032-0100.

Stat. Auth.: ORS 670.310, 701.235 & 701.532
Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] ORS 701.532
(12/13 eff. 1/1/14, 4/30/14)

812-032-0135

Mailing and E-mail Address Changes

(1) Certified home energy assessors shall notify the board of any change in mailing or e-mail addresses while certified and for one year following the certification expiration date. Such persons must notify the board within 10 days after changing an address.

(2) No charge will be made for a mailing or e-mail address change to the board's records.

Stat. Auth.: ORS 670.310, 701.235 & 701.532
Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] ORS 701.532
(12/13 eff. 1/1/14, 4/30/14)

812-032-0140

Requirement that Home Energy Assessor Own or Work for a Licensed Contractor

(1) In order to work as a home energy assessor, a certified home energy assessor must be an owner or employee of a licensed construction contractor, including, but not limited to, a home energy performance score contractor.

(2) If the board refuses to issue, refuses to reissue, suspends or revokes the contractor's license, or if the construction contractor's license expires or becomes inactive, the certified home energy assessor may not:

(a) Undertake, offer to assign or assign home energy performance scores; or

(b) Use the title of home energy assessor or similar other title.

Stat. Auth.: ORS 670.310, 701.235 & 701.532

Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] ORS 701.532

(12/13 eff. 1/1/14, 4/30/14)

812-032-0150

Application, Renewal and Certificate Fees

(1) The application fee for a home energy assessor certificate is \$100.

(2) The fee for issuance of an initial one-year certificate is \$100.

(3) The fee for renewal of a one-year certificate is \$100.

(4) All fees are non-refundable and non-transferrable.

Stat. Auth.: ORS 670.310, 701.235 & 701.532

Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] ORS 701.532

(12/13 eff. 1/1/14, 4/30/14)

REPORT ON AGENCY OPERATIONS MARCH-MAY 2014



This update reflects workload measures and activities from March to May 2014. Where possible, we have provided the equivalent measurement from the same period last year as comparison. Once each year, this report will reflect a five-year look back at statistics and performance.

Budget

- Agency expenditures through April 2014 are \$5.4 million. We have an approved budget of \$16.3 million. To date, we are projected to underspend our budget in this biennium by \$1.4 million.
- Agency revenues through April 2014 are \$5.9 million with total projected revenue for the biennium of \$14.5 million.

CCB Licensing

- 930 new license applications in the quarter (876 same period last year, represents a 6 percent increase from last year)
- Average rate of renewal is 80 percent for the quarter as compared to 69 percent during same period last year.
- Overall agency licensee count is 34,513 as compared to 34,665 at this time last year.

CCB Education

Outreach

- Home Builders Association spring conference in March
- Homeshows in Bend (COBA), Klamath Falls, and Jackson County (Medford)
- Scam Jam in Medford, May 13 (staffed by enforcement)
- Met with Clackamas County plumbing group (Parnell Plumbing), May 15 (panel discussion of CCB work)
- Oregon Chimney Sweeps Association conference

Communications

- Newsletter, The Toolbox, Spring 2014
- Letters to contractors whose licenses expired before Jan. 1, 2014, explaining continuing education (CE) requirements
- Letters to contractors alerting them to CE classes in their area (30 contractors each attended CCB classes in Pendleton and Baker City)
- News releases
 - » March 6: Hire a licensed contractor for spring projects/Get a CCB number - we'll text you the contractor's license status
 - » April 7: Beware paving, other home repair scams/Pretend "contractors" offer too-good-to-be-true deals
 - » April 28: Unlicensed contractor will go to prison/Jeffrey Woodhouse targets elderly customers door-to-door
 - » May 29: CCB sweeps Oregon coast for unlicensed contractors
- Website updates: Ongoing efforts to make website easier to navigate; reconfigured calculator to make it easier for contractors to figure out what CE to take

New Laws, Regulations, and Business Practices Classes

- Text for new class on liens written; voiceover to be added

Continuing Education Providers

- We have 21 continuing education providers offering a mix of Series A and B classes. The newest approved provider is Negocios, the second provider offering classes in Spanish. Three pending approvals, including one from a national CE provider (redvector.com) and another from a materials supplier (Simpson Strong-tie).
- We continue to pursue a Small Business Development Center (SBDC)/community college partnership; we are working to approve the SBDC as a provider and anticipate the day when we approve a standardized contractor curriculum that might appeal to relatively new contractors. Community colleges would choose whether to offer the course. We will be seeing community colleges sign up individually as providers in anticipation of the new partnership.

CCB Shared Services

- Reviewing and rewriting all employee policies to ensure compliance with the Department of Administrative Services. Employees are trained on the new policies as they are implemented. We are approximately one-fourth completed, and will finish up by October 2014.
- Review and rewrite all agency position descriptions to reflect and depict updated tasks and duties being performed. Will be completed by year's end.
- Training plans developed for all employees in conjunction with their managers. This will be completed by the end of the year.
- Agency office reorganization as well as reduction of excess paper and furniture to reduce our footprint and operate at an increased level of efficiency. We are approximately one-third completed with this task, and will be finished by September 2014.
- IT is working on the online licensing application with a deadline date of January 2015.
- Ongoing review of all processes within the agency from human resource compliance to productivity of staff to our expenses to our work processes in order to ensure that we are operating at an optimal efficiency level and are acting with financial responsibility.

DRS

- 239 complaints filed during this period as compared to 220 during this period last year.
- 149 mediation meetings held as compared to 148 during this period last year.
- 75 percent of mediations resulting in settlement as compared to 82 percent during this period last year.
- Total damages awarded from bond of \$793,797 as compared to \$857,701 during this period last year.
- 140 days on average to process a complaint as opposed to 184 days during this period last year.

Enforcement – Sweeps (May 19-22)

6 INVESTIGATORS	
TOTAL JOBSITE CHECKS	224
TOTAL VIOLATIONS	30

CITIES COVERED

Myrtle Point, Coquille, Bandon, Astoria, Warrenton, Gearhart, Coos Bay, Winchester Bay, Reedsport, Gardiner, Florence, Seaside, Cannon Beach, Arch Cape, Manzanita, Nehalem to Bay City, Yachats, Waldport, Seal Rock, Newport, Depoe Bay, Tillamook, Oceanside, Netarts, Pacific City, Neskowin, Otter Rock, Gleneden Beach, Lincoln City

**Items for
June 24, 2014
Board Meeting**

1. Use of Lay Representatives in Contested Case Hearings (Dahlin)
 - a. Memo (May 3, 2014, Dahlin to Leslie)
 - b. Proposed Rule (rulemaking scheduled June 24, 2014)
 - c. Chart for Reporting to DOJ (2015 – 17)

2. Public Records Fee Rules (Dahlin)
 - a. Memo (May 7, 2014, Dahlin to Leslie)
 - b. Proposed Rule (first look June 24, 2014)

3. Attorney Fees Recovery (Dahlin)
 - a. Memo (May 9, 2014, Dahlin to Leslie)

CONSTRUCTION CONTRACTORS BOARD

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Interoffice Memo

To: Berri Leslie
Administrator

From: Kathleen Dahlin
Policy Analyst
Stan Jessup
Acting Enforcement Manager

Date: May 3, 2014

Subject: Lay Representation

REQUESTED ACTION

On April 23, 2014, Kimberly Wood, board member, e-mailed you with several follow-up items from previous meetings. One item was the following:

“In the January 24th [board] meeting, we discussed the use of lay representatives in hearings in lieu of DOJ attorneys. There were certain things that needed to occur which were outlined in the [January] 24 meeting minutes. I would like to have some report back on whether we have completed those items and that the action item is completed.”

The Construction Contractors Board (CCB) now reports that it has completed the necessary action items.

BACKGROUND

The board met on January 24, 2014, and considered a letter from the Oregon Department of Justice (DOJ).

On December 11, 2013, the DOJ wrote the Construction Contractors Board (CCB) indicating that CCB had requested authorization for agency representation to conduct the following types of cases:

1. Compliance hearings involving civil penalties.
2. Hearings to refuse to issue, renew or suspend a license for one of the following reasons:
 - a. Lack of bond
 - b. Lack of insurance
 - c. Unpaid construction debt
 - d. Other agency final order
 - e. Failing to pay certain obligations
 - f. Failing to obtain or maintain an increased bond (when required)
 - g. Failing to provide information necessary for licensure.

DOJ granted continuing authorization to CCB, upon certain conditions. Those conditions include the following.

On at least a biennial basis, the CCB employees who act as agency representatives must review the DOJ Code of Conduct for non-attorney representatives. Also, on a biennial basis, the CCB must submit certain summary information to DOJ. A sample table for the information was provided. The reporting requirement begins on July 1, 2017, for information gathered during the 2015 – 2017 fiscal biennium.

ISSUES

The CCB identified three items it needed to do to satisfy the DOJ requirements. They are:

1. The CCB should review and, if necessary, update its lay representation rule – OAR 812-009-0340.
2. The CCB Enforcement Section should provide its employees who conduct hearings as lay representatives with a current copy of the DOJ Code of Conduct.
3. The CCB Enforcement Section should establish a process to capture and report the data requested by DOJ.

ACTION

The CCB has now completed the following:

1. CCB's Policy Analyst drafted an amended rule to correspond with the current law and rules of CCB. (A copy is attached.)
 - a. CCB noticed the rule for rulemaking on June 24, 2014.
 - b. CCB contacted its assigned counsel for approval of the rule changes.
2. At a staff meeting on April 29, 2014, CCB's Acting Enforcement Manager provided copies of the DOJ Code of Conduct and the agency's rule for lay representatives. He conducted a training of those staff on the code and the rule.

3. Under the direction of CCB's Acting Enforcement Manager, the Enforcement Section's Administrative Specialist, working with CCB's Information Technology (IT) Section, is creating and capturing data for a report as requested by DOJ.
 - a. The target is to issue a first version of the report on July 1, 2015 (even though not actually required by DOJ until July 1, 2017).
 - b. The section will correct data and make it usable for the report as necessary.

Proposed Rule	Explanation
<p>812-009-0340</p> <p>Agency Representation by Officer or Employee</p> <p>(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:</p> <p>(a) Hearings involving the possible imposition of civil penalties for violations of statutes or regulations;</p> <p>(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:</p> <p>(A) ORS 701.098(4)(a)(A) (no bond);</p> <p>(B) ORS 701.098(4)(a)(B) (no insurance);</p> <p>(C) ORS 701.098(4)(a)[(E)] (F) (unpaid construction debt);</p> <p>(D) ORS 701.102 (unpaid construction debt);</p> <p>(E) ORS 701.106, where the violation is based on a final order issued by:</p> <p>(i) Department of Consumer and Business Services, Building Codes Division;</p> <p>(ii) Department of Consumer and Business Services, Workers' Compensation Division;</p> <p>(iii) Department of Consumer and Business Services, Oregon-OSHA,</p> <p>(iv) Employment Department;</p> <p>(v) Department of Revenue; or</p> <p>(vi) Landscape Contractors Board.</p> <p>(F) Failure to pay an outstanding obligation, as required by OAR 812-005-0280[(1)] (2);</p> <p>(G) Failure to obtain or maintain an increased bond, as required by ORS 701.068(5) or (6).</p> <p>(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.</p> <p>(2) The agency representative may not make legal argument on behalf of the agency.</p> <p>(a) "Legal argument" includes argument on:</p> <p>(A) The jurisdiction of the agency to hear the contested case;</p> <p>(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and</p> <p>(C) The application of court precedent to the facts of the particular contested case proceeding.</p>	<p>ORS 701.098(4)(a)(E) was renumbered ORS 701.098(4)(a)(F) in 2013 (Or. Laws 2013, ch. 300, § 11).</p> <p>Former OAR 812-003-0450 was renumbered 812-005-0280(1) in November 2008; causing then OAR 812-003-0280(1) to be renumbered OAR 812-005-0280(2). (<i>See notes to OAR 812-005-0280.</i>)</p> <p>ORS 701.046 and OAR 812-003-0260 outline information that an applicant must provide in order to obtain a license. Many licenses are obtained by businesses, not individuals, so information other than DOB or driver's license would be more relevant.</p>

(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)

LAY REPRESENTATION CASES

CATEGORY OF CASE APPROVED BY DOJ (See approval letter for details)	NUMBER OF CASES IN THE CATEGORY	DECISION UPHELD AGENCY		DECISION DID NOT UPHOLD AGENCY		NUMBER OF CASES APPEALED TO ANY COURT
		Proposed Order	Final Order	Proposed Order	Final Order	
Hearings involving the possible imposition of civil penalties or violations of statutes or regulations						
Hearings involving refusal to issue, refusal to renew or suspension, which will be lifted upon correction of a deficiency, payment or penalty or construction debt (varied authorities)						

Decision Upheld Agency:

1. Proposed Order is the order prepared by an Administrative Law Judge (ALJ) that upholds the agency's initial notice.*
2. Final Order **upholds the agency's initial notice** and is issued by:
 - a. An ALJ, if the ALJ is authorized to issue the final order (see OAR 812-009-0300);
 - b. The CCB, which adopts, rejects or modifies the ALJ's decision; or
 - c. The Board after the Appeals Committee's consideration of exceptions, which adopts, rejects or modifies the ALJ's decision.

Decision did not Uphold Agency:

1. Proposed Order is the order issued by an Administrative Law Judge (ALJ) that **does not uphold the agency's initial notice.***
2. Final Order **does not uphold the agency's initial notice** and is issued by:
 - a. An ALJ, if the ALJ is authorized to issue the final order (see OAR 812-009-0300);
 - b. The CCB, which adopts, rejects or modifies the ALJ's decision; or
 - c. The Board after the Appeals Committee's consideration of exceptions, which adopts, rejects or modifies the ALJ's decision.

*The CCB often captions its initial notice "Proposed Order." These documents should be considered the "initial notice." They are not a source of data for Proposed Orders.

CONSTRUCTION CONTRACTORS BOARD

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Interoffice Memo

To: Berri Leslie
Administrator

From: Kathleen Dahlin
Policy Analyst

Date: May 7, 2014

Subject: Fees for Public Records

BACKGROUND

On April 23, 2014, Kimberly Wood, board member, e-mailed you with several follow-up items from previous meetings. One item was the following:

“Address the public records costs recovery rule so that we are able to recover actual costs as opposed to the preset amount which may not be a true cost recovery.”

The Construction Contractors Board’s (CCB’s) current public records fee rule is OAR 812-001-0160.

ISSUES

The Public Records Law (PRL) authorizes a public body to establish fees “reasonably calculated to reimburse the public body for the public body’s actual cost of making public records available.” ORS 192.440(4)(a). “Actual cost” may include charges for time spent by staff:

- In locating records;
- Reviewing records to delete (redact) exempt materials;
- Supervising a public member’s inspection of original documents to protect the documents;
- Copying;
- Certifying true copies; and
- Sending by express mail.

Attorney General's Public Records and Meetings Manual (Jan. 2011), p. 16. "Actual cost" may also include time spent by the public body's attorney to review, redact and segregate records. However, time spent by the attorney to determine if the public records law is applicable may not be included.

A public body may choose to adopt per document or per page charges. The charge may be calculated to include the reasonable cost of things such as locating, preparing and copying the record – plus the cost of paper.

A public body has authority to charge a fee in excess of \$25 only if it first provides a written cost estimate to the requestor and the requestor confirms that it wants the public body to proceed. ORS 192.440(4)(c). A state agency should adopt its fee schedule as an administrative rule. *Id.*

The CCB last amended its public records fee rule in September 2008. At that time, the agency ***chose to adopt several specific fees in lieu of indeterminate "actual costs."*** See Secretary of State Certificate and Order for Filing Permanent Administrative Rules dated September 23, 2008.¹

¹ The rule was changed as follows (language removed is in brackets and strikeout and language added in italics and boldface):

812-001-0160

Requests for Information; Charges for Records

(1) The agency shall provide certification of license or non-license relating to a specific entity upon written request and payment of required fee. This certification will include the following information:

- (a) License numbers.
- (b) Name of licensed entity and any assumed business names on file with the agency.
- (c) Type of business entity.
- (d) Category of license.
- (e) Class of independent contractor license status.
- (f) Personal names of owner, partners, joint venturers, members, corporate officers, or trustees.
- (g) The dates in the license history and the action that took place on those dates.

(2) The agency may make the following charges for records:

(a) \$20 for each certification that an entity has or has not been licensed with the Construction Contractors Board.

(b) \$20 for certified copies of ~~[documents]~~ **each file or of set of documents certified under one cover or of any other document.**

(c) \$5 for the first 20 copies made and 25 cents per page thereafter.

(d) \$20 for duplicate audio recordings of, Board meetings and Appeal Committee meetings.

(e) \$20 for duplicate audio recordings of a three hour agency hearing or arbitration and \$10 for duplicate audio recordings of each additional 90 minutes or fraction thereof of the hearing or arbitration.

~~[(f) Charge as determined by preparation time and production cost for mailing labels of licensees.]~~

~~[(g)]~~ **(f)** \$10 per half-hour unit or portion of a half-hour unit for ~~[research]~~ **researching,** ~~[or]~~ copying ~~[or]~~ **or preparing** records for each request from a person beginning with the 31st minute of research or copying time.

(g) \$40 for an electronic copy of computer-maintained data containing information on CCB licensees.

(h) \$140 for a paper copy of computer-maintained data containing information on CCB licensees.

(i) \$40/month for an electronic copy of computer-maintained data containing information on CCB mailings of application packets, provided once during the month.

RECOMMENDATION

It is difficult to administer a public records fee schedule based primarily on “actual costs.” The fee schedule must be applied by many sections and employees within the agency. The more specificity, the less confusion exists in the rule’s application. However, in some cases, actual costs are more realistic and appropriate. The agency’s recommendations retain a basic fee schedule, but adopt “actual costs” where appropriate.²

Based on a thorough review of the existing rule, CCB staff recommends several amendments to OAR 812-001-0160, as follows.

1. Amend section (2)(e) to clarify that the charge is for a recording of three hours, or less – not exactly three hours – of agency hearings or arbitrations.
2. Amend section (2)(g) to reduce charge for data requested pursuant to CCB’s “Request for Information on Licensed Contractor Businesses” is reduced from \$40 to \$15. Records will be provided in electronic format, by e-mail.
3. Amend section (2)(h) to add a charge of \$15 plus \$25 per hour for actual costs to research, query and produce records requested other than pursuant to CCB’s “Request for Information on Licensed Contractor Businesses.” Records will be provided in electronic format, by e-mail.
4. Amend section (2)(i) to clarify that computer-maintained data will be provided in electronic format, by e-mail.

(j) \$50/month for electronic copies of computer-maintained data containing information on CCB mailings of application packets, provided on a weekly basis.

(k) \$140/month for a paper copy of computer-maintained data containing information on CCB mailings of application packets, provided once during the month.

(l) \$150/month for a paper copy of computer-maintained data containing information on CCB mailings of application packets, provided on a weekly basis.

(m) \$5 for a 3.5-inch computer disk or compact disk (CD) if documents are stored on the agency’s computer system. Requestors may not provide disks for electronic reproduction due to the possibility of computer viruses.

(n) The actual cost for material and equipment used in producing copies of non-standard sized records.

(o) The actual cost for delivery of records, for example, postage, courier fees or the cost of transmitting a facsimile long-distance.

(p) Actual attorney fees charged to CCB for the cost of time spent by its attorney (ordinarily provided by the Oregon Department of Justice) to review public records, redact materials from public records or segregate public records into exempt and nonexempt records. The charge will not include attorney fees incurred in determining the application of ORS 192.410 to 192.505.

² The recommended changes move towards an “actual cost” basis for retrieving and providing electronic data. See OAR 812-001-0160(2)(h).

5. Delete previous sections (2)(h), (2)(k) and (2)(l) to eliminate supplying paper records in lieu of electronic transmissions. Paper records will be governed by section (2)(c): \$5 for the first 20 copies and \$.25 per each page thereafter.
6. Delete previous section (2)(i) to eliminate providing weekly or other than monthly information.
7. Amend section (2)(k) to remove the obsolete reference to "3.5-inch computer disk."

Proposed Rule	Explanation
<p>812-001-0160 Requests for Information; Charges for Records</p> <p>(1) The agency shall provide certification of license or non-license relating to a specific entity upon written request and payment of required fee. This certification will include the following information:</p> <ul style="list-style-type: none"> (a) License numbers. (b) Name of licensed entity and any assumed business names on file with the agency. (c) Type of business entity. (d) Category of license. (e) Class of independent contractor license status. (f) Personal names of owner, partners, joint venturers, members, corporate officers, or trustees. (g) The dates in the license history and the action that took place on those dates. <p>(2) The agency may make the following charges for records:</p> <ul style="list-style-type: none"> (a) \$20 for each certification that an entity has or has not been licensed with the Construction Contractors Board. (b) \$20 for certified copies of each file or of set of documents certified under one cover or of any other document. (c) \$5 for the first 20 copies made and 25 cents per page thereafter. (d) \$20 for duplicate audio recordings of [5] Board meetings and Appeal Committee meetings. (e) \$20 for duplicate audio recordings of [a three hour] up to three hours of any agency hearing or arbitration and \$10 for duplicate audio recordings of each additional 90 minutes or fraction thereof of the hearing or arbitration. (f) \$10 per half-hour unit or portion of a half-hour unit for researching, copying or preparing records for each request from a person beginning with the 31st minute of research or copying time. (g) [\$40] \$15 for an electronic copy transmitted by e-mail of computer-maintained data [containing information on CCB licensees] requested pursuant to CCB's "Request for Information on Licensed Contractor Businesses" form. [(h) \$140 for a paper copy of computer-maintained data containing information on CCB licensees.] (h) \$15 plus \$25 per hour for actual costs for researching, querying and producing an electronic copy transmitted by e-mail of computer-maintained data requested other than pursuant to CCB's "Request for Information on Licensed Contractor Businesses" form. (i) \$40/month for an electronic copy transmitted by e-mail of computer-maintained data containing information on CCB mailings of application packets, provided once during the month. [(j) \$50/month for electronic copies of computer-maintained data containing information on CCB mailings of application packets, provided on a weekly basis.] 	<p>Amend section (2)(e) to clarify that charge is for a recording of three hours, or less, of agency hearings or arbitrations.</p> <p>Amend section (2)(g) to reduce charge for data requested pursuant to CCB's "Request for Information on Licensed Contractor Businesses" is reduced from \$40 to \$15. Records will be provided in electronic format, by e-mail.</p> <p>Amend section (2)(h) to add a charge of \$15 plus \$25 per hour for actual costs to research, query and produce records requested other than pursuant to CCB's "Request for Information on Licensed Contractor Businesses," which is reduced from \$40 to \$15. Records will be provided in electronic format, by e-mail.</p> <p>Amend section (2)(i) to clarify that records will be provided in electronic format, by e-mail.</p> <p>Delete previous sections (2)(h), (2)(k) and (2)(l) to eliminate supplying paper records in lieu of electronic transmissions. Paper records will be governed by section (2)(c) - \$5 for the first 20 copies and \$.25 per each page thereafter.</p> <p>Delete previous section (2)(i) to eliminate providing weekly or other than monthly information.</p> <p>Amend section (2)(k) to remove obsolete reference to "3.5-inch computer disk."</p>

~~[(k)]~~ \$140/month for a paper copy of computer-maintained data containing information on CCB mailings of application packets, provided once during the month.]

~~[(l)]~~ \$150/month for a paper copy of computer-maintained data containing information on CCB mailings of application packets, provided on a weekly basis.]

~~[(m)]~~ **(k)** \$5 for a ~~[3.5-inch computer disk or]~~ compact disk (CD) if documents are stored on the agency's computer system. Requestors may not provide disks for electronic reproduction due to the possibility of computer viruses.

~~[(n)]~~ **(l)** The actual cost for material and equipment used in producing copies of non-standard sized records.

~~[(o)]~~ **(m)** The actual cost for delivery of records, for example, postage, courier fees or the cost of transmitting a facsimile long-distance.

~~[(p)]~~ **(n)** Actual attorney fees charged to CCB for the cost of time spent by its attorney (ordinarily provided by the Oregon Department of Justice) to review public records, redact materials from public records or segregate public records into exempt and nonexempt records. The charge will not include attorney fees incurred in determining the application of ORS 192.410 to 192.505.

(o) If computer-maintained data is requested in paper format, the agency will add a charge of \$.25 per page to the charges provided in the rule above.

Stat. Auth.: ORS 293.445, 670.310 & 701.235

Stats. Implemented: ORS 192.430, 293.445, 701.235 & 701.250

(1/83, 3/83, 3/84, 5/84, 3/85, 4/85, 3/87, 12/87, 1/88, 2/88, 6/88, 1/89, 2/89, 6/89, 7/89, 11/89, 2/90, 5/90, 6/90, 2/92, 4/92, 2/95, 9/95, 5/96, 5/97, 4/98, 9/98, 3/99, temp. 6/99, 9/99, 6/00, 12/00, 12/01, 5/02, 2/04, 12/04, 8/05, 12/05, 5/06, 6/07, 4/08, temp. 8/08, 9/08)

(Amended and renumbered from 812-001-0015, 12/05)

CONSTRUCTION CONTRACTORS BOARD

700 Summer St NE Suite 300
PO Box 14140
Salem OR 97309-5052
503-378-4621
503-373-2007 FAX



Interoffice Memo

To: Berri Leslie
Administrator

From: Kathleen Dahlin
Policy Analyst

Date: May 9, 2014

Subject: Attorney Fees Recovery

BACKGROUND

On April 23, 2014, Kimberly Wood, board member, e-mailed you with several follow-up items from previous meetings. One item was the following:

“Address the recovery of attorneys’ fees in our rules. Have counsel advise if a rule change is all that is necessary or will it require statutory changes.”

ISSUES

At least four state agencies have statutory authority to recover attorney fees (and other costs) in disciplinary actions.

The Oregon Medical Board uses ORS 677.205(2)(f). That statute provides:

(2) In disciplining a licensee as authorized by subsection (1) of this section, the [Oregon Medical Board] may use any or all of the following methods:

* * * *

(f) Take such other disciplinary action as the board in its discretion finds proper, including assessment of the costs of the disciplinary proceedings as a civil penalty or assessment of a civil penalty not to exceed \$10,000, or both.

In 2000, a disciplined physician challenged the medical board's ability to assess costs for an attorney to represent the board (among other items).³ The Court of Appeals ruled for the board and held that it could assess costs totaling \$8,983.85. *Adams v. Bd. of Medical Examiners*, 170 Or App 1, 11 P3d 676 (2000).

The Oregon Board of Licensed Professional Counselors and Therapists uses ORS 675.745(7). That statute provides, in relevant part, that:

(7) * * * the [Oregon Board of Licensed Professional Counselors and Therapists] may take such disciplinary action as the board in its discretion finds proper, including but not limited to the assessment of the costs of the disciplinary process.

The Board of Accountancy uses ORS 673.170(11). That statute provides:

(11) If the [Board of Accountancy] takes disciplinary action under this section, the board may assess against the person disciplined costs associated with the disciplinary action. An assessment under this subsection is in addition to, and not in lieu of, any other action taken by the board. Moneys collected under this subsection shall be deposited in the Oregon Board of Accountancy Account established in the General Fund pursuant to ORS 670.335.

The State Board of Tax Practitioners uses ORS 673.730(8). That statute provides:

The State Board of Tax Practitioners shall have the following powers, in addition to the powers otherwise granted by ORS 673.605 to 673.740, and shall have all powers necessary or proper to carry the granted powers into effect:

(8) To assess against the licensee or any other person found guilty of violating any provision of ORS 673.605 to 673.740, or any rule or order adopted thereunder, in addition to any other sanctions, the costs associated with the disciplinary or other action taken by the board.

Since courts generally require a statute (or contract) to authorize attorney fees, at present the CCB may not collect attorney fees it incurs in a disciplinary proceeding.⁴ It is also not sufficient to simply adopt a rule. (Kelly Gabliks, Senior Assistant Attorney General).

In many disciplinary proceedings, the CCB is not represented by an attorney. The CCB may, and often does, appear through a staff member designated as a "lay

³ The board also assessed costs for a hearings officer, expert witness and court reporter.

⁴ Separate statutes govern attorney fee recovery in civil litigation. See e.g. ORS 20.075 – 20.107.

representative.” OAR 812-009-0340. There are no attorney fees to recover in those cases.⁵

RECOMMENDATIONS

Senior Assistant Attorneys General Gablicks and Bischoff both offer caution in seeking statutory authority to recover disciplinary costs.⁶

The Oregon State Bar (OSB), Administrative Law Section, has been particularly aggressive in attempting to stop or eliminate these types of provisions. In the 2013 OSB Section Annual Reports, the Administrative Law Section reported that it had “monitored and opposed legislation to shift agency attorney fees and costs to private parties in administrative regulatory litigation.” We should expect this activity to continue.

The state agencies that currently have recovery provisions may not support the CCB. If the CCB introduces a legislative concept to recover costs, there is a downside risk that the legislature will not only decline to grant CCB such authority but will also remove existing authority for other agencies.⁷

In light of a real risk of defeat in the legislature, together with the fact that many CCB disciplinary actions do not require the assistance of attorneys, my recommendation is not to present a legislative concept to recover attorney fees and other costs.⁸

If the board decides otherwise, I suggest creating a detailed breakdown of costs incurred by the agency (over the last three biennia) for disciplinary hearings.

⁵ In rare instances, the lay representative contacts the Department of Justice for legal advice relevant to the disciplinary proceedings.

⁶ My thanks to both Senior AAG Susan Bischoff and Senior AAG Kelly Gablicks for providing the background information necessary to prepare this memorandum.

⁷ Introducing legislation may be akin to opening the proverbial Pandora’s Box.

⁸ Currently, CCB only has two “placeholder” legislative concepts. Neither covers cost recovery for disciplinary actions. The next opportunity for the board to present a legislative concept will likely be in the spring of 2016 (for the 2017 legislative session).

CONSTRUCTION CONTRACTORS BOARD

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Interoffice Memo

To: Berri Leslie
Interim Administrator

From: Catherine Dixon
Management Assistant

Date: June 9, 2014

Subject: Rulemaking Hearing June 24, 2014

Attached is a copy of the rulemaking hearing notice filed for the June 24, 2014 rulemaking hearing.

The draft proposed rules cover:

- 1. Amend 812-002-0120 and 812-005-0800, Definition of Casual, Minor, Inconsequential and Schedule of Penalties: (See Dahlin memo dated 3/27/14).**
 - 812-002-0120 is amended to clarify that “casual, minor or inconsequential” work does not include that which requires a structural permit; to change the word “value” to “aggregate contract price” to clarify that the exemption relates to only one structure or project; and to add language relating to work covered by lead-based paint requirements.
 - 812-005-0800 is amended include reference to OAR 812-003-0280 (renewal or reissue of license), clarify when a contractor must notify CCB of its assumed business name, and to make the penalties match in sections (10) and (11).
- 2. Amend 812-003-0120, Advertising: (See Dahlin memo dated 4/16/14)**
 - 812-003-0120 is amended to exempt permanently attached or affixed signs at business locations that primarily and prominently display the contractor’s name.
- 3. Adopt 812-003-0142 and Amend Cite References to 812-003-0140, License Application Fees: (See Dixon memo dated 4/17/14)**
 - 812-003-0142 is adopted to replace the previous rule (812-003-0140) that was mistakenly included in a repeal of rules in December 2013. This rule establishes the fees for CCB licensure. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).
 - 812-003-0260, 812-003-0340, 812-003-0350, 812-003-0360, 812-003-0370, and 812-003-0380 are amended to correct the cite references to the match the new license application fee rule (812-003-0142).

4. Amend 812-006-0200 and Adopt 812-006-0205, Pre-Licensure Provider Bond: (See Dahlin memo dated 4/23/14).

- 812-006-0200 is amended to add a surety bond requirement to pre-licensure provider approvals.
- 812-006-0205 is adopted to create a surety bond (form) for pre-licensure provider approval.

5. Amend 812-009-0340, Lay Representation: (See Dahlin memo dated 5/3/14)

- 812-009-0340 is amended to correct cite references and to add a reference to OAR 812-003-0260 that outlines information that an applicant must provide in order to obtain a license.

6. Amend Division 20 and 812-022-0015, Housekeeping and RCE: (See Dahlin memo dated 4/4/14).

- 812-020-0050, 812-020-0055, 812-020-0060, 812-020-0062, 812-020-0065, 812-020-0070, 812-020-0072, 812-020-0080, 812-020-0085, 812-020-0087, and 812-020-0090 are amended to correct cite references (ORS 701.124 was renumbered to 701.086 in 2013).
- 812-020-0071 is amended to permit commercially endorsed contractors to “count” their RCE hours towards their commercial continuing education requirements. The rule refers to ORS 701.126, which was repealed in 2013. Subsection (1) of the rule allows commercial contractors to use “old” RCE until the end of 2014 (as is permitted for residential contractor renewals). Subsection (2) of the rule corresponds with the new RCE program.
- 812-022-0015 is amended to provide hours in excess of the three required CCB-LRB hours will be counted towards the 8 hour requirement of less experienced residential contractors. Effectively, they will substitute for “Series B” courses.
- 812-022-0021 is amended to remove references to course substitution and to add exemptions for contractors with a registered architect (owner or officer), and contractors with a licensed professional engineer (owner or officer).
- 812-022-0022 is adopted to permit a contractor to count any period during which it was licensed towards the six-year requirement to qualify for renewal by completing eight, rather than 16, hours of continuing education, permit contractors to use the experience of its RMI to qualify for renewal by completing eight, rather than 16 hours of continuing education, and clarifies that the licensing or experience does not need to be continuous.

7. Amend 812-022-0010, Extend Date for Old RCE: (See Dahlin memo dated 3/27/14).

- 812-022-0010 is amended to extend the period of time to December 31, 2015, during which a contractor may renew their CCB license based upon RCE earned before January 1, 2014; and to clarify that:
 - 1) CCB-LRB substitutes for new CCB-LRB requirements (up to three hours);
 - 2) BEST and Building Codes substitutes for new Series A course requirements (up to five hours); and
 - 3) Electives substitute for new Series B course requirements (up to eight hours).

8. Memo from Dixon about surety bonds dated June 6, 2014).

9. Correspondence from stakeholders.

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RECOMMENDED RULE HEARING PROCEDURE

The June 24, 2014, rulemaking hearing recommended procedure:

1. The hearing on the rules will be heard beginning at 11:00 a.m.
2. Once the hearing begins at 11:00 a.m. on June 24, 2014, the Board should take public testimony from those wishing to provide it.
3. After all witnesses have testified, the chair will close the public comment.
4. The Board may wish to discuss the proposed rule, if needed.
5. Once discussions have concluded, the Board may wish to take action on the proposed rules.
6. If the Board wishes to move forward in accordance with staffs' recommendations, the following motion should be made and voted upon:

“I move to adopt the proposed rule amendments as recommended by staff on pages 55 - 75 of the Board packet.”

(Followed by a vote)

7. If the Board wishes to amend the staffs' recommendations, a different motion will need to be made, accordingly.

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form

FILED
5-6-14 9:33 AM
ARCHIVES DIVISION
SECRETARY OF STATE

Construction Contractors Board
Agency and Division
Catherine Dixon
Rules Coordinator
Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310
Address

812
Administrative Rules Chapter Number
(503) 934-2185
Telephone

RULE CAPTION

RCE, definition of "casual, minor or inconsequential", penalties, advertising, pre-licensure provider bond, fees, housekeeping
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
6-24-14	11:00 a.m.	West Salem Roths IGA, Oregon Rm., 425 Glen Creek Rd., Salem, OR	Rob Yorke

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

- 812-003-0142
- 812-006-0205
- 812-022-0022

AMEND:

- 812-002-0120
- 812-003-0120
- 812-003-0260
- 812-003-0340
- 812-003-0350
- 812-003-0360
- 812-003-0370
- 812-003-0380
- 812-005-0800
- 812-006-0200
- 812-009-0340
- 812-020-0050
- 812-020-0055
- 812-020-0060
- 812-020-0062
- 812-020-0065
- 812-020-0070
- 812-020-0071
- 812-020-0071
- 812-020-0072
- 812-020-0080
- 812-020-0085
- 812-020-0087
- 812-020-0090
- 812-022-0010
- 812-022-0015
- 812-022-0021

REPEAL:

- 812-003-0142T
- 812-006-0200T
- 812-006-0205T
- 812-022-0010T
- 812-022-0021T

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS 183.310 to 183.500, 670.301, 670.310, 701.082, 701.083, 701.086, 701.122, 701.126, 701.235, 701.238, 701.515, 701.992, 701.995

Other Authority:

Oregon Laws 2013, Chapter 718 (SB 783)

Statutes Implemented:

ORS 87.093, 183.450, 25.270, 25.785, 25.990, 279C.590, 656.027, 701.005, 701.010, 701.021, 701.026, 701.035, 701.042, 701.046, 701.050, 701.056, 701.063, 701.068, 701.073, 701.081, 701.082, 701.083, 701.086, 701.088, 701.091, 701.098, 701.106, 701.109, 701.122, 701.227, 701.238, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.510, 701.515, 701.992, 701.995

RULE SUMMARY

812-002-0120 is amended to clarify that "casual, minor or inconsequential" work does not include that which requires a structural permit; to change the word "value" to "aggregate contract price" to clarify that the exemption relates to only one structure or project; and to add language relating to work covered by lead-based paint requirements.

812-003-0120 is amended to exempt permanently attached or affixed signs at business locations that primarily and prominently display the contractor's name.

812-003-0142 is adopted to replace the previous rule (812-003-0140) that was mistakenly included in a repeal of rules in December 2013. This rule establishes the fees for CCB licensure. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).

812-003-0260, 812-003-0340, 812-003-0350, 812-003-0360, 812-003-0370, and 812-003-0380 are amended to correct the cite references to the match the new license application fee rule (812-003-0142).

812-005-0800 is amended include reference to OAR 812-003-0280 (renewal or reissue of license), clarify when a contractor must notify CCB of its assumed business name, and to make the penalties match in sections (10) and (11).

812-006-0200 is amended to add a surety bond requirement to pre-licensure provider approvals.

812-006-0205 is adopted to create a surety bond (form) for pre-licensure provider approval.

812-009-0340 is amended to correct cite references and to add a reference to OAR 812-003-0260 that outlines information that an applicant must provide in order to obtain a license.

812-020-0050, 812-020-0055, 812-020-0060, 812-020-0062, 812-020-0065, 812-020-0070, 812-020-0072, 812-020-0080, 812-020-0085, 812-020-0087, and 812-020-0090 are amended to correct cite references (ORS 701.124 was renumbered to 701.086 in 2013).

812-020-0071 is amended to permit commercially endorsed contractors to "count" their RCE hours towards their commercial continuing education requirements. The rule refers to ORS 701.126, which was repealed in 2013. Subsection (1) of the rule allows commercial contractors to use "old" RCE until the end of 2014 (as is permitted for residential contractor renewals). Subsection (2) of the rule corresponds with the new RCE program.

812-022-0010 is amended to extend the period of time to December 31, 2015, during which a contractor may renew their CCB license based upon RCE earned before January 1, 2014; and to clarify that: 1) CCB-LRB substitutes for new CCB-LRB requirements (up to three hours); 2) BEST and Building Codes substitutes for new Series A course requirements (up to five hours); and 3) electives substitute for new Series B course requirements (up to eight hours).

812-022-0015 is amended to provide hours in excess of the three required CCB-LRB hours will be counted towards the 8 hour requirement of less experienced residential contractors. Effectively, they will substitute for "Series B" courses.

812-022-0021 is amended to remove references to course substitution and to add exemptions for contractors with a registered architect

(owner or officer), and contractors with a licensed professional engineer (owner or officer).

812-022-0022 is adopted to permit a contractor to count any period during which it was licensed towards the six-year requirement to qualify for renewal by completing eight, rather than 16, hours of continuing education, permit contractors to use the experience of its RMI to qualify for renewal by completing eight, rather than 16 hours of continuing education, and clarifies that the licensing or experience does not need to be continuous.

NOTE: In order to save postage and printing costs in these difficult times, CCB is only providing a copy of the notice. To view the language of each individual rule change, please go to our web site at http://www.oregon.gov/CCB/Laws_Rules.shtml#Administrative_Rule_Notices. If you don't have web access, contact Rules Coordinator Cathy Dixon at (503) 934-2185 for assistance in receiving a copy.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

<u>06-24-2014 Close of Hearing</u>	<u>Catherine Dixon</u>	<u>Catherine.A.Dixon@state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

FILED
5-6-14 9:33 AM
ARCHIVES DIVISION
SECRETARY OF STATE

Construction Contractors Board
Agency and Division

812
Administrative Rules Chapter Number

RCE, definition of "casual, minor or inconsequential", penalties, advertising, pre-licensure provider bond, fees, housekeeping

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amendments to OAR 812

Statutory Authority:

ORS 183.310 to 183.500, 670.301, 670.310, 701.082, 701.083, 701.086, 701.122, 701.126, 701.235, 701.238, 701.515, 701.992, 701.995

Other Authority:

Oregon Laws 2013, Chapter 718 (SB 783)

Statutes Implemented:

ORS 87.093, 183.450, 25.270, 25.785, 25.990, 279C.590, 656.027, 701.005, 701.010, 701.021, 701.026, 701.035, 701.042, 701.046, 701.050, 701.056, 701.063, 701.068, 701.073, 701.081, 701.082, 701.083, 701.086, 701.088, 701.091, 701.098, 701.106, 701.109, 701.122, 701.227, 701.238, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.510, 701.515, 701.992, 701.995

Need for the Rule(s):

812-002-0120 is amended to clarify that "casual, minor or inconsequential" work does not include that which requires a structural permit; to change the word "value" to "aggregate contract price" to clarify that the exemption relates to only one structure or project; and to add language relating to work covered by lead-based paint requirements. The term "of a structural nature" is unclear; the term "value" is confusing and inconsistent with the law.

OAR 812-003-0120 is amended to exempt permanently attached or affixed signs at business locations that primarily and prominently display the contractor's name. The amendment is needed because the rule does not distinguish between signage and business signs used primarily to identify the business location(s).

812-003-0142 is adopted to establish CCB' license fees, the previous rule (812-003-0140) that was mistakenly included in a repeal of rules in December 2013. OAR 812-003-0142 establishes the fees for CCB licensure: license and renewal fee of \$325 and refund of the renewal application fee less \$40 processing fee. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).

812-003-0260, 812-003-0340, 812-003-0350, 812-003-0360, 812-003-0370, and 812-003-0380 are amended to correct the cite references to the match the new license application fee rule (812-003-0142).

812-005-0800 is amended to include reference to OAR 812-003-0280 (renewal or reissue of license), clarify when a contractor must notify CCB of its assumed business name, and to make the penalties match for similar violations in sections (10) and (11). The amendments clarify the three circumstances when an assumed business name but be reported to the agency and makes the penalties the same for all three violations.

812-006-0200 is amended to add a surety bond requirement to pre-licensure provider approvals. The bond is the purpose of ensuring that any person suffering loss or damage because of the failure of the pre-licensure training provider to fully and faithfully comply with ORS 701.122 and OAR 812-006-0200 may sue the Surety for the recovery of any amount due that person.

812-006-0205 is adopted to create a surety bond (form) for pre-licensure provider approval.

812-009-0340 is amended to correct cite references and to add a reference to OAR 812-003-0260 that outlines information that an applicant must provide in order to obtain a license.

812-020-0050, 812-020-0055, 812-020-0060, 812-020-0062, 812-020-0065, 812-020-0070, 812-020-0072, 812-020-0080, 812-020-0085, 812

-020-0087, and 812-020-0090 are amended to correct cite references (ORS 701.124 was renumbered to 701.086 in 2013).

812-020-0071 is amended to permit commercially endorsed contractors to "count" their RCE hours towards their commercial continuing education requirements. The rule refers to ORS 701.126, which was repealed in 2013. Subsection (1) of the rule allows commercial contractors to use "old" RCE until the end of 2014 (as is permitted for residential contractor renewals). Subsection (2) of the rule corresponds with the new RCE program.

812-022-0010 is amended to extend the period of time to December 31, 2015, during which a contractor may renew their CCB license based upon RCE earned before January 1, 2014; and to clarify that: 1) CCB-LRB substitutes for new CCB-LRB requirements (up to three hours); 2) BEST and Building Codes substitutes for new Series A course requirements (up to five hours); and 3) electives substitute for new Series B course requirements (up to eight hours).

812-022-0010 is amended to:

a. Extend the period of time to December 31, 2015, during which a contractor may renew their CCB license based upon RCE earned before January 1, 2014. Contractors that renew after December 31, 2014, will not be able to use the RCE credits they have already taken to renew their CCB license. The amendment will allow them to use RCE credits that they have already taken.

b. Clarify that: 1) CCB-LRB substitutes for new CCB-LRB requirements (up to three hours); 2) BEST and Building Codes substitutes for new Series A course requirements (up to five hours); and 3) electives substitute for new Series B course requirements (up to eight hours). The amendment clarifies for contractors and agency staff how to apply continuing education hours earned before January 1, 2014.

812-022-0015 is amended to provide hours in excess of the three required CCB-LRB hours will be counted towards the 8 hour requirement of less experienced residential contractors. Effectively, they will substitute for "Series B" courses.

812-022-0021 is amended to remove references to course substitution and to add exemptions for contractors with a registered architect (owner or officer), and contractors with a licensed professional engineer (owner or officer). The exemptions that require substitution of courses are too cumbersome and resource-intensive. The amendments are needed because contractors owned or managed by registered architects or licensed professional engineers will be required to complete unnecessary continuing education. Likewise, the plumbing contractor and electrical contractor portion of the rule is inadequate to protect otherwise licensed professionals that will be required to complete unnecessary continuing education.

812-022-0022 is adopted to permit a contractor to count any period during which it was licensed towards the six-year requirement to qualify for renewal by completing eight, rather than 16, hours of continuing education, permit contractors to use the experience of its RMI to qualify for renewal by completing eight, rather than 16 hours of continuing education, and clarifies that the licensing or experience does not need to be continuous.

Documents Relied Upon, and where they are available:

ORS 701 and OAR 812. Documents are on the agency website at www.oregon.gov/ccb or a paper copy is available upon request.

Fiscal and Economic Impact:

The rule changes have no known fiscal or economic impact on state agencies, units of local government or the public. The rule changes do not increase the reporting, recordkeeping or other administrative activities for businesses. The rule changes will not increase costs of compliance for businesses. The rule changes in division 22 eliminate the need for CCB contractors to complete additional continuing education, which will save them an indeterminate amount of fees associated with taking additional RCE courses to renew their CCB license. OAR 812-003-0142 establishes the fees for CCB licensure: license and renewal fee of \$325 and refund of the renewal application fee less \$40 processing fee. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget). OAR 812-006-0200 creates a \$20,000 surety bond requirement for pre-licensure training providers at an estimated cost of approximately \$400 per year. OAR 812-005-0800 (11) increases the penalty amount by \$50 to make it consistent with other penalties. The rule changes will not increase the cost of a new single-family dwelling.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The rule changes have no known fiscal impact on state agencies, units of local government or the public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

These rule amendments do not have an impact on small businesses.

OAR 812-003-0142 establishes the fees for CCB licensure: license and renewal fee of \$325 and refund of the renewal application fee less \$40 processing fee. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).

OAR 812-006-0200 creates a \$20,000 surety bond requirement for pre-licensure training providers at an estimated cost of

approximately \$400 per year. OAR 812-005-0800 (11) increases the penalty amount by \$50 to make it consistent with other penalties.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

These rule amendments do not impact reporting, recordkeeping or other administrative activities required for compliance.

c. Equipment, supplies, labor and increased administration required for compliance:

These rule amendments do have an impact on equipment, supplies, labor or increased administration requirements. The rule changes in division 22 eliminate the need for CCB contractors to complete additional continuing education, which will save them an indeterminate amount of fees associated with taking additional RCE courses to renew their CCB license. OAR 812-006-0200 creates a \$20,000 surety bond requirement for pre-licensure training providers at an estimated cost of approximately \$400 per year. OAR 812-005-0800 (11) increases the penalty amount by \$50 to make it consistent with other penalties.

How were small businesses involved in the development of this rule?

The agency works with its Board to develop administrative rules. Six of the current nine Board members are business owners.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

The agency uses its Board which is made up of six contractors; one elected public official, and two public members who review and approve agency's administrative rules. Some of the Board members are members of industry associations who discuss proposed rules with their associations.

<u>06-24-2014 Close of Hearing</u>	<u>Catherine Dixon</u>	<u>Catherine.A.Dixon@state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address

HOUSING COST IMPACT STATEMENT

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING
A *TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.
(ORS 183.534)

FOR ADMINISTRATIVE RULES

AGENCY NAME: Construction Contractors Board **PERMANENT:** **HEARING DATE:** June 24, 2014
ADDRESS: 700 Summer St. NE Ste 300
CITY/STATE: Salem OR 97309 **TEMPORARY:** **EFFECTIVE DATE:**
PHONE: (503) 934-2185

**BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL
RESULT FROM THIS PROPOSED CHANGE.**

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED.
IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

Description of proposed change: (Please attach any draft or permanent rule or ordinance)

812-002-0120 is amended to clarify that "casual, minor or inconsequential" work does not include that which requires a structural permit; to change the word "value" to "aggregate contract price" to clarify that the exemption relates to only one structure or project; and to add language relating to work covered by lead-based paint requirements.

OAR 812-003-0120 is amended to exempt permanently attached or affixed signs at business locations that primarily and prominently display the contractor's name. The amendment is needed because the rule does not distinguish between signage and business signs used primarily to identify the business location(s).

812-003-0142 is adopted to replace the previous rule (812-003-0140) that was mistakenly included in a repeal of rules in December 2013. This rule establishes the fees for CCB licensure. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).

812-003-0260, 812-003-0340, 812-003-0350, 812-003-0360, 812-003-0370, and 812-003-0380 are amended to correct the cite references to the match the new license application fee rule (812-003-0142).

812-005-0800 is amended to include reference to OAR 812-003-0280 (renewal or reissue of license), clarify when a contractor must notify CCB of its assumed business name, and to make the penalties match in sections (10) and (11).

812-006-0200 is amended to add a surety bond requirement to pre-licensure provider approvals. The bond is the purpose of ensuring that any person suffering loss or damage because of the failure of the pre-licensure training provider to fully and faithfully comply with ORS 701.122 and OAR 812-006-0200 may sue the Surety for the recovery of any amount due that person.

812-006-0205 is adopted to create a surety bond (form) for pre-licensure provider approval.

812-009-0340 is amended to correct cite references and to add a reference to OAR 812-003-0260 that outlines information that an applicant must provide in order to obtain a license.

812-020-0050, 812-020-0055, 812-020-0060, 812-020-0062, 812-020-0065, 812-020-0070, 812-020-0072, 812-020-0080, 812-020-0085, 812-020-0087, and 812-020-0090 are amended to correct cite references (ORS 701.124 was renumbered to 701.086 in 2013).

812-020-0071 is amended to permit commercially endorsed contractors to "count" their RCE hours towards their commercial continuing education requirements. The rule refers to ORS 701.126, which was repealed in 2013. Subsection (1) of the rule allows commercial contractors to use "old" RCE until the end of 2014 (as is permitted for residential contractor renewals). Subsection (2) of the rule corresponds with the new RCE program.

812-022-0010 is amended to extend the period of time to December 31, 2015, during which a contractor may renew their CCB license based upon RCE earned before January 1, 2014; and to clarify that: 1) CCB-LRB substitutes for new CCB-LRB requirements (up to three hours); 2) BEST and Building Codes substitutes for new Series A course requirements (up to five hours); and 3) electives substitute for new Series B course requirements (up to eight hours).

812-022-0010 is amended to extend the period of time to December 31, 2015, during which a contractor may renew their CCB license based upon RCE earned before January 1, 2014; and to clarify that: 1) CCB-LRB substitutes for new CCB-LRB requirements (up to three hours); 2) BEST and Building Codes substitutes for new Series A course requirements (up to five hours); and 3) electives substitute for new Series B course requirements (up to eight hours).

812-022-0015 is amended to provide hours in excess of the three required CCB-LRB hours will be counted towards the 8 hour requirement of less experienced residential contractors. Effectively, they will substitute for "Series B" courses.

812-022-0021 is amended to remove references to course substitution and to add exemptions for contractors with a registered architect (owner or officer), and contractors with a licensed professional engineer (owner or officer).

812-022-0022 is adopted to permit a contractor to count any period during which it was licensed towards the six-year requirement to qualify for renewal by completing eight, rather than 16, hours of continuing education, permit contractors to use the experience of its RMI to qualify for renewal by completing eight, rather than 16 hours of continuing education, and clarifies that the licensing or experience does not need to be continuous.

Description of the need for, and objectives of the rule:

812-002-0120 is amended to clarify that "casual, minor or inconsequential" work does not include that which requires a structural permit; to change the word "value" to "aggregate contract price" to clarify that the exemption relates to only one structure or project; and to add language relating to work covered by lead-based paint requirements. The term "of a structural nature" is unclear; the term "value" is confusing and inconsistent with the law.

OAR 812-003-0120 is amended to exempt permanently attached or affixed signs at business locations that primarily and prominently display the contractor's name. The amendment is needed because the rule does not distinguish between signage and business signs used primarily to identify the business location(s).

812-003-0142 is adopted to establish CCB' license fees, the previous rule (812-003-0140) that was mistakenly included in a repeal of rules in December 2013. OAR 812-003-0142 establishes the fees for CCB licensure: license and renewal fee of \$325 and refund of the renewal application fee less \$40 processing fee. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).

812-003-0260, 812-003-0340, 812-003-0350, 812-003-0360, 812-003-0370, and 812-003-0380 are amended to correct the cite references to the match the new license application fee rule (812-003-0142).

812-005-0800 is amended to include reference to OAR 812-003-0280 (renewal or reissue of license), clarify when a contractor must notify CCB of its assumed business name, and to make the penalties match for similar violations in sections (10) and (11). The amendments clarify the three circumstances when an assumed business name but be reported to the agency and makes the penalties the same for all three violations.

812-006-0200 is amended to add a surety bond requirement to pre-licensure provider approvals. The bond is the purpose of ensuring that any person suffering loss or damage because of the failure of the pre-licensure training provider to fully and faithfully comply with ORS 701.122 and OAR 812-006-0200 may sue the Surety for the recovery of any amount due that person.

812-006-0205 is adopted to create a surety bond (form) for pre-licensure provider approval.

812-009-0340 is amended to correct cite references and to add a reference to OAR 812-003-0260 that outlines information that an applicant must provide in order to obtain a license.

812-020-0050, 812-020-0055, 812-020-0060, 812-020-0062, 812-020-0065, 812-020-0070, 812-020-0072, 812-020-0080, 812-020-0085, 812-020-0087, and 812-020-0090 are amended to correct cite references (ORS 701.124 was renumbered to 701.086 in 2013).

812-020-0071 is amended to permit commercially endorsed contractors to "count" their RCE hours towards their commercial continuing education requirements. The rule refers to ORS 701.126, which was repealed in 2013. Subsection (1) of the rule allows commercial contractors to use "old" RCE until the end of 2014 (as is permitted for residential contractor renewals). Subsection (2) of the rule corresponds with the new RCE program.

812-022-0010 is amended to extend the period of time to December 31, 2015, during which a contractor may renew their CCB license based upon RCE earned before January 1, 2014; and to clarify that: 1) CCB-LRB substitutes for new CCB-LRB requirements (up to three hours); 2) BEST and Building Codes substitutes for new Series A course requirements (up to five hours); and 3) electives substitute for new Series B course requirements (up to eight hours).

812-022-0010 is amended to:

- a. Extend the period of time to December 31, 2015, during which a contractor may renew their CCB license based upon RCE earned before January 1, 2014. Contractors that renew after December 31, 2014, will not be able to use the RCE credits they have already taken to renew their CCB license. The amendment will allow them to use RCE credits that they have already taken.
- b. Clarify that: 1) CCB-LRB substitutes for new CCB-LRB requirements (up to three hours); 2) BEST and Building Codes substitutes for new Series A course requirements (up to five hours); and 3) electives substitute for new Series B course requirements (up to eight hours). The amendment clarifies for contractors and agency staff how to apply continuing education hours earned before January 1, 2014.

812-022-0015 is amended to provide hours in excess of the three required CCB-LRB hours will be counted towards the 8 hour requirement of less experienced residential contractors. Effectively, they will substitute for "Series B" courses.

812-022-0021 is amended to remove references to course substitution and to add exemptions for contractors with a registered architect (owner or officer), and contractors with a licensed professional engineer (owner or officer). The exemptions that require substitution of courses are too cumbersome and resource-intensive. The amendments are needed because contractors owned or managed by registered architects or licensed professional engineers will be required to complete unnecessary continuing education. Likewise, the plumbing contractor and electrical contractor portion of the rule is inadequate to protect otherwise licensed professionals that will be required to complete unnecessary continuing education.

812-022-0022 is adopted to permit a contractor to count any period during which it was licensed towards the six-year requirement to qualify for renewal by completing eight, rather than 16, hours of continuing education, permit contractors to use the experience of its RMI to qualify for renewal by completing eight, rather than 16 hours of continuing education, and clarifies that the licensing or experience does not need to be continuous.

List of rules adopted or amended:

Amend:

812-002-0120	812-003-0370	812-020-0055	812-020-0071	812-022-0010
812-003-0120	812-003-0380	812-020-0060	812-020-0072	812-022-0015
812-003-0260	812-005-0800	812-020-0062	812-020-0080	
812-003-0340	812-006-0200	812-020-0065	812-020-0085	
812-003-0350	812-009-0340	812-020-0070	812-020-0087	
812-003-0360	812-020-0050	812-020-0071	812-020-0090	
812-022-0021				

Adopt:

812-003-0142	812-006-0205	812-022-0022
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Materials and labor costs increase or savings:

The rule amendments have no known impact on materials and labor costs.

Estimated administrative construction or other costs increase or savings:

The rule amendments have no measurable impact on administrative construction or other cost increases or savings. OAR 812-003-0142 establishes the fees for CCB licensure: license and renewal fee of \$325 and refund of the renewal application fee less \$40 processing fee. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).

Land costs increase or savings:

The rule amendments have no measurable impact on the cost of new home or a building lot.

Other costs increase or savings:

The proposed rules have no known fiscal impact on state agencies, units of local government or the public. These rule amendments do have an impact on equipment, supplies, labor or increased administration requirements.

The rule changes in division 22 eliminate the need for CCB contractors to complete additional continuing education, which will save them an indeterminate amount of fees associated with taking additional RCE courses to renew their CCB license. OAR 812-006-0200 creates a \$20,000 surety bond requirement for pre-licensure training providers at an estimated cost of approximately \$400 per year. OAR 812-005-0800 (11) increases the penalty amount by \$50 to make it consistent with other penalties.

OAR 812-003-0142 establishes the fees for CCB licensure: license and renewal fee of \$325 and refund of the renewal application fee less \$40 processing fee. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).

*Typical-Single story 3 bedrooms, 1 ½ bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

PREPARERS NAME: Catherine Dixon
EMAIL ADDRESS: catherine.a.dixon@state.or.us

Proposed Rule	Explanation
<p>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] <u>That does not require a structural permit;</u> (b) [which cannot] <u>That does not</u> affect the health or safety of the owner or occupant of the structure[-]; (c) [the value of which] <u>For which the aggregate contract price for all work on one structure or project is less than \$1,000; and</u> (d) [and] <u>That</u> does not include work done as a subcontractor to a licensee. (2) <u>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.</u> 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)</p>	<p>Amend: 1. <u>Structural Work</u> Work that affects the structure is not casual, minor or inconsequential. This work can be identified as work requiring a structural permit. 2. <u>Total Contract Price</u> The statute refers to the work under one or more contracts for one structure or project that totals less than \$1,000. The term “value” is confusing. 3. <u>Lead-Based Paint Work</u> Abatement, inspection or renovation performed in connection with potential lead-based paint (LBP) affects the health and safety of the public. As such, it does not qualify as “casual, minor or inconsequential.”</p>
<p>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. <u>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</u></p>	<p>Amend OAR 812-003-0120(1)(g) to exempt permanently attached or affixed signs at business locations that primarily and prominently display the contractor's name.</p>

<p>name.</p> <p>(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.</p> <p>(i) This section does not apply to promotional gifts, including, but not limited to, pencils, pens, cups and items of clothing.</p> <p>Stat. Auth.: ORS 670.310 & 701.235</p> <p>Stats. Implemented: ORS 701.010 & 701.026 701.021 (12/04, 6/08, 5/09, 11/09 (eff. 1/1/10))</p>	
<p>812-003-0142 License Application Fees</p> <p><u>(1) The application fee for all new, renewal, or reissued licenses is \$325.</u></p> <p><u>(2) Except as provided in section (3) of this rule, application fees will not be refunded.</u></p> <p><u>(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.</u></p> <p><u>(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.</u></p> <p><u>(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.</u></p> <p><u>(c) The agency may request that the licensee provide documentation of active duty status and of discharge.</u></p> <p><u>(d) Section (4) of this rule applies to licensees that are sole proprietors or partners in a general partnership.</u></p> <p><u>Stat. Auth.: ORS 670.310, 701.238 & 701.235</u></p> <p><u>Stats. Implemented: ORS 701.056, 701.063, & 701.238</u> <u>(temp. 5/5/14)</u></p>	<p>Adopt the rule to replace the previous rule (812-003-0140) that was mistakenly included in a repeal of rules in December 2013.</p> <p>This rule establishes the fees for CCB licensure. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).</p> <p><i>Note: Currently a temporary rule filed 5/5/14.</i></p>
<p>812-003-0260 Application for New License</p> <p>(1) Each entity must complete an application form prescribed by the agency. Information provided on the form must include, but not be limited to:</p> <p>(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);</p> <p>(b) Mailing and location address of the business entity;</p> <p>(c) Legal name and address (which may be the business address) of:</p> <p>(A) The owner of a sole proprietorship;</p> <p>(B) All partners of a general partnership or limited liability partnership;</p> <p>(C) All joint venturers of a joint venture;</p> <p>(D) All general partners of a limited partnership;</p> <p>(E) All corporate officers of a corporation;</p> <p>(F) All trustees of a trust;</p> <p>(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,</p>	<p>Amended to correct the cite references to the match the new license application fee rule (812-003-0142).</p> <p><i>Note: Currently a temporary rule filed 5/5/14.</i></p>

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

<p>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)</p>	
<p>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)</p>	<p>Amended to correct the cite references to the match the new license application fee rule (812-003-0142). <i>Note: Currently a temporary rule filed 5/5/14.</i></p>
<p>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)</p>	<p>Amended to correct the cite references to the match the new license application fee rule (812-003-0142). <i>Note: Currently a temporary rule filed 5/5/14.</i></p>
<p>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)</p>	<p>Amended to correct the cite references to the match the new license application fee rule (812-003-0142). <i>Note: Currently a temporary rule filed 5/5/14.</i></p>
<p>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</p>	<p>Amended to correct the cite references to the match the new license application fee rule (812-003-0142).</p>

<p>discipline;</p> <p>(2) The licensee must submit the request to renew the license in inactive status on forms provided by the agency; and</p> <p>(3) The licensee must submit the fees required under OAR [812-003-0140] 812-003-0142.</p> <p>Stat. Auth.: ORS 670.310 & 701.235 Stats. Implemented: ORS 701.056 & 701.063 (12/04, 6/08, temp. 5/5/14)</p>	<p><i>Note: Currently a temporary rule filed 5/5/14.</i></p>
<p>812-003-0380 Converting From Inactive Back to Active Status</p> <p>(1) To convert from an inactive status to an active status, the licensee must:</p> <p>(a) Submit a request to convert to an active status on forms provided by the agency; and</p> <p>(b) Comply with section (3), (4) or (5) of this rule as applicable.</p> <p>(2) A licensee requesting conversion from an inactive status to an active status at the time of renewal must:</p> <p>(a) Submit the fees required under OAR [812-003-0140] 812-003-0142;</p> <p>(b) Submit the required surety bond, or letter of credit, or cash deposit, and general liability insurance for the category requested; and</p> <p>(c) Comply with all other licensing requirements prescribed by the Board.</p> <p>(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:</p> <p>(a) Submit all fees to date as required by OAR [812-003-0140] 812-003-0142 and 812-003-0320;</p> <p>(b) Submit the required surety bond, or letter of credit, or cash deposit, and general liability insurance for the category requested; and</p> <p>(d) Comply with all other licensing requirements prescribed by the Board.</p> <p>(4) A licensee requesting conversion from an inactive status to an active status during a lapse due to the expiration of the license must:</p> <p>(a) Request the conversion within two years from the date of lapse;</p> <p>(b) Comply with all licensing requirements prescribed by the Board;</p> <p>(c) Submit the required surety bond, or letter of credit, or cash deposit, and general liability insurance for the category requested; and</p> <p>(d) Submit all fees required under OAR [812-003-0140] 812-003-0142.</p> <p>(5) If a license is converted from an inactive to an active status, the agency shall establish the effective date of the license.</p> <p>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)</p>	<p>Amended to correct the cite references to the match the new license application fee rule (812-003-0142).</p> <p><i>Note: Currently a temporary rule filed 5/5/14.</i></p>
<p>812-005-0800 Schedule of Penalties</p> <p>The agency may assess penalties, not to exceed the amounts shown in the following guidelines:</p> <p>(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</p>	<p>Amend sections (10) and (11).</p> <p>There are three different points in time when a contractor must notify CCB of its assumed business name(s).</p> <p>1. Original license application</p>

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 a 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

(OAR 812-003-0260).

2. Renewal (or reissuance) of license (OAR 812-003-0280).

3. Change of assumed business name (OAR 812-003-0320).

Section (10) of the rule omits number two. (Number 3 is covered under section (11)). Amending the rule will close a “loophole” that prevented assessing penalties against contractors that failed to report their new assumed business names upon renewal. The violation in Section (11) is similar to the violation in Section (10). Yet, it has a lesser penalty. CCB proposes to make the penalties the same.

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))

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:

Amend to add a surety bond requirement to pre-licensure training provider approval.

Note: Currently a temporary rule filed 5/5/14.

(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 \$20,000 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,

<p>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) (Amended and renumbered from 812-006-0030, 9/06, 11/08, 4/13 (eff. 5/1/13))</p>	
<p>812-006-0205 <u>Surety Bond to Assure Performance of Agency Agreements</u> <u>(1) Providers approved under OAR 812-006-0200 will maintain a surety bond in the amount of \$20,000, 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 _____.</u> <u>(2) Section (1) of this rule does not apply to Oregon public community colleges or small business development centers (including BizCenter Online Learning).</u> <u>Stat. Auth.: ORS 670.310, 701.122 & 701.235</u> <u>Stats. Implemented: ORS 701.122</u> <u>(temp. 5/5/14)</u></p>	<p>Adopt to create a surety bond (form) for pre-licensure training providers. <i>Note: Currently a temporary rule filed 5/5/14.</i></p>
<p>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[(4)] (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</p>	<p>ORS 701.098(4)(a)(E) was renumbered ORS 701.098(4)(a)(F) in 2013 (Or. Laws 2013, ch. 300, § 11). Former OAR 812-003-0450 was renumbered 812-005-0280(1) in November 2008; causing then OAR 812-003-0280(1) to be renumbered OAR 812-005-0280(2). (<i>See notes to OAR 812-005-0280.</i>) ORS 701.046 and OAR 812-003-0260 outline information that an applicant must provide in order to obtain a license. Many licenses are obtained by businesses, not individuals, so information other than DOB or driver's license would be more relevant.</p>

<p>license number,] as required under ORS 701.046 and OAR 812-003-0260.</p> <p>(2) The agency representative may not make legal argument on behalf of the agency.</p> <p>(a) “Legal argument” includes argument on:</p> <p>(A) The jurisdiction of the agency to hear the contested case;</p> <p>(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and</p> <p>(C) The application of court precedent to the facts of the particular contested case proceeding.</p> <p>(b) “Legal argument” does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual argument or arguments on:</p> <p>(A) The application of the statutes or rules to the facts in the contested case;</p> <p>(B) Comparison of prior actions of the agency in handling similar situations;</p> <p>(C) The literal meaning of the statute or rules directly applicable to the issues in the contested case;</p> <p>(D) The admissibility of evidence;</p> <p>(E) The correctness of procedures being followed in the contested case hearing.</p> <p>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)</p>	
<p>812-020-0050 Authority, Purpose, and Scope of Rules – Continuing Education for Commercial Contractors</p> <p>(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.</p> <p>(2) Purpose. The purpose of these rules is to further explain and detail the requirements for continuing education under ORS [701.124] 701.086.</p> <p>(3) Scope. These rules establish:</p> <p>(a) Procedures for commercial contractors to report continuing education hours;</p> <p>(b) Sanctions for commercial contractors failing to comply; and</p> <p>(c) Processes for prorating requirements.</p> <p>Stat. Auth.: ORS 670.310, [701.124] 701.086 & 701.235 Stats. Implemented: [701.124] 701.086 (11/08)</p>	<p>ORS 701.124 was renumbered 701.086 in 2013.</p>
<p>812-020-0055 Definitions – Continuing Education for Commercial Contractors</p> <p>The following definitions apply to OAR 812-020-0050 to 812-020-0073:</p> <p>(1) “Building code” means a specialty code as defined in ORS 455.010(7).</p> <p>(2) “Commercial contractor” means a licensed contractor as defined under ORS 701.005(2).</p> <p>(3) “Inactive commercial contractor” means a commercial contractor that has voluntarily placed its license in inactive status in accordance with</p>	<p>ORS 701.124 was renumbered 701.086 in 2013.</p>

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<p>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.</p> <p>(4) "Lapse in license" has the meaning given that term by OAR 812-002-0420.</p> <p>(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.</p> <p>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)</p>	
<p>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.</p> <p>Stat. Auth.: ORS 670.310, [701.124] 701.086 & 701.235 Stats. Implemented: [701.124] 701.086 (11/08)</p>	<p>ORS 701.124 was renumbered 701.086 in 2013.</p>
<p>812-020-0062 Exemptions – Continuing Education for Commercial Contractors</p> <p>(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:</p> <ul style="list-style-type: none"> (a) Electrical contractors subject to regulation under ORS 479.510 to 479.945. (b) Plumbing contractors subject to regulation under ORS chapter 693[; or]. (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. <p>(2) Commercial contractors endorsed only as commercial developers do not need to satisfy the continuing education requirements.</p> <p>(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:</p> <ul style="list-style-type: none"> (a) Sole proprietor; (b) Sole owner of a corporation; or (c) Sole member of a limited liability company. <p>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))</p>	<p>ORS 701.124 was renumbered 701.086 in 2013.</p>

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)

ORS 701.124 was renumbered 701.086 in 2013.

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

ORS 701.124 was renumbered 701.086 in 2013.

<p>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] <u>701.086</u> & 701.235 Stats. Implemented: [701.124] <u>701.086</u> (11/08, 1/09 (eff. 2/1/09), 2/10)</p>	
<p>812-020-0071 Hours Earned as Residential Contractor – Continuing Education for Commercial Contractors <u>(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.</u> <u>(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.</u> Stat. Auth.: ORS 670.310, [701.126] <u>701.086</u> & 701.235 Stats. Implemented: ORS [701.126] <u>701.082 & 701.086</u> (6/09)</p>	<p>Amended to permit commercially endorsed contractors to “count” their RCE hours towards their commercial continuing education requirements. The rule refers to ORS 701.126, which was repealed in 2013.</p> <p>Subsection (1) of the rule allows commercial contractors to use “old” RCE until the end of 2014 (as is permitted for residential contractor renewals).</p> <p>Subsection (2) of the rule corresponds with the new RCE program.</p>
<p>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] <u>701.086</u> & 701.235 Stats. Implemented: [701.124] <u>701.086</u> (11/08)</p>	<p>ORS 701.124 was renumbered 701.086 in 2013.</p>
<p>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] <u>701.086</u> & 701.235</p>	<p>ORS 701.124 was renumbered 701.086 in 2013.</p>

<p>Stats. Implemented: [701.124] 701.086 (11/08)</p>	
<p>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)</p>	<p>ORS 701.124 was renumbered 701.086 in 2013.</p>
<p>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)</p>	<p>ORS 701.124 was renumbered 701.086 in 2013.</p>
<p>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)</p>	<p>ORS 701.124 was renumbered 701.086 in 2013.</p>
<p>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</p>	<p>Amend to:</p> <ul style="list-style-type: none"> • Extends until the end of 2015 the period during which a contractor may renew based upon RCE earned before 1-1-14. • It is unclear how course hours earned before 1-1-14 should apply as alternatives to the new requirements. <p>Amendments to the rule clarify that: (1) CCB-LRB</p>

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)

substitutes for new CCB-LRB requirements (up to three hours); (2) BEST and Building Codes substitutes for new Series A course requirements (up to five hours); and (3) electives substitute for new Series B course requirements (up to eight hours).

(Note: amendments to (2)(a)-(d) are currently temporary rules.)

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

Amended to provide hours in excess of the three required CCB-LRB hours will be counted towards the 8 hour requirement of less experienced residential contractors. Effectively, they will substitute for “Series B” courses.

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); [ø]
- (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)

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[-];

Amend to create a complete exemption for:

1. Plumbing contractors
2. Electrical contractors
3. Contractors with a registered architect (owner or officer)
4. Contractors with a licensed professional engineer (owner or officer)

Similar, albeit more limited,

<p><u>(3) Contractors owned by, or having an officer who is, an architect registered under ORS 671.010 to 671.220; and</u></p> <p><u>(4) Contractors owned by, or having an officer who is, a professional engineer licensed under ORS 672.002 to 672.325</u></p> <p>[(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.]</p> <p>[(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:</p> <p>(a) Complete sufficient course hours in trade licensing continuing education or Series A Courses to total five hours; and</p> <p>(b) Complete sufficient course hours in trade licensing education, Series A Courses, or Series B Courses to total eight hours.</p> <p>(c) To qualify for the exemption, an owner or employee of the contractor must complete the trade licensing continuing education.]</p> <p>Stat. Auth.: ORS 670.310, 701.082, 701.083, & 701.235</p> <p>Stats. Implemented: ORS 701.082 and 701.083</p> <p>(10/24/13, temp. 11/26/13, 2/6/14, temp. 3/26/14)</p>	<p>exemptions existed in the “old” RCE. See OAR 812-021-0021.</p> <p><i>(Note: Currently a temporary rule.)</i></p>
<p><u>812-022-0022 Experience Exemptions from Continuing Education – Continuing Education for Residential Contractors (SB 783)</u></p> <p><u>(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).</u></p> <p><u>(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).</u></p> <p><u>(3) The licensing for the contractor or experience for the RMI does not need to be continuous.</u></p> <p><u>Stat. Auth.: ORS 670.310, 701.082 and 701.235</u></p> <p><u>Stats. Implemented: ORS 701.082 and 701.265</u></p> <p><u>(temp. 3/26/14)</u></p>	<p>Adopt:</p> <p>Section (1) permits a contractor to count any period during which it was licensed towards the six-year requirement to qualify for renewal by completing eight, rather than 16, hours of continuing education.</p> <p>Section (2) permits a contractor to use the experience of its RMI to qualify for renewal by completing eight, rather than 16, hours of continuing education.</p> <p>Section (3) clarifies that the licensing or experience does not need to be continuous.</p> <p><i>(Note: Currently a temporary rule.)</i></p>

CONSTRUCTION CONTRACTORS BOARD

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Interoffice Memo

To: Berri Leslie
Administrator

From: Kathleen Dahlin
Policy Analyst

Date: March 27, 2014

Subject: Amend OAR 812-002-0120 and OAR 812-005-800

BACKGROUND: OAR 812-002-0120

Oregon law exempts certain persons from the requirement that they hold a license to work as a contractor. One exemption is ORS 701.010(4), which provides, in part, that:

* * * The following persons are exempt from licensure under this chapter:
* * *

(4) A person working on one structure or project, under one or more contracts, when the aggregate price of all of that person's contracts for labor, materials and all other items is less than \$1,000 and such work is of a casual, minor or inconsequential nature. * * *

Until recently, the law only exempted contracts of less than \$500. The 2013 legislature increased the exemption amount to \$1,000.

The agency adopted a rule defining "casual, minor and inconsequential." OAR 812-002-0120. The rule was last amended on January 1, 2014, to increase the exemption dollar amount from \$500 to \$1,000. Currently, the rule provides:

"Casual, minor or inconsequential" as used in ORS 701.010(4) means work not *of a structural nature* which cannot affect the health or safety of the owner or occupant of the structure, the *value* of which is less than 1,000 and does not include work done as a subcontractor to a licensee. (Emphasis added).

Problem:

1. The phrase “of a structural nature” is unclear. The agency has historically interpreted this to mean work that requires a structural permit.
2. The term “value” is confusing and inconsistent with the law. For example, assume a homeowner provides \$800 worth of siding and a builder agrees to install the siding for another \$800. The “value” of the work is \$1,600 – beyond the amount for which the exemption is permitted. The statute, however, refers to “the aggregate price of that person’s [the builder’s] contracts for labor, materials and all other items.” The contract price is \$800 – within the amount for which the exemption is permitted.
3. Historically, both the agency and the Office of Administrative Hearing’s (OAH’s) Administrative Law Judges (ALJs) have treated work that potentially involves lead-based paint (LBP) as excluded from the exemption. This is because LBP work is performed to protect public health and safety.¹

Solution: Amend OAR 812-002-0120

1. Amend the rule to clarify that “casual, minor or inconsequential” work does not include that which requires a structural permit.
2. Amend the rule to delete the term “value” and refer instead to the “aggregate contract price.” Clarify that the exemption relates to only one structure or project.
3. Amend the rule to add language relating to work covered by LBP requirements.

BACKGROUND: OAR 812-005-0800

OAR 812-005-0800 is the agency’s penalty rule.

There are three situations in which a contractor must report its assumed business name (ABN) to the agency: (1) on its original application (OAR 812-003-0260);² (2) on its

¹ The rules governing LBP refer to four types of work – abatement, inspection, renovation and risk assessment. See OAR 812-007-0020(1), (13), (25), (27). The types of buildings that are at issue are child-occupied facilities and target housing. See OAR 812-007-0020(6), (29).

² OAR 812-003-0260(1)(a) provides that:

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

renewal application or application for re-issuance (OAR 812-003-0280);³ and (3) when it registers a new ABN with the Secretary of State (OAR 812-003-0320(1)).⁴

Problem :

Recently, the agency obtained an adverse ruling from an ALJ because the agency's notice was not legally sufficient. The notice – based on an agency template – failed to list the rules relating to the appropriate failure to report an assumed business names (ABNs).

The agency's compliance officers recommend "shoring up" the penalty rule to include reference to all three of these circumstances when an ABN must be reported. The compliance officers also recommend making the penalties for these violations the same.

Solution: Amend OAR 812-005-0800

1. Amend section (10) to include a reference to OAR 812-003-0280.

Currently, section (10) of the penalty rule refers to violation of OAR 812-003-0260. Section (11) of the penalty rule refers to a violation of OAR 812-003-0320. No part of the rule refers to OAR 812-003-0280.

2. Amend section (11) to contain the same penalty as section (10).

The violation in Section (11) is similar to the violation in Section (10). Yet, it has a lesser penalty. CCB proposes to make the penalties the same.

(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) * * * (Emphasis added).

³ OAR 812-003-0280(1) provides that:

Each entity must complete a form prescribed by the agency. Notwithstanding OAR 812-003-0300(4), a license may be renewed or reissued upon:

(1) The applicant's completion of the renewal form or application prescribed by the agency including, but not limited to, the *information provided in OAR 812-003-0260* * * * (Emphasis added).

⁴ OAR 812-003-0320(1) provides, in relevant part, that:

(1) Every licensed entity that changes its name, *including any assumed business name* under which it may operate, must notify the agency within 30 days of assuming, filing or registering the new name. * * * (Emphasis added).

CONSTRUCTION CONTRACTORS BOARD

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Interoffice Memo

To: Berri Leslie
Administrator
From: Kathleen Dahlin
Policy Analyst
Date: April 16, 2014
Subject: OAR 812-003-0120(2)(g)

Background

On March 5, 2014, the Construction Contractors Board (CCB) issued a Notice of Proposed Disciplinary Action to Assess a Civil Penalty against Northwest Trade Services, Inc. (Northwest Trade).¹ Northwest Trade is a construction contractor licensed in Oregon.² Its principal place of business is located at 990 E. Ellendale Avenue, Dallas, Oregon. The proposed action alleged that Northwest Trade advertised via "a yard sign at 990 E. Ellendale Avenue," which sign did not include the contractor's license number.

On March 23, 2014, Northwest Trade (through its president Steve Forbes) sent a Violation Notice Response Form. According to Mr. Forbes, "the violation is unjust and based on a speculative interpretation of Oregon law." Mr. Forbes included an attached letter and several photographs.

According to Mr. Forbes' letter, the sign in question is not a yard sign but a permanently installed sign identifying the business at the business' location. Mr. Forbes asserts that the sign was not installed as advertising, but as "signage" to identify the business location. For accounting/tax purposes, the cost of the sign is not expensed but treated as a capital expenditure and depreciated.

Mr. Forbes attached photographs of similar signs at the following businesses: (1) Oregon Cascade Plumbing (Salem); (2) Twin Rivers Plumbing (Eugene); (3) Gormley

¹ The amount of the civil penalty was \$100.

² Northwest Trade's license number is 112006. Its assumed business name is Priority Plumbing.

Plumbing (McMinnville): (4) Mr. Rooter Plumbing (Milwaukee); (5) CJ Hansen Company (Salem); (6) Best Heating & Cooling (Scio); (7) Roto Rooter (Wilsonville); (8) Judson's Plumbing-Heating-Electric (Salem); (9) Gagle Heating (Salem); (10) Dale's Remodeling (Salem); (11) Fredinburg Masonry (Salem); (12) Golden Rule Remodeling (Salem); (13) West Coast Metal Buildings (Salem); and (14) Cherry City Electric (Salem). None of these signs contain a CCB license number.

CCB consulted with its attorneys to determine whether Northwest Trade's sign fell within the scope of OAR 812-003-0120(1)(g) as written advertising without a license number. Kelly Gabliks, Senior Assistant Attorney General, advised the sign was technically in violation of the current rule.

After further consideration, CCB made a policy decision to withdraw the Notice and propose to amend the rule.

Problem

CCB's rules do not distinguish between general signage and business signs used primarily to identify the business location(s).

Solution

The solution is to amend OAR 812-003-0120(1)(g) to exempt permanently attached or affixed signs at business locations that primarily and prominently display the contractor's name.

**STATE OF OREGON
PRE-LICENSURE TRAINING PROVIDER
SURETY BOND**

Surety Company Bond No. _____

_____, as **Principal**, desires to obtain, or to renew, approval from the Oregon Construction Contractors Board to offer continuing pre-licensure training pursuant to ORS 701.122 and OAR 812-006-0200. **Principal** is required to furnish a bond in the penal sum of \$20,000, with good and sufficient surety, conditioned as set forth in this instrument.

Principal and _____, a corporation qualified and authorized to do business in the State of Oregon, as **Surety**, hereby bind themselves, their heirs, personal representative, administrators, successors and assigns, jointly and severally, unto the State of Oregon Construction Contractors Board for the use and benefit of third-parties in the sum of twenty-thousand dollars and no cents (\$20,000), to be paid as in amounts as determined by the Construction Contractors Board to students who do not receive training in exchange for payment to **Principal**.

The obligation of the Surety under this bond is void if, in accordance with ORS chapter 701.122 and OAR 812-006-0200, the Principal pays all amounts owed to the Construction Contractors Board; otherwise the obligation remains in full force and effect. Any person suffering loss or damage because of the failure of the Principal to fully and faithfully comply with ORS 701.122 and OAR 812-006-0200 may sue the Surety for the recovery of any amount due that person.

This bond is for the exclusive purpose of ensuring payment of amounts owed pursuant to ORS 701.122 and OAR 812-006-0200. The bond is one continuing obligation, and the liability of the Surety for the aggregate of all claims which may arise under this bond may in no event exceed the amount of the penal sum of this bond.

The bond is effective on _____ or the date that the Principal meets all requirements as an approved provider, whichever occurs later, and remains continuously in effect until depleted, unless the Surety sooner cancels the bond. The Surety may cancel this bond and be relieved of further liability for monies owed the Construction Contractors Board by giving 30 days' written notice to the Principal and to the Construction Contractors Board. Cancellation does not limit the responsibility of the Surety for claims made by the Construction Contractors Board prior to cancellation of the bond.

This bond is not valid for purposes of pre-licensure training provider approval unless filed with the Construction Contractors Board within 60 days after the date shown below.

Executed by the Principal and the Surety this _____ day of _____, 20__.

Surety:

Signature

Name of Attorney-in-Fact or Agent

Title

Agency Address

City, State, Zip Code

Principal:

Signature

Name (print or type)

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Interoffice Memo

To: Berri Leslie
Administrator

From: Catherine Dixon
Rules Coordinator

Date: April 17, 2014

Subject: OAR 812-003-0142 – CCB License Application Fees

Background

OAR 812-003-0140 was repealed as part of the rulemaking hearing at the December 3, 2013. This occurred due to the title above the rule that stated "Effective July 1, 2010", which was interpreted as no longer being necessary since that date had passed.

July 1, 2010 was the date that the new fee of \$325 per two-year license period began.

Problem

Currently CCB does not have license application fee rule. Since the rule was repealed, that rule number can no longer be used.

Solution

The solution is to adopt OAR 812-003-0142 to establish CCB's fee structure and amend the rules that referenced OAR 812-003-0140 to reference OAR 812-003-0142.

With respect to these rules, CCB finds that serious prejudice to the public interest may occur. Failure to promptly adopt OAR 812-003-0142 and amend the references to the fee rule will result in serious prejudice to the public interest because contractors and agency staff will not know what CCB's the fees are for new applications and renewal nor the refund policy fees. This omission is causing confusion on the part of contractors and agency staff.

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Interoffice Memo

To: Berri Leslie
Administrator

From: Kathleen Dahlin
Policy Analyst

Date: April 23, 2014

Subject: Amend OAR 812-006-0200 and Adopt OAR 812-006-0205 (Temporary)

Background

The Construction Contractors Board (CCB) needs assurance that pre-licensure training providers are financially able to comply with the conditions of provider approval. The CCB wants to assure that pre-licensure providers are able to refund fees already paid by students. If not, there needs to be a mechanism to accomplish this.

Problem

A CCB pre-licensure training provider closed its doors and stopped providing training to students. (The provider later reopened. The CCB is not aware of any students paying fees that were not refunded).

In anticipation of entering into new provider agreements in June, CCB proposes to add a surety bond requirement to pre-licensure provider approval. This requirement mirrors that which currently exists for residential continuing education providers.

Solution: Temporarily Amend OAR 812-006-0200 and Adopt OAR 812-006-0205

The solution is to temporarily amend OAR 812-006-0200 to require the surety bond as part of the approval process. The solution is also to temporarily adopt OAR 812-006-0205 to establish the bond. (A copy of the bond form is also attached).

Need for Temporary Rule

ORS 183.335(5) provides that an agency may adopt a temporary rule if it prepares the following:

(a) A statement of its findings that its failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned and the specific reasons for its findings of prejudice;

(b) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(c) A statement of the need for the rule and a statement of how the rule is intended to meet the need;

(d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection; and

(e) For an agency specified in ORS 183.530, a housing cost impact statement as defined in ORS 183.534.

With respect to these rules, CCB finds that:

1. Serious prejudice to the public interest.
 - a. Failure to promptly amend OAR 812-006-0200 will result in serious prejudice to the public interest. Without the temporary rule, the agency will not be able to enter into agreements with prerequisite training providers that include the financial protection of a surety bond. The current agreements expire in June 2014. Permanent rulemaking cannot be completed until at least August 2014.
 - b. Failure to promptly adopt OAR 812-006-0205 will result in serious prejudice to the public interest. Without the temporary rule, the agency will not be able to enter into agreements with prerequisite training providers that include the financial protection of a surety bond. The current agreements expire in June 2014. Permanent rulemaking cannot be completed until at least August 2014.
2. Citation of authority. ORS 183.335 (temporary rule); 670.310 (rulemaking); 701.122 (training requirements); 701.235 (rulemaking); 701.265 (rulemaking).
3. Statement of need. See above. (To be prepared by Cathy Dixon.)
4. List of principal documents. None.
5. Housing impact. (To be prepared by Cathy Dixon. Should be no impact.

**STATE OF OREGON
PRE-LICENSURE TRAINING PROVIDER
SURETY BOND**

Surety Company Bond No. _____

_____, as **Principal**, desires to obtain, or to renew, approval from the Oregon Construction Contractors Board to offer continuing pre-licensure training pursuant to ORS 701.122 and OAR 812-006-0200. **Principal** is required to furnish a bond in the penal sum of \$20,000, with good and sufficient surety, conditioned as set forth in this instrument.

Principal and _____, a corporation qualified and authorized to do business in the State of Oregon, as **Surety**, hereby bind themselves, their heirs, personal representative, administrators, successors and assigns, jointly and severally, unto the State of Oregon Construction Contractors Board for the use and benefit of third-parties in the sum of twenty-thousand dollars and no cents (\$20,000), to be paid as in amounts as determined by the Construction Contractors Board to students who do not receive training in exchange for payment to **Principal**.

The obligation of the Surety under this bond is void if, in accordance with ORS chapter 701.122 and OAR 812-006-0200, the Principal pays all amounts owed to the Construction Contractors Board; otherwise the obligation remains in full force and effect. Any person suffering loss or damage because of the failure of the Principal to fully and faithfully comply with ORS 701.122 and OAR 812-006-0200 may sue the Surety for the recovery of any amount due that person.

This bond is for the exclusive purpose of ensuring payment of amounts owed pursuant to ORS 701.122 and OAR 812-006-0200. The bond is one continuing obligation, and the liability of the Surety for the aggregate of all claims which may arise under this bond may in no event exceed the amount of the penal sum of this bond.

The bond is effective on _____ or the date that the Principal meets all requirements as an approved provider, whichever occurs later, and remains continuously in effect until depleted, unless the Surety sooner cancels the bond. The Surety may cancel this bond and be relieved of further liability for monies owed the Construction Contractors Board by giving 30 days' written notice to the Principal and to the Construction Contractors Board. Cancellation does not limit the responsibility of the Surety for claims made by the Construction Contractors Board prior to cancellation of the bond.

This bond is not valid for purposes of pre-licensure training provider approval unless filed with the Construction Contractors Board within 60 days after the date shown below.

Executed by the Principal and the Surety this _____ day of _____, 20__.

Surety:

Signature

Name of Attorney-in-Fact or Agent

Title

Agency Address

City, State, Zip Code

Principal:

Signature

Name (print or type)

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Interoffice Memo

To: Berri Leslie
Administrator

From: Kathleen Dahlin
Policy Analyst
Stan Jessup
Acting Enforcement Manager

Date: May 3, 2014

Subject: Lay Representation

REQUESTED ACTION

On April 23, 2014, Kimberly Wood, board member, e-mailed you with several follow-up items from previous meetings. One item was the following:

“In the January 24th [board] meeting, we discussed the use of lay representatives in hearings in lieu of DOJ attorneys. There were certain things that needed to occur which were outlined in the [January] 24 meeting minutes. I would like to have some report back on whether we have completed those items and that the action item is completed.”

The Construction Contractors Board (CCB) now reports that it has completed the necessary action items.

BACKGROUND

The board met on January 24, 2014, and considered a letter from the Oregon Department of Justice (DOJ).

On December 11, 2013, the DOJ wrote the Construction Contractors Board (CCB) indicating that CCB had requested authorization for agency representation to conduct the following types of cases:

1. Compliance hearings involving civil penalties.
2. Hearings to refuse to issue, renew or suspend a license for one of the following reasons:
 - a. Lack of bond
 - b. Lack of insurance
 - c. Unpaid construction debt
 - d. Other agency final order
 - e. Failing to pay certain obligations
 - f. Failing to obtain or maintain an increased bond (when required)
 - g. Failing to provide information necessary for licensure.

DOJ granted continuing authorization to CCB, upon certain conditions. Those conditions include the following.

On at least a biennial basis, the CCB employees who act as agency representatives must review the DOJ Code of Conduct for non-attorney representatives. Also, on a biennial basis, the CCB must submit certain summary information to DOJ. A sample table for the information was provided. The reporting requirement begins on July 1, 2017, for information gathered during the 2015 – 2017 fiscal biennium.

ISSUES

The CCB identified three items it needed to do to satisfy the DOJ requirements. They are:

1. The CCB should review and, if necessary, update its lay representation rule – OAR 812-009-0340.
2. The CCB Enforcement Section should provide its employees who conduct hearings as lay representatives with a current copy of the DOJ Code of Conduct.
3. The CCB Enforcement Section should establish a process to capture and report the data requested by DOJ.

ACTION

The CCB has now completed the following:

1. CCB's Policy Analyst drafted an amended rule to correspond with the current law and rules of CCB. (A copy is attached.)
 - a. CCB noticed the rule for rulemaking on June 24, 2014.
 - b. CCB contacted its assigned counsel for approval of the rule changes.
2. At a staff meeting on April 29, 2014, CCB's Acting Enforcement Manager provided copies of the DOJ Code of Conduct and the agency's rule for lay representatives. He conducted a training of those staff on the code and the rule.

3. Under the direction of CCB's Acting Enforcement Manager, the Enforcement Section's Administrative Specialist, working with CCB's Information Technology (IT) Section, is creating and capturing data for a report as requested by DOJ.
 - a. The target is to issue a first version of the report on July 1, 2015 (even though not actually required by DOJ until July 1, 2017).
 - b. The section will correct data and make it usable for the report as necessary.

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Interoffice Memo

To: Berri Leslie
Administrator

From: Kathleen Dahlin
Policy Analyst

Date: April 4, 2014

Subject: Amend OAR 812, division 20 and OAR 812-022-0015

BACKGROUND: OAR 812, Division 20

In 2007, the Oregon legislature adopted HB 3242, which created commercial license endorsements. Commercial contractors must complete continuing education. The new law took effect for contractors renewing on or after July 1, 2010. [Codified as ORS 701.124]

To implement the program, the Construction Contractors Board (CCB) adopted rules. The rules are at chapter 812, division 20. The rules have not been significantly updated since 2010.

In 2013, Legislative Counsel renumbered ORS 701.124 as ORS 701.086.

Also, in 2013, the legislature repealed the existing residential continuing education (RCE) law. [Codified as ORS 701.126] The 2013 legislature passed SB 783. SB 783 created a new RCE program. The program requirements are set forth in ORS 701.082.

Problem:

1. The rules in chapter 812, division 20, refer to ORS 701.124. This statute has been renumbered ORS 701.086.
2. OAR 812-020-0071 permits commercial contractors to "count" their RCE hours towards their commercial continuing education requirements. The rule refers to ORS 701.126, which was repealed in 2013. It does not mention the new RCE program.

Solution:

1. Amend the rules in chapter 812, division 20, to remove references to ORS 701.124 and replace with those with ORS 701.086.
2. Amend OAR 812-020-0071 so that:
 - a. Subsection (1) of the rule allows contractors to use “old” RCE until the end of 2014 (as is permitted for residential contractor renewals).
 - b. Subsection (2) of the rule corresponds with the new RCE program.

Background: RCE Inclusion of “Extra” CCB Hours

As part of the new RCE program,¹CCB offers courses on laws, regulations and business practices (CCB-LRB). ORS 701.082(2)(b). CCB may either offer the courses directly or by contracting with approved providers. *Id.* Contractors must complete 3 hours of CCB-LRB courses in each two-year licensing period. *Id.*

Recently, Legislative Counsel reviewed CCB’s rules implementing the new RCE program. He noted there is no provision explaining how to credit hours in excess of three CCB-LRB hours.

In reviewing the applicable law, it appears these extra course hours may only apply to the 8 hours for the less experienced contractors.

ORS 701.082(2) states:

“(2)(a) In addition to completing the continuing education requirement under subsection (1) of this section, to qualify for the renewal of a residential contractor license, the licensee must complete an additional eight hours of continuing education during the two-year licensing period preceding the renewal if the residential contractor was not licensed by the board as a residential contractor during any part of the six-year period immediately preceding the renewal.

“(b) Continuing education that is required of a residential contractor under paragraph (a) of this subsection must be offered by an approved continuing education provider or the board. The education may be in any subject described in subsection (1) of this section related to construction or the business of the residential contractor.” (Emphasis added).

ORS 701.082(1)(c), covering the five hours of required (Series A) courses, refers only to courses offered by **approved providers**. Thus, the extra CCB-LRB fits under ORS 701.082(2)(b) rather than under 701.082(1)(c).

¹ This was also part of the “old” RCE program.

Berri Leslie
April 4, 2014
Page 3 of 3

Problem:

1. Nothing in CCB's rules explains how to credit hours in excess of three CCB-LRB hours.

Solution:

1. Amend OAR 812-022-0015(3) to provide that hours in excess of the three required CCB-LRB hours will be counted towards the 8 hour requirement of less experience contractors. Effectively, they will substitute for "Series B" courses.

Attachment

E-mail thread between Kathleen Dahlin, Policy Analyst, and Charles Taylor, Legislative Counsel

DIXON Cathy

From: DAHLIN Kathleen
Sent: Wednesday, April 02, 2014 8:43 AM
To: TAYLOR Charles D
Cc: LESLIE Berri; DIXON Cathy; HALL Laurie; MARTINIS Cheryl
Subject: RE: Education Rules - Phone Call

Chuck,

Thanks for the explanation! Makes sense now. As always, appreciate your counsel.

I'll make a note we need to consider an amendment to OAR 812-022-0015(3) to clarify that "extra" CCB-LRB hours belong to Series B courses (required only of less experienced contractors), not Series A courses (required of all contractors).

Kathi

From: Taylor Charles D [mailto:charles.d.taylor@state.or.us]
Sent: Wednesday, April 02, 2014 8:38 AM
To: DAHLIN Kathleen
Subject: RE: Education Rules - Phone Call

Kathi,

The LC review this time was prompted by the board's adoption of temporary amendments to the rule. Those amendments were filed with the Secretary of State and with Legislative Counsel, which is charged with reviewing all agency rules. I failed to spot these two matters when I reviewed the original rule filing. LC review this time technically only involves the temporary amendments, so the two matters I have mentioned aren't something that would generate a report. I brought them up so that in case they create a problem with the rule the board would be aware and have a chance to fix things. You have already explained that the first matter isn't a problem. The second matter apparently may warrant further evaluation by the board staff.

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From: DAHLIN Kathleen [mailto:kathleen.dahlin@state.or.us]
Sent: Tuesday, April 01, 2014 1:43 PM
To: Taylor Charles D
Cc: LESLIE Berri; DIXON Cathy; MARTINIS Cheryl
Subject: RE: Education Rules - Phone Call

Chuck,

Sorry we didn't get a chance to speak.

I'm always glad to hear from you and appreciate your feedback.

BTW, I'm just curious – what precipitates Legislative Counsel reviewing the CCB's rules on residential continuing education (RCE)? Is this something you routinely do, or was there an issue with these particular rules that gave rise to some concern?

Let me try and sort out your second concern (since we seem to have the first one resolved).

- You note there is certain RCE described in OAR 812-022-0015(2)(a). This is the three hours of laws, regulations and business (LRB) practices offered by CCB. We sometimes refer to this as CCB-LRB.
 - Contractors may select from several on-line courses developed and offered by CCB, at a cost of \$15/hour, to satisfy the requirement.
 - Although the new law allows CCB to approve other providers to offer these courses – the agency has not done so.
 - This education is offered to satisfy the requirements of ORS 701.082(1)(b).
 - Most contractors only complete 3 hours, but they could, in theory, complete more.
- You state that this education “arguably could be considered to be education related to construction or the business of the residential contractor” – and, if so, ORS 701.082(2)(b) means that the education in excess of the required three hours must count towards the (Series B) requirements of OAR 812-022-0015(3).
 - *ORS 701.082(2) states:*

“(2)(a) In addition to completing the continuing education requirement under subsection (1) of this section, to qualify for the renewal of a residential contractor license, the licensee must complete an additional eight hours of continuing education during the two-year licensing period preceding the renewal if the residential contractor was not licensed by the board as a residential contractor during any part of the six-year period immediately preceding the renewal.

*“(b) Continuing education that is required of a residential contractor under paragraph (a) of this subsection must be offered by an approved continuing education provider **or the board**. The education may be in any subject described in subsection (1) of this section related to construction or the business of the residential contractor.” (Emphasis added).*

- I'm not sure the key here is “related to construction or the business of the residential contractor.”
 - However, I note the statute refers to courses offered by “approved providers **or the board**.”
 - ORS 701.082(1)(c), covering the five hours of required (Series A) courses, refers only to courses offered by **approved providers**.
 - The extra CCB-LRB looks more like it fits under ORS 701.082(2)(a) and (b) than under 701.082(1)(c).

So, bottom line, I'm inclined to agree with your conclusion (albeit for a slightly different reason) – extra CCB-LRB qualifies as a Series B course.

We probably should amend OAR 812-022-0015(3) to make that clear. I'll see if my folks at the agency have any heartburn with this result or suggested change. (We legal types can get lost in the weeds, sometimes). If not, I'll suggest the change for our next rulemaking.

Kathi

From: Taylor Charles D [mailto:charles.d.taylor@state.or.us]
Sent: Tuesday, April 01, 2014 11:54 AM
To: DAHLIN Kathleen
Cc: LESLIE Berri; DIXON Cathy; MARTINIS Cheryl
Subject: RE: Education Rules - Phone Call

Thanks Kathi. You're right that there is no language expressly requiring the board to approve continuing education in each of the categories described in ORS 701.082. I suppose that if it becomes an issue the sponsors will be back next session.

While talking with Cathy I briefly referred in passing to a second issue. Since we are discussing the rule anyway I will mention it for your future consideration. Education described in OAR 812-022-0015 (2) (a) arguably could be considered to be education related to construction or the business of the residential contractor. If it is so considered, ORS 701.082 (2)(b) means that OAR 812-022-0015 (2)(a) education in excess of the basic three hours must count toward satisfying the eight additional hours described in OAR 812-022-0015 (3). If that case, the OAR 812-022-0015 (3)(a) reference to "section (2)(b)" ought to be broadened. If OAR 812-022-0015 (2)(a) education is not considered by the board to be education related to construction or the business of the contractor, it might be worth saying so in rule to prevent any confusion.

Thanks for clarifying the situation regarding the course listings. Hope that you are having a good summer.

*****CONFIDENTIALITY NOTICE*****

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From: DAHLIN Kathleen [mailto:kathleen.dahlin@state.or.us]
Sent: Monday, March 31, 2014 2:06 PM
To: Taylor Charles D
Cc: LESLIE Berri; DIXON Cathy; MARTINIS Cheryl
Subject: RE: Education Rules - Phone Call

Chuck,

Cathy Dixon called today and said you had a concern regarding CCB's rules relating to residential continuing education (RCE). See *Cathy's e-mail at beginning of e-mail thread*. I talked to Cathy and she thought your concern was that CCB does not include energy efficiency and trade specific subjects within the Series A Courses (5 hours required of all contractors, approved providers, approved courses).

My read of the statute (ORS 701.082(1)(c)) is that CCB may "approve one or more of the following" for the five-hour requirement (what CCB calls "Series A"). This suggests, then, that not all of those things on the list must be included in the required 5 hours. The rulemaking authority is quite broad. ORS 701.265. There are some very practical problems with trying to "approve" all of the trade specific courses. Even the sponsors of the bill – as I recall – thought those courses would likely end up on the "elective" side of the board – for the less experienced contractors. So, this was an approach that was pretty transparent even coming out of the legislation.

I may not have correctly stated your concerns. It's hard to have this discussion in an e-mail, so I will try and give you a call tomorrow morning. (I have your number as 503-986-1243).

The Rule

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.

The Statute

701.082 Residential contractor continuing education requirements; exemptions. (1)(a) Except as provided in subsections (2) and (6) of this section and ORS 701.083, to qualify for the renewal of a residential contractor license the licensee must complete eight hours of continuing education during the two-year licensing period preceding the renewal.

(b) Three of the hours required under paragraph (a) of this subsection must be education regarding laws, regulations and business practices. The Construction Contractors Board shall develop materials for the education. The education must be offered by the board or by an approved continuing education provider acting under an agreement with the board.

(c) Five of the hours required under paragraph (a) of this subsection must be education from approved providers and be courses the board has approved as continuing education regarding one or more of the following:

(A) Construction business practices.

(B) Marketing.

(C) Customer service.

(D) Accounting.

(E) Business law.

(F) Bidding.

(G) Building codes.

(H) Safety.

(I) Energy efficiency.

(J) Trade specific subjects, such as roofing, excavation or exterior shell construction.

(K) Other subjects that the board determines by rule to be appropriate.

(2)(a) In addition to completing the continuing education required under subsection (1) of this section, to qualify for the renewal of a residential contractor license the licensee must complete an additional eight hours of continuing education during the two-year licensing period preceding the renewal if the residential contractor was not licensed by the board as a residential contractor during any part of the six-year period immediately preceding the renewal.

(b) Continuing education that is required of a residential contractor under paragraph (a) of this subsection must be offered by an approved continuing education provider or the board. The education may be in any subject described in subsection (1) of this section related to construction or the business of the residential contractor.

(3) A residential contractor applying for the renewal of a license shall certify the number of continuing education hours completed by the contractor during the two-year period immediately preceding the renewal. The board may require verification of certified continuing education hours described in subsection (1)(c) of this section.

(4) Notwithstanding subsections (1) to (3) of this section, the board may adopt rules to adjust the period allowed for the completion of continuing education when the renewing residential contractor holds a lapsed license described under ORS 701.063 (4).

(5) Subsections (1) to (4) of this section do not apply to a residential contractor endorsed only as a residential developer.

(6) The board may exempt residential contractors from continuing education requirements under this section. The board may create exemptions under this subsection by rule or may grant an exemption on a case-by-case basis. [2013 c.718 §4]

From: DIXON Cathy
Sent: Monday, March 31, 2014 10:34 AM
To: DAHLIN Kathleen
Subject: Education Rules - Phone Call

I got a call from Chuck Taylor, he has some concerns with our rule 812-022-0015(2)(b) and (3). Please let me know when is a good time to call. Cheryl Martinis also would like to join the conversation, as she has some questions for you regarding RCE.

Catherine Dixon
Management Assistant
Construction Contractors Board
(503) 934-2185
catherine.a.dixon@state.or.us

CONSTRUCTION CONTRACTORS BOARD

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PO Box 14140
Salem OR 97309-5052
503-378-4621
503-373-2007 FAX



Interoffice Memo

To: Berri Leslie
Administrator

From: Kathleen Dahlin
Policy Analyst

Date: March 27, 2014

Subject: Amend OAR 812-022-0010

BACKGROUND

Recently, a licensed Oregon architect contacted the Construction Contractors Board (CCB). The architect's license was first issued on March 6, 1998. It will expire on June 30, 2014. The individual is completing continuing education to renew his architect's license. He has been working on this since 2013.

The architect is also the owner, corporate officer, and responsible managing individual (RMI) of a licensed residential general contractor. The contractor's license was first issued on January 3, 2011. It will renew on January 3, 2015. Because the company will have been licensed for four years, the RMI must complete 16 hours of residential continuing education (RCE).

The contractor is frustrated. The ability to use "old" RCE runs out on December 31, 2014 – four days before this contractor must renew. OAR 812-022-0010(2). The contractor now must complete the CCB courses, Series A courses, and Series B courses.

Problem: No Credit for Certain Contractors Completing RCE in 2013.

Although SB 783 permits CCB to allow contractors to claim credit for hours completed in 2013,¹ CCB only extended that option for contractors renewing by December 31, 2014.

¹ SB 783, Section 7(2) provides that:

Berri Leslie
March 27, 2014
Page 2 of 3

There is no logical reason to disallow this option for contractors renewing in 2015.

Solution: Amend OAR 812-022-0010.

The solution is to amend OAR 812-022-0010(2). This will extend to December 31, 2015, the time during which a contractor may claim credit under the "old" RCE.

Notwithstanding subsection (1) of this section, sections 2 to 5 of this 2013 Act and the repeal of ORS 701.123, 701.126 and 701.127 by section 6 of this 2013 Act, the board may adopt rules to allow full or partial continuing education credit for continuing education courses or specialized education program coursework completed prior to January 1, 2015, regardless of whether a course or program coursework meets minimum standards adopted by the board under section 2 of this 2013 Act.



1051 NE 4th St.
Bend, OR 97701
541-389-1058
www.coba.org

CONTINUING EDUCATION RECORD

CCB licensed contractors, both residential and commercial are required to complete continuing education. Use this form to track your education. The courses listed are courses mandated by CCB for residential contractors except those contractors listed on the back of this form. All other courses are considered elective and the contractor must maintain Certificates of Attendance or Completion of those courses. You will not send this form to the CCB but you may be asked to produce proof of attendance when audited by CCB.

Company Name: Kathleen Donohoe CCB #: 192663 CCB License renewal date: 1/3/2015

Name of Education Provider	Course Name	CORE credits	Elective Credits	Date of Course	Course Location	Name of Instructor	Name of Attendee
COBA	BEST	3					
COBA	Codes/Green	2					
CCB	Residential Contracts	1					
CCB	Contractor Endorsements	1					
CCB	Dispute Resolution	1					
COBA	Subcontractors what should be in your contract		2	8/6/13	COBA office	Gracia Edwards	Darrell Barnes
COBA	Innovative Designs for Green Interiors and Bathes		1	10/10/13	COBA	Kathleen Donohoe	Darrell Barnes
COBA	Product Demo's		1	10/10/13	COBA	Neil Kelly et. al.	Darrell Barnes
COBA	Passive Hs. in Cent. OR.		1	10/10/13	COBA	Bob Lorenzen	Darrell Barnes
COBA	Keynote Address		1	10/10/13	COBA	Erin O'Neil	Darrell Barnes
COBA	Remodeling Sustainably		2	9/10/13	COBA	Mark Krusemer Lawrence Schaefer	Darrell Barnes
COBA	Closing the Deal		2	9/10/13	COBA	Randall Marchington	Darrell Barnes
COBA	Insulation Types		1	10/10/13	COBA	Will Lebeda	Darrell Barnes

see continuation sheet.



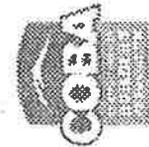
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CONTINUING EDUCATION RECORD

CCB licensed contractors, both residential and commercial are required to complete continuing education. Use this form to track your education. The courses listed are courses mandated by CCB for residential contractors except those contractors listed on the back of this form. All other courses are considered elective and the contractor must maintain Certificates of Attendance or Completion of those courses. You will not send this form to the CCB but you may be asked to produce proof of attendance when audited by CCB.

Company Name: Artemis Builders CCB #: 1926663 CCB License renewal date: 1/3/2013

Name of Education Provider	Course Name	CORE credits	Elective Credits	Date of Course	Course Location	Name of Instructor	Name of Attendee
	BEST	3					
	Codes/Green	2					
CCB	Residential Contracts	1					
CCB	Contractor Endorsements	1					
CCB	Dispute Resolution	1					
COBA	IRS - Tax Audits		2	2/5/13	COBA office	GROTHMAN PALMER VIDEO - Michael Groth	DB
COBA	ADDI DINI - DISPUTE RESOLUTION FOR BUILERS, UNETH		2	2/5/13	COBA OFFICE	BILL VOSS MIKE DAGLEY	DB
COBA				2/5/13	COBA OFFICE		DB
COBA	MINI-SPLITS		2	2/5/13	COBA OFFICE	PANDELL MARSHINGTON BEND HQ.	DB
COBA	LEPP INTRO		2	2/5/13	COBA OFFICE	GROTHMAN PALMER	DB
	TOTAL		0	2/5/13	All day seminar		



1051 NE 4th St.
Bend, OR 97701
541-389-1058
www.coba.org

2013 Continued

CONTINUING EDUCATION RECORD

CCB licensed contractors, both residential and commercial are required to complete continuing education. Use this form to track your education. The courses listed are courses mandated by CCB for residential contractors except those contractors listed on the back of this form. All other courses are considered elective and the contractor must maintain Certificates of Attendance or Completion of those courses. You will not send this form to the CCB but you may be asked to produce proof of attendance when audited by CCB.

Company Name: APTEKO BLDGS. CCB #: 1926663 CCB License renewal date: 1/3/2015

Name of Education Provider	Course Name	Series A 8 hrs required	Series B 8 hrs required	Date of Course	Course Location	Name of Instructor	Name of Attendee
CCB		1	2		www.oregon.gov/ccb		
CCB		1			www.oregon.gov/ccb		
CCB		1			www.oregon.gov/ccb		
COBA CCB	Making Sense of Energy Code	2		10/10/13	COBA	CCB	Dannell Barnes
COBA	Construction Lending	1		7/24/13	COBA	ROB MARTINO KEVIN MILLER	Dannell Barnes
COBA CHBA	CHBA 01	2		10/10/13	COBA	HOWARD ASCH	Dannell Barnes
COBA	UNDERSTANDING ORSC 2011:CH1	2		1/22/14	COBA	MIKE REBOUTS	Dannell Barnes
COBA	Deschutes County E-permits	1		2/19/14	COBA	Jared Broadfoot	Dannell Barnes

3/3/2014

Darrell J. Barnes AIA
Artekco Builders
24191 E HWY 20
Bend, OR 97701

Senator Tim Knopp
900 Court St. NE
Salem, OR 97301

Dear Senator Knopp,

I learned this morning that the Continuing Education Credits that I have been earning over the past year, toward my two year renewal period due January 3, 2015, have simply been deemed null and void by recent legislative law. These were Construction Contractors Board (CCB) approved/accredited classes, earned through Central Oregon Builders Association (COBA), with whom I am a paid member in good standing. I am a Residential General Contractor in good standing with the CCB, as well as a licensed Oregon Architect, in good standing with the Oregon Board of Architectural Examiners (OBAE), and I am a long time member in good standing with the American Institute of Architects (AIA). I have worked in earnest in 2013 to get the required credits for the new two year renewal cycle out of the way so that I could concentrate on marketing, construction, and family in 2014 (see attached lists of earned credits). I am stunned that the governing powers have deemed it appropriate to simply erase all the time, energy, and expense that I have set aside from my family life, and my construction and architecture projects, to earn these Continuing Education Credits, as though they are insignificant.

This was a gut punch to me. I am sure it has a significant impact on many other contractors as well. Should the time spent by all Oregon Contractors who will lose their earned Continuing Education Credits be totaled, I'm certain it would amount to a great number of hours. Our time is precious, as I trust yours is.

In addition to erasing all my credits for the past year, I am told that the Architect exemption for the Core Credits has been eliminated. As an architect, I am required to earn twelve (12) Continuing Education Credits per year - sixteen (16) if AIA - in addition to the now sixteen (16) required for CCB. In the past a few of these Continuing Education Credits have been reciprocal for architects/contractors, but not all. As a small business owner, I am burdened with having to

fulfill all these myself, while maintaining two separate licenses, two sets of liability insurance, two sets of employees, two sets of expenses, and double the time commitments.

I am frustrated further by the rampant illegal construction and architecture practices going on all around me. I am having to compete with unlicensed builders calling themselves contractors, designers calling themselves architects and getting engineers to stamp their work, entire crews of illegals, Contractors running crews without worker's compensation insurance, Contractors paying employees under the table, and Contractors that don't even have to earn any Continuing Education Credits because they are "grandfathered in".

I have been involved in high quality construction for 35 years. Starting out as a carpenter in the 1980's I have helped to build over thirty houses, including a couple of my own. As an architect for over 17 years I have been involved in the design and construction administration of large resorts, schools, residences, and commercial buildings. Additionally, I have several years of experience building railroads and ocean port jetties. Perhaps I could be "grandfathered in" and relieved of the requirements for Continuing Education Credits for my Residential General Contractor license.

Most importantly, I feel a tremendous injustice has been done to all Oregon Contractors who have been stripped of their Continuing Education Credits.

Thank you for your attention to this matter.

Respectfully,



Darrell J. Barnes AIA
President
Artekco Builders
Darrell Barnes Architect, Inc.

CONSTRUCTION CONTRACTORS BOARD

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Salem OR 97309-5052
503-378-4621
503-373-2007 FAX



Interoffice Memo

To: Berri Leslie
Interim Administrator

From: Catherine Dixon
Management Assistant

Date: June 6, 2014

Subject: Surety Bonds and Liability Insurance - Pre-Licensure Training Providers

BACKGROUND:

CCB has agreements (contracts) with the pre-licensure training providers that allow the training providers to teach the pre-licensure training to CCB applicants.

State Procurement Office (SPO) recommends general liability insurance coverage in the amount of \$1,900,000. Risk Management said that since CCB's risk are low that \$1,000,000 of general liability insurance coverage would be sufficient to protect CCB and would be a reasonable requirement for pre-licensure training providers.

Currently CCB is not requiring general liability insurance coverage.

On May 5, 2014, CCB adopted a temporary rule that requires pre-licensure training providers to have a \$20,000 surety bond. CCB staff heard from a bond agent that the \$20,000 surety bond amount is too high.

RESEARCH:

Bonds:

I looked at the risk factors that a bond would need to cover. The statistics for calendar year 2013 show that the average cost of the pre-licensure training was \$219. The lowest price charged was \$92 and the highest was \$500. The average number of students per provider is approximately 53; the lowest course had 2 students while the highest course had 365.

I called a couple of bonding companies to determine if lower bond amounts are available for the pre-licensure training providers and what amount of surety bond they would recommend based on the risk factors above.

Tom Dymant, CBIC:

I called Tom Dymant from CBIC on June 6, 2014 and asked whether the \$20,000 surety bond was too high or about right. He stated that it might be a bit high given the risk factors (average cost of the course is \$219 and the low number of students per month). He recommends a

104

reasonable surety bond amount would be \$10,000, which is very affordable and easy to obtain. A \$10,000 surety bond would cover any student losses.

Either a \$10,000 or \$5,000 would be available for the pre-licensure training providers to purchase. Bond companies issue bonds in amounts that are required either by statute or by administrative rule. Whichever amount of bond CCB decides to require by rule, bond companies will make available.

Mark Wilson, Frontier Bonding:

I called Mr. Wilson on June 6, 2014 and asked whether the \$20,000 surety bond was too high or about right. He stated that it might be a bit high and stated that he would recommend a \$10,000 surety bond based on the average cost of \$219 for the course and on average up to 20 students who could be harmed if the pre-licensing training provider went out of business.

Bond Amount	Number of Students Covered
\$5,000	Average 10 students. Between 10 to 20 students, depending on the price of the course
\$10,000	Average 20 students. Between 15 to 35 students, depending on the price of the course
\$20,000	Average 50 students. Between 40 to 100 students, depending on the price of the course

Mr. Wilson stated that it is not difficult to obtain a \$10,000 surety bond, which would be based on a personal credit score. In the event the bond company had to pay out, it would average the payout based on the number of students harmed; which may not cover the entire amount the student paid for the course, if there were say 20 students. For the most part a \$10,000 would cover the student's losses.

Liability Insurance Requirements:

I called Cece Newell at the Insurance Division on June 6, 2014 and asked about general liability insurance policies are available for pre-licensure training providers. She suggested that CCB require a combined single limit general liability insurance that includes errors and omissions and cyber liability. She would include cyber liability because many of the pre-licensure training providers provide online courses and may gather personal information from the student, such as credit card numbers, that could cause a student to become a victim of identity theft. Since CCB approves these training providers, CCB is at risk of being sued should anything happen. CCB has some risk since the State of Oregon Procurement Office statues, rules, and contract templates contain requirements for general liability insurance to protect the state's interests.

RECOMMENDATIONS:

I recommend requiring a \$10,000 surety bond as suggested by the bonding companies contacted.

I further recommend requiring \$1,000,000 in general liability insurance with a combined single limit general liability insurance that includes errors and omissions and cyber liability as suggested by Cece Newell of the Insurance Division.

DIXON Cathy

From: MAGEE Jennifer
Sent: Friday, May 23, 2014 11:03 AM
To: MARTINIS Cheryl; DIXON Cathy; LESLIE Berri
Subject: FW: New Surety Bond

From: Rick Gibson [<mailto:rickg2@earthlink.net>]
Sent: Friday, May 23, 2014 11:00 AM
To: MAGEE Jennifer
Subject: New Surety Bond

Hi Jennifer,

Maybe you can pass this on to Catherine Dixon or someone in contracts. I'm getting feedback from insurance agents I have contacted about the new requirement for training providers to have a \$20,000 Surety Bond. They are wondering why this is such a high bond amount for such little risk. Contractor bonds are for the same limit, yet the risk is so much greater. If you can shed any light on why this is such a high bond amount for training providers, I would appreciate it.

Have you had any similar concerns from other training providers?

Thanks,

Rick Gibson
Construction Contractors Network

DIXON Cathy

From: Corban Enns <corban@suretysolutionsllc.com>
Sent: Friday, May 30, 2014 2:55 PM
To: Catherine.a.dixon@state.or.us
Cc: MARTINIS Cheryl (cheryl.martinis@state.or.us)
Subject: Pre-Licensing Surety Bond
Attachments: RE: Contact information

Hello Cathy,

I was just made aware of the notice by the CCB to suspend the bond requirement for the Pre-License education providers as well as the opportunity to give testimony on June 24th. I wanted to reach out and see if I could attend the meeting that day or if written testimony was preferred? Please find attached my previous correspondence with Cheryl pertaining to this obligation as well in the event that it may assist the process with the board. Thanks again and I look forward to hearing from you.

Thanks again,

Corban Enns
President
corban@suretysolutionsllc.com



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DIXON Cathy

From: Corban Enns <corban@suretysolutionsllc.com>
Sent: Thursday, May 22, 2014 11:40 AM
To: MARTINIS Cheryl
Subject: RE: Contact information

Hello Cheryl,

Thanks again for taking my call yesterday and providing a copy of the new bond form/requirement for the pre-license education providers.

Per our call, a couple of points that the CCB might want to consider when reviewing this new bond obligation.

- The bond penalty for this new requirement seems pretty high for the nature of the obligation. For example, one of the pre-license providers that sells a do-it-yourself kit containing a DVD, book, and open test kit is \$99 to \$145. They provide the materials upon purchase and they only sell about 25 a month. For them to have \$20,000 in liability they would have to default on more than 130-200 contractors in the given time frame. They've never had sales anywhere near that figure. It would seem odd that the pre-license provider would have the same bond liability as the actual contractor who is out performing work, incurring debt to suppliers, etc.
- As I understand it, the contract term is 2 years in length but you don't have a term for the surety bond. Other regulator groups have found there to be a LOT more work when their bond requirement doesn't coincide with the overall term of the license/contract, etc. You probably won't see a lot of 12 month cancellations but they will happen. My thought would be to make the bond be a 2 year bond. You'll get less mid-contract cancellations and you'll know when you get the bond that it is good for the same duration as the contract; unless you receive a cancellation notice which could trigger a response on your part.
- Any concerns about the nature of the surety bond requirement you could check with the following groups:
 - o Oregon Surety Association (I think Leslie Berry has used them in the past)
 - o The Surety & Fidelity Association of America (SFAA)
 - o Corban Enns (me) as I have a contract with the City of Salem via the RFP that we have on file with Ed Fischer, the City Risk Manager

I think we can get the new bond approved fairly easily and my assumption of the cost for this 2 year obligation would be approximately \$350 for the pre-license education provider. I hope this information help and thank again for your time yesterday!

Thanks again,

Corban Enns
President
corban@suretysolutionsllc.com



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From: MARTINIS Cheryl [<mailto:cheryl.martinis@state.or.us>]
Sent: Wednesday, May 21, 2014 4:52 PM
To: Corban Enns
Subject: RE: Contact information

<http://ccbed.ccb.state.or.us/WEBpdf/CCB/Publications/prelicense-provider-bond-form.pdf>

Cheryl Martinis
Interim Education Manager
Oregon Construction Contractors Board
503-934-2195
503-507-6020 (cell)

From: Corban Enns [<mailto:corban@suretysolutionsllc.com>]
Sent: Wednesday, May 21, 2014 4:51 PM
To: MARTINIS Cheryl
Subject: Contact information

Thanks!

Thanks again,

Corban Enns
President
corban@suretysolutionsllc.com


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DIXON Cathy

From: A Contractor's Training Resource <info@acontractorstrainingresource.com>
Sent: Friday, June 06, 2014 7:44 PM
To: 'DIXON Cathy'
Subject: RE: Pre-Licensure Training Provider Authorization Agreemetns
Attachments: Comments regarding the possible requirement of a surety bond.docx

Importance: High

Catherine-

I have attached my written testimony regarding the proposed surety bond and I have included a copy of this document in my Education Provider contract package.

Ray LaFrance

From: DIXON Cathy [mailto:catherine.a.dixon@state.or.us]
Sent: Friday, May 30, 2014 1:58 PM
To: abby@abbysplace.com; alemndra.6.@hccoregon.org; anthony@pbsi.com; atesti@tvcc.cc; beebejor@msn.com; contact@atyourpaceonline.com; dana@moneywiseco.com; don@contractorschoolonline.com; glew80@aol.com; greenal@linnbenton.edu; help@acontractorscoach.com; holly@proschoools.com; info@4seasonsllc.com; info@acontractorstrainingresource.com; infor@athomepre.com; jchandler@oregonhba.com; jeff@onlined.com; john@3sccompany.com; kristenstoddard@gmail.com; licenciasdenegocios@gmail.com; lyman@tillamookbay.cc; meadss@laneco.edu; parr.biz@gmail.com; rcampbell@clackamas.edu; rick2@earthlink.net; robin.walker-parker@umpqua.edu; sbdc@cooc.edu; sbdc@roquecc.edu; tatyana.sukhodolov@chemeketa.edu; yjohnson@pcc.edu
Subject: Pre-Licensure Training Provider Authorization Agreemetns

Dear Pre-Licensure Training Providers,

The Construction Contractors Board (CCB) has decided to hold off requiring a \$20,000 surety bond for renewal until after the rulemaking hearing on June 30, 2014. Please complete and send in your renewal and signed agreements without the bond form so they can be signed prior to June 30, 2014.

If you already submitted the bond form, we will hold the bond form until after the Board meeting.

A rulemaking hearing will be held on June 24, 2014, and the Board will consider written testimony and take oral testimony. The Board will then make a determination on what amount of surety bond is appropriate, if any, and whether to require general liability insurance in an amount to be determined as an alternative.

After the rulemaking hearing, CCB will notify all pre-licensure training providers of the Board's decision and give you a timeframe to submit a surety bond, insurance, etc. along with an amendment to the agreements if changes are made.

If you want to submit written testimony regarding the rulemaking hearing, send your written testimony to Cathy Dixon, Rules Coordinator at Catherine.a.dixon@state.or.us by June 10, 2014.

Catherine Dixon
Management Assistant
Administration

Construction Contractors Board
(503) 934-2185
catherine.a.dixon@state.or.us

Ray LaFrance
DBA: A Contractors Training Resource
4109 NE Jackson Street
Hillsboro, OR 97124

June 6, 2014

These are my comments regarding the possible requirement of a surety bond for Oregon Construction Contractor Education Providers.

I am writing with a great deal of concern regarding the possible requirement that Education Providers carry a surety bond of \$20,000. My initial awareness of this issue came about from an email sent out by the CCB to the Education Providers informing us that we could send in our contract renewal packages without the bond form. Up until the time of this email, I had no idea that such a thing was under consideration or why such a bond could possibly be required of Education Providers.

It was not until I opened up the Provider contract renewal package that I found out that the surety bond was being considered to provide restitution to Oregon contractor students who paid providers for course materials but then did not receive the materials. I have searched the internet for any sort of article related to the problem of students paying for but not receiving their training materials but have not found any at all.

I have, in the past, received emails from the CCB reminding all of the Providers that we are obligated contractually to turn in our monthly stats by the tenth of the month but I have not seen any emails at all being sent out by the CCB stating that if a contractor student pays a Provider for training materials in the pursuit of a General Contractor's license, the Provider is actually obligated to then send those training materials to the student.

- If any Provider were to do such a thing as to accept money from someone for training materials and then deliberately not send the materials to that person, why would the CCB ever tolerate that behavior at all?
- Why wouldn't the CCB either suspend or completely cancel the contract of any Provider who took money from someone in this way?
- Why hasn't this issue been voiced to the Provider community before this to make us aware that such a problem exists?
- Why is the alternative of taking action against these few offending individuals to, instead, invoke such a penalty on everyone so as to require a surety bond from all of us?
- All Education Providers sign agreements with the CCB that have both implicit and explicit expectations that Providers will act with the highest level of integrity in all aspects of their training of contractor license students. Any individual who breaks these covenants must do so knowing the consequences; the offending individuals need to be punished, not the entire group.

There is no question that I charge less than any of the other Providers for the training package that students need to obtain their Construction Contractor's license. That means that my profit margin is as narrow as can possibly be sustained and still be an Education Provider. I only sell training packages to about seven or eight students each month. If I am required to carry a surety bond to remain an Education Provider, I will not be able to financially continue to provide students with training materials and will stop being a Provider.

Ray LaFrance

DIXON Cathy

From: Koleena Roth <help@acontractorscoach.com>
Sent: Sunday, June 08, 2014 4:31 PM
To: Catherine.a.dixon@state.or.us
Subject: Written Testimony for Training Provider Bond Requirement
Attachments: Written Testimony Against Bond Requirement.docx

Hello Catherine,

Please find attached my written testimony against the Training Provider Bond Requirement for the CCB Board Meeting. Please let me know if you need additional information. Thank you for the opportunity to provide input. I look forward to knowing the result!

Have a wonderful week!

Koleena
www.acontractorscoach.com
360.521.6668

A CONTRACTORS' COACH

Koleena Roth, Owner
5103 NE Issler Street
Vancouver, WA 98661
360.521.6668

Written Testimony of Koleena Roth, dba A Contractors' Coach
AGAINST REQUIREMENT FOR TRAINING PROVIDER BOND OAR 812-006-0205
Before the Construction Contractors Board
June 24, 2014

Board Members:

Background:

I am Koleena Roth and I own and operate A Contractors' Coach in Vancouver, Washington. I have been a Prerequisite Training Provider for the Construction Contractors Board (the Agency) for nearly seven years. I have trained well over 1,000 students for the state of Oregon. I teach the entire 16 hours of live class training myself and also offer a home study program with support 7 days a week from 9 a.m. – 9 pm. For the first 5 1/2 years of my business, I taught this class two times per week, nearly every week, and currently teach 5 - 6 live classes per month.

I am against the requirement for Construction Contractors Board Training Providers to post a \$20,000 surety bond (OAR 812-006-0205) for the following reasons:

Since the inception of my business, I have given my students the ability to return to my class as many times as they feel necessary at no additional charge for training with the added ability to contact me as needed for additional support. I also offer my home study students the ability to convert from a home study program to live class training by

simply paying the difference in price if they are unable to complete the course on their own. Currently and since I started my business, there is no time limit on my services offered. As I publish on my website, my students know if they have any questions and believe I can assist, they are welcome to call, email, text or fax me before and long after they've passed the test. If the bond requirement stands, I will be forced to shorten my length of support to the minimum of 90 days. This bond requirement creates a liability for me personally and for my husband and sons (as my heirs), as I am a sole proprietor. I would also be forced to raise prices for my training to cover additional liability and I would be forced to prepare an agreement with a hold harmless clause for students to sign before training is provided. This bond requirement would **severely and negatively** impact my students.

Further, my students pay upon arrival at class or upon purchase of the home study program. I cannot remember the number of days I have scheduled class for one or two students and no one has shown up. I decided early on, it was much more trouble than it was worth to refund students money for not showing up. Therefore, I don't collect payment until the first day of class.

There is a risk in doing business. I teach this class because I'm good at it and I love the opportunity created to make a difference in new contractor's businesses. My experience in construction provides valuable insight, understanding and instruction to my students and I don't take this lightly. When the Agency hires employees, they take a risk that the employee may not do what he/she is supposed to do. The Agency also

accepts this risk when they contract with independent contractors. When I accept payment from a student, I accept a risk that if the testing company the Agency contracts with loses the student's information and the student isn't allowed to test in the agreed upon timeframe, the student can sue me for damages. In that case, I become personally liable for the contract the Agency has with the testing center. I accept that risk as a risk of doing business.

All risk in business cannot and should not be mitigated. As a Training Provider who is able to offer more to their students, I am rewarded by recommendation of those students to potential students for doing a better job than other Training Providers. In that case, more students attend my class because of the quality of the training and the length of support I provide.

The risk mitigated by the bond requirement is not worth the harm this requirement brings to my students. The cost and time of the Agency suing a Training Provider on behalf of a student (or students) would most likely take an extended period of time and cost more than the bond is worth. Students who are not provided services as promised by a Training Provider defaulting, can sue in small claims court in a day and have it done and over. This should be no different than any person doing business with any other business. As a consumer, I can bring a civil action against any business if they do not perform according to our agreement. I don't need an intermediary to do it for me. The Agency already has a complaint process in place and is able to terminate the contract with the Training Provider at any time, if the Training Provider is in default.

For the negative impact the bonding requirement will have on my students, if implemented, I urge the Board to reconsider and not implement the requirement under OAR 812-006-0205 for the \$20,000 surety bond for Training Providers.

Thank you for your time and consideration of my testimony.

Koleena Roth

A Contractors' Coach

#1 CONSTRUCTION CONCEPT TRAINING

PO BOX 831

MT. ANGEL OR 97362

541.270.0248

(WRITTEN TESTIMONY IN LIEU OF ORAL)

TO: CCB BOARD
FROM: Audrey Pierce, Owner 
RE: \$20,000 Pre-Licensure Training
Provider Bond
DATE: June 2, 2014

Hello Directors...

As soon as I received the letter of 5/19/14 regarding renewing my pre-licensure training provider contract which expires 6/30/14, I got to work securing, as requested, a \$20,000 bond so I could get my renewal information in asap. Payment was sent and I was to pick it up today, 6/2/14. Instead I am writing this memo.

Friday 5/30 I received notice that this \$20,000 bond requirement was put on hold.

Questions:

- 1) **WHY, 14 years after the program began, was this needed?**
- 2) Was a probability study done? A financial risk assessment completed?

After talking with a local bond expert and my own personal insurance agent w/40 years experience, they both agreed that if you do need to do something (hopefully w/good reason), you do a bond, only in a lesser amount. As a former contractor, I know \$20,000 exceeds by \$10,000 the bond requirement for a Residential Limited Contractor. Doesn't make sense.

Thank you for your consideration of the foregoing.

CONSTRUCTION CONTRACTORS BOARD

700 Summer St NE Suite 300
PO Box 14140
Salem OR 97309-5052
503-378-4621
503-373-2007 FAX



Interoffice Memo

To: Berri Leslie
Interim Administrator

From: Catherine Dixon
Management Assistant

Date: May 7, 2014

Subject: Temporary Administrative Rules Filed

Attached are the temporary rules that were filed on May 5, 2014, and became effective upon filing. The temporary rules were adopted under OAR 812-001-0110, which allows the Administrator to adopt, amend, or suspend a rule as provided in ORS 183.335. The temporary rules were provided to the Board chair prior to adoption.

Below is a summary of the temporary rules:

1. Rule 1 filed May 5, 2014 regarding licensing fees: (See Dixon memo dated 4-17-14)
 - 812-003-0142 is adopted to replace the previous rule (812-003-0140) that was mistakenly included in a repeal of rules in December 2013. This rule establishes the fees for CCB licensure. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).
 - 812-003-0260, 812-003-0340, 812-003-0350, 812-003-0360, 812-003-0370, and 812-003-0380 are amended to correct the cite references to the match the new license application fee rule (812-003-0142).
2. Rule 2 filed May 5, 2014 regarding pre-licensure training provider surety bond requirement: (See Dahlin memo dated April 23, 2014)
 - 812-006-0200 is amended to require pre-licensure training providers obtain a surety bond as part of the approval process to provide the CCB pre-licensure training.
 - 812-006-0205 is adopted to establish the bond form.

Note: The temporary rules are included in the rulemaking hearing on June 24, 2014.

m-brd 5-7-14 temp rules.docx

CONSTRUCTION CONTRACTORS BOARD

700 Summer St NE Suite 300
PO Box 14140
Salem OR 97309-5052
503-378-4621
503-373-2007 FAX



Interoffice Memo

To: Berri Leslie
Administrator

From: Catherine Dixon
Rules Coordinator

Date: April 17, 2014

Subject: OAR 812-003-0142 – CCB License Application Fees

Background

OAR 812-003-0140 was repealed as part of the rulemaking hearing at the December 3, 2013. This occurred due to the title above the rule that stated "Effective July 1, 2010", which was interpreted as no longer being necessary since that date had passed.

July 1, 2010 was the date that the new fee of \$325 per two-year license period began.

Problem

Currently CCB does not have license application fee rule. Since the rule was repealed, that rule number can no longer be used.

Solution

The solution is to adopt OAR 812-003-0142 to establish CCB's fee structure and amend the rules that referenced OAR 812-003-0140 to reference OAR 812-003-0142.

With respect to these rules, CCB finds that serious prejudice to the public interest may occur. Failure to promptly adopt OAR 812-003-0142 and amend the references to the fee rule will result in serious prejudice to the public interest because contractors and agency staff will not know what CCB's the fees are for new applications and renewal nor the refund policy fees. This omission is causing confusion on the part of contractors and agency staff.

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form.

FILED
5-6-14 2:33 PM
ARCHIVES DIVISION
SECRETARY OF STATE

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on Upon filing by the
Construction Contractors Board 812
Agency and Division Administrative Rules Chapter Number
Catherine Dixon (503) 934-2185
Rules Coordinator Telephone
700 Summer St. NE, Suite 300, Salem, OR 97310
Address
To become effective 05/05/2014 through 10/31/2014.

RULE CAPTION

CCB License Application Fees

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

812-003-0142

AMEND:

812-003-0260, 812-003-0340, 812-003-0350, 812-003-0360, 812-003-0370, 812-003-0380

SUSPEND:

Statutory Authority:

ORS 670.310, 701.235, 701.238

Other Authority:

Statutes Implemented:

ORS 25.270, 25.785, 25.990, 701.035, 701.050, 701.056, 701.063, 701.068, 701.073, 701.081, 701.088, 701.122, 701.238

RULE SUMMARY

812-003-0142 is adopted to replace the previous rule (812-003-0140) that was mistakenly included in a repeal of rules in December 2013. This rule establishes the fees for CCB licensure. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).

812-003-0260, 812-003-0340, 812-003-0350, 812-003-0360, 812-003-0370, and 812-003-0380 are amended to correct the cite references to the match the new license application fee rule (812-003-0142).

Catherine Dixon
Rules Coordinator Name

Catherine.A.Dixon@state.or.us
Email Address

NOTE: In order to save postage and printing costs in these difficult times, CCB is only providing a copy of the notice. To view the language of each individual rule change, please go to our web site at http://www.oregon.gov/CCB/Laws_Rules.shtml#Administrative_Rule_Notices. If you don't have web access, contact Cathy Dixon at (503) 934-2185 for assistance in receiving a copy.

122

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION
A Certificate and Order for Filing Temporary Administrative Rules
accompanies this form

FILED
5-5-14 2:33 PM
ARCHIVES DIVISION
SECRETARY OF STATE

Construction Contractors Board
Agency and Division

812
Administrative Rules Chapter Number

CCB License Application Fees

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amendments to OAR 812

Statutory Authority:

ORS 670.310, 701.235, 701.238

Other Authority:

Statutes Implemented:

ORS 25.270, 25.785, 25.990, 701.035, 701.050, 701.056, 701.063, 701.068, 701.073, 701.081, 701.088, 701.122, 701.238

Need for the Temporary Rule(s):

With respect to these rules, CCB finds that failure to promptly adopt OAR 812-003-0142 and amend the references to the fee rule will result in serious prejudice to the public interest because contractors and agency staff will not know what CCB's fees are for new applications and renewal nor the refund policy fees. This omission is causing confusion on the part of contractors and agency staff.

812-003-0142 is adopted to establish CCB' license fees, the previous rule (812-003-0140) that was mistakenly included in a repeal of rules in December 2013. OAR 812-003-0142 establishes the fees for CCB licensure: license and renewal fee of \$325 and refund of the renewal application fee less \$40 processing fee. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).

812-003-0260, 812-003-0340, 812-003-0350, 812-003-0360, 812-003-0370, and 812-003-0380 are amended to correct the cite references to the match the new license application fee rule (812-003-0142).

Documents Relied Upon, and where they are available:

ORS 701 and OAR 812. Documents are on the agency website at www.oregon.gov/ccb or a paper copy is available upon request.

Justification of Temporary Rule(s):

The CCB finds that following the permanent rulemaking process, instead of taking this temporary rulemaking action, that serious prejudice to the public interest may occur. Failure to promptly adopt OAR 812-003-0142 and amend the references to the fee rule will result in serious prejudice to the public interest because contractors and agency staff will not know what CCB's fees are for new applications and renewal nor the refund policy fees. This omission is causing confusion on the part of contractors and agency staff. OAR 812-003-0140 is adopted to establish CCB' license fees, the previous rule (812-003-0140) that was mistakenly included in a repeal of rules in December 2013. OAR 812-003-0142 establishes the fees for CCB licensure: license and renewal fee of \$325 and refund of the renewal application fee less \$40 processing fee. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).

Catherine Dixon

Printed Name

Catherine.A.Dixon@state.or.us

Email Address

HOUSING COST IMPACT STATEMENT

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING A *TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND. (ORS 183.534)

FOR ADMINISTRATIVE RULES

AGENCY NAME: Construction Contractors Board
ADDRESS: 700 Summer St. NE Ste 300
CITY/STATE: Salem OR 97309
PHONE: (503) 378-4621

PERMANENT: []
TEMPORARY: [X]

HEARING DATE:
EFFECTIVE DATE: May 5, 2014

BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL RESULT FROM THIS PROPOSED CHANGE.

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED. IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

Description of proposed change: (Please attach any draft or permanent rule or ordinance)

- 812-003-0142 is adopted to replace the previous rule (812-003-0140) that was mistakenly included in a repeal of rules in December 2013. This rule establishes the fees for CCB licensure. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).
812-003-0260, 812-003-0340, 812-003-0350, 812-003-0360, 812-003-0370, and 812-003-0380 are amended to correct the cite references to the match the new license application fee rule (812-003-0142).

Description of the need for, and objectives of the rule:

With respect to these rules, CCB finds that failure to promptly adopt OAR 812-003-0142 and amend the references to the fee rule will result in serious prejudice to the public interest because contractors and agency staff will not know what CCB's fees are for new applications and renewal nor the refund policy fees. This omission is causing confusion on the part of contractors and agency staff.

- 812-003-0142 is adopted to establish CCB' license fees, the previous rule (812-003-0140) that was mistakenly included in a repeal of rules in December 2013. OAR 812-003-0142 establishes the fees for CCB licensure: license and renewal fee of \$325 and refund of the renewal application fee less \$40 processing fee. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).
812-003-0260, 812-003-0340, 812-003-0350, 812-003-0360, 812-003-0370, and 812-003-0380 are amended to correct the cite references to the match the new license application fee rule (812-003-0142).

List of rules adopted or amended:

Adopt: 812-003-0142

Amend:

812-003-0260 812-003-0340 812-003-0350 812-003-0360 812-003-0370 812-003-0380

Materials and labor costs increase or savings:

The rule amendments have no known impact on materials and labor costs.

Estimated administrative construction or other costs increase or savings:

The rule amendments have no measurable impact on administrative construction or other cost increases or savings.

Land costs increase or savings:

The rule amendments have no measurable impact on the cost of new home or a building lot.

Other costs increase or savings:

The proposed rules have no known fiscal impact on state agencies, units of local government or the public.

- 812-003-0142 is adopted to establish CCB' license fees, the previous rule (812-003-0140) that was mistakenly included in a repeal of rules in December 2013. OAR 812-003-0142 establishes the fees for CCB licensure: license and renewal fee of \$325 and refund of the renewal application fee less \$40 processing fee. The current fees were adopted in January 26, 2010 and became effective 7/1/10 as authorized by the CCB Legislatively Approved Budget (LAB) (budget).
- 812-003-0260, 812-003-0340, 812-003-0350, 812-003-0360, 812-003-0370, and 812-003-0380 are amended to correct the cite references to the match the new license application fee rule (812-003-0142).

*Typical-Single story 3 bedrooms, 1 ½ bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

PREPARERS NAME: Catherine Dixon

EMAIL ADDRESS: catherine.a.dixon@state.or.us

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)

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)

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)

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)

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)

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)

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)

CONSTRUCTION CONTRACTORS BOARD

700 Summer St NE Suite 300
PO Box 14140
Salem OR 97309-5052
503-378-4621
503-373-2007 FAX



Interoffice Memo

To: Berri Leslie
Administrator

From: Kathleen Dahlin
Policy Analyst

Date: April 23, 2014

Subject: Amend OAR 812-006-0200 and Adopt OAR 812-006-0205 (Temporary)

Background

The Construction Contractors Board (CCB) needs assurance that pre-licensure training providers are financially able to comply with the conditions of provider approval. The CCB wants to assure that pre-licensure providers are able to refund fees already paid by students. If not, there needs to be a mechanism to accomplish this.

Problem

A CCB pre-licensure training provider closed its doors and stopped providing training to students. (The provider later reopened. The CCB is not aware of any students paying fees that were not refunded).

In anticipation of entering into new provider agreements in June, CCB proposes to add a surety bond requirement to pre-licensure provider approval. This requirement mirrors that which currently exists for residential continuing education providers.

Solution: Temporarily Amend OAR 812-006-0200 and Adopt OAR 812-006-0205

The solution is to temporarily amend OAR 812-006-0200 to require the surety bond as part of the approval process. The solution is also to temporarily adopt OAR 812-006-0205 to establish the bond. (A copy of the bond form is also attached).

Need for Temporary Rule

ORS 183.335(5) provides that an agency may adopt a temporary rule if it prepares the following:

(a) A statement of its findings that its failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned and the specific reasons for its findings of prejudice;

(b) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(c) A statement of the need for the rule and a statement of how the rule is intended to meet the need;

(d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection; and

(e) For an agency specified in ORS 183.530, a housing cost impact statement as defined in ORS 183.534.

With respect to these rules, CCB finds that:

1. Serious prejudice to the public interest.
 - a. Failure to promptly amend OAR 812-006-0200 will result in serious prejudice to the public interest. Without the temporary rule, the agency will not be able to enter into agreements with prerequisite training providers that include the financial protection of a surety bond. The current agreements expire in June 2014. Permanent rulemaking cannot be completed until at least August 2014.
 - b. Failure to promptly adopt OAR 812-006-0205 will result in serious prejudice to the public interest. Without the temporary rule, the agency will not be able to enter into agreements with prerequisite training providers that include the financial protection of a surety bond. The current agreements expire in June 2014. Permanent rulemaking cannot be completed until at least August 2014.
2. Citation of authority. ORS 183.335 (temporary rule); 670.310 (rulemaking); 701.122 (training requirements); 701.235 (rulemaking); 701.265 (rulemaking).
3. Statement of need. See above. (To be prepared by Cathy Dixon.)
4. List of principal documents. None.
5. Housing impact. (To be prepared by Cathy Dixon. Should be no impact.

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form.

FILED
5-5-14 3:09 PM
ARCHIVES DIVISION
SECRETARY OF STATE

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on Upon filing, by the
Construction Contractors Board 812
Agency and Division Administrative Rules Chapter Number
Catherine Dixon (503) 934-2185
Rules Coordinator Telephone
700 Summer St. NE, Suite 300, Salem, OR 97310
Address
To become effective 05/05/2014 through 10/31/2014.

RULE CAPTION

Pre-Licensure Training Providers Bond Requirements

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

812-006-0205

AMEND:

812-006-0200

SUSPEND:

Statutory Authority:

ORS 670.310, 701.122, 701.235

Other Authority:

Statutes Implemented:

ORS 701.122

RULE SUMMARY

812-006-0200 is amended to require pre-licensure training providers obtain a surety bond as part of the approval process to provide the CCB pre-licensure training.

812-006-0205 is adopted to establish the bond form.

NOTE: In order to save postage and printing costs in these difficult times, CCB is only providing a copy of the notice. To view the language of each individual rule change, please go to our web site at http://www.oregon.gov/CCB/Laws_Rules.shtml#Administrative_Rule_Notices. If you don't have web access, contact Cathy Dixon at (503) 934-2185 for assistance in receiving a copy.

Catherine Dixon

Catherine.A.Dixon@state.or.us

Rules Coordinator Name

Email Address

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION
A Certificate and Order for Filing Temporary Administrative Rules
accompanies this form

FILED
5-5-14 3:09 PM
ARCHIVES DIVISION
SECRETARY OF STATE

Construction Contractors Board
Agency and Division

812
Administrative Rules Chapter Number

Pre-Licensure Training Providers Bond Requirements

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amendments to OAR 812

Statutory Authority:

ORS 670.310, 701.122, 701.235

Other Authority:

Statutes Implemented:

ORS 701.122

Need for the Temporary Rule(s):

Failure to promptly amend OAR 812-006-0200 and adopt 812-006-0205 will result in serious prejudice to the public interest. Without the temporary rule, the agency will not be able to enter into agreements with pre-licensure training providers that include the financial protection of a surety bond. The current agreements will expire in June 2014. Permanent rulemaking cannot be completed until at least August 2014.

812-006-0200 is amended to require pre-licensure training providers obtain a surety bond as part of the approval process to provide the CCB pre-licensure training.

812-006-0205 is adopted to establish the bond form.

Documents Relied Upon, and where they are available:

ORS 701 and OAR 812. Documents are on the agency website at www.oregon.gov/ccb or a paper copy is available upon request.

Justification of Temporary Rule(s):

The CCB finds that following the permanent rulemaking process, instead of taking this temporary rulemaking action, would result in serious prejudice to the public interest. Failure to promptly amend OAR 812-006-0200 and adopt 812-006-0205 will result in serious prejudice to the public interest. Without the temporary rule, the agency will not be able to enter into agreements with pre-licensure training providers that include the financial protection of a surety bond. The current agreements will expire in June 2014. Permanent rulemaking cannot be completed until at least August 2014.

Catherine Dixon

Printed Name

Catherine.A.Dixon@state.or.us

Email Address

HOUSING COST IMPACT STATEMENT

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING
A *TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.
(ORS 183.534)

FOR ADMINISTRATIVE RULES

AGENCY NAME: Construction Contractors Board
ADDRESS: 700 Summer St. NE Ste 300
CITY/STATE: Salem OR 97309
PHONE: (503) 378-4621

PERMANENT:

HEARING DATE:

TEMPORARY:

EFFECTIVE DATE: May 5, 2014

**BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL
RESULT FROM THIS PROPOSED CHANGE.**

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED.
IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

Description of proposed change: (Please attach any draft or permanent rule or ordinance)

812-006-0200 is amended to require pre-licensure training providers obtain a surety bond as part of the approval process to provide the CCB pre-licensure training.

812-006-0205 is adopted to establish the bond form.

Description of the need for, and objectives of the rule:

Failure to promptly amend OAR 812-006-0200 and adopt 812-006-0205 will result in serious prejudice to the public interest. Without the temporary rule, the agency will not be able to enter into agreements with pre-licensure training providers that include the financial protection of a surety bond. The current agreements will expire in June 2014. Permanent rulemaking cannot be completed until at least August 2014.

- 812-006-0200 is amended to require pre-licensure training providers obtain a surety bond as part of the approval process to provide the CCB pre-licensure training.
- 812-006-0205 is adopted to establish the bond form.

List of rules adopted or amended:

Adopt: 812-006-0205
Amend: 812-006-0200

Materials and labor costs increase or savings:

The rule amendments have no known impact on materials and labor costs.

Estimated administrative construction or other costs increase or savings:

The rule amendments have no measurable impact on administrative construction or other cost increases or savings. We estimate that the cost of the \$20,000 Surety Bond is approximately \$400.

Land costs increase or savings:

The rule amendments have no measurable impact on the cost of new home or a building lot.

Other costs increase or savings:

The proposed rules have no known fiscal impact on state agencies, units of local government or the public. We estimate that the cost of the \$20,000 Surety Bond is approximately \$400.

*Typical-Single story 3 bedrooms, 1 ½ bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

PREPARERS NAME: Catherine Dixon
EMAIL ADDRESS: catherine.a.dixon@state.or.us

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 \$20,000 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)

(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 \$20,000, 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 May 5, 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)

**STATE OF OREGON
PRE-LICENSURE TRAINING PROVIDER
SURETY BOND**

Surety Company Bond No. _____

_____, as **Principal**, desires to obtain, or to renew, approval from the Oregon Construction Contractors Board to offer continuing pre-licensure training pursuant to ORS 701.122 and OAR 812-006-0200. **Principal** is required to furnish a bond in the penal sum of \$20,000, with good and sufficient surety, conditioned as set forth in this instrument.

Principal and _____, a corporation qualified and authorized to do business in the State of Oregon, as **Surety**, hereby bind themselves, their heirs, personal representative, administrators, successors and assigns, jointly and severally, unto the State of Oregon Construction Contractors Board for the use and benefit of third-parties in the sum of twenty-thousand dollars and no cents (\$20,000), to be paid as in amounts as determined by the Construction Contractors Board to students who do not receive training in exchange for payment to **Principal**.

The obligation of the Surety under this bond is void if, in accordance with ORS chapter 701.122 and OAR 812-006-0200, the Principal pays all amounts owed to the Construction Contractors Board; otherwise the obligation remains in full force and effect. Any person suffering loss or damage because of the failure of the Principal to fully and faithfully comply with ORS 701.122 and OAR 812-006-0200 may sue the Surety for the recovery of any amount due that person.

This bond is for the exclusive purpose of ensuring payment of amounts owed pursuant to ORS 701.122 and OAR 812-006-0200. This bond is one continuing obligation, and the liability of the Surety for the aggregate of all claims which may arise under this bond may in no event exceed the amount of the penal sum of this bond.

DRAFT

The bond is effective on _____ of the date that the Principal meets all requirements as an approved provider, whichever occurs later, and remains continuously in effect until depleted, unless the Surety sooner cancels the bond. The Surety may cancel this bond and be relieved of further liability for monies owed the Construction Contractors Board by giving 30 days' written notice to the Principal and to the Construction Contractors Board. Cancellation does not limit the responsibility of the Surety for claims made by the Construction Contractors Board prior to cancellation of the bond.

This bond is not valid for purposes of pre-licensure training provider approval unless filed with the Construction Contractors Board within 60 days after the date shown below.

Executed by the Principal and the Surety this _____ day of _____, 20__.

Surety:

Signature

Name of Attorney-in-Fact or Agent

Title

Agency Address

City, State, Zip Code

Principal:

Signature

Name (print or type)

PUBLIC COMMENT

This time is set aside for persons wishing to address the Board on any matter of interest.

Speakers will be limited to five minutes, unless extended by the Board chair.

The Board chair reserves the right to further limit or exclude repetitious or irrelevant presentations.

Action will not be taken at this meeting on citizen comments. The Board, however, after hearing from interested citizens, may place items under new business on a future agenda so proper notice may be given to all interested parties.

Action Item Recommendations from 6/3 board meeting

Updated on 6/10/14

Policy Changes

- Set aside annual date to brainstorm and review legislative concepts
- Limit rulemaking to once per year
- Identify 1-2 enforcement priorities
- Ask each board member to be responsible for a program area (education, admin services, enforcement, etc.)
- Work with DCBS HR to perform low cost yet meaningful 360 review of the Administrator semi-annually

Board Meeting Changes

- Provide a financial update at each meeting
- Annual meeting of board with agency
- Invite 2-3 employees each time to observe board meetings
- Leadership team to participate at all board meetings
- Administrator report at the start of each meeting – snapshot – 2 page document with high level overview
- Set annual calendar with dates and topics
- Agenda distributed 1 week in advance
- Sections in agenda – due dates, action items, and follow-up area
- Input on agenda – when special topics need to be discussed – otherwise, be prepared for general topic discussions in agenda template
- Monthly meeting – 3 hours max
- Every other meeting over the phone (etiquette discussed)
- Strategic location – more convenient with easy I5 access
- Appeal committee for contested case matters – can be 3 people instead of full board

New Board Member Orientation

- Create a board buddy/mentor for new members
- Work with DOJ to provide training for new and existing members (ethics, meetings, law)
- Create meaningful 2- 3 hour board member orientation with agency

Calendar 2014

MONTH	MEETING TYPE	TIMES/LOCATION	MEMBERS ASSIGNED	OTHER COMMITMENTS
January 28	Board Meeting	8:30/ West Salem Roth's IGA, Santiam Rm. Appeal Committee		KPM 11 – Best Practices survey
February 26	No Board Meeting			
March 25	No Board Meeting			
April 22	Board Meeting	8:30/ West Salem Roth's IGA, Oregon Rm. Appeal Committee		
May 27	Tentative	TBA		
June 3 24	Special Board Meeting Board Meeting	1:00 p.m./AG Building, Hearing Room 8:30/ West Salem Roth's IGA, Oregon Rm. Appeal Committee		
July 9	Board Meeting – Interview Applicants	TBA		
August 26	Board meeting	8:30/ Peru Room (306), Broadway Commons Appeal Committee		KPM 11 – Best Practices survey Election of Officers
September 23	No Board Meeting			
October 28	Board Meeting	8:30/ Peru Room (306), Broadway Commons Appeal Committee		
November 25	No Board Meeting			
December 2	Board Meeting	8:30/ Peru Room (306), Broadway Commons Appeal Committee		

Full Board Meeting starts at 8:30 a.m. e:\board\ccbcalen.doc 6/12/2014