

Summary of Comparative Research Project

I. Selection of Surveyed States

Staff surveyed twenty-five states to paint a general picture of construction practices in other states. Some of the twenty-five states are geographically close to Oregon and provide insight on how similarly situated states address construction issues. Other states were specifically identified by the Task Force as states of interest for a comparative summary.

This summary is intended to provide a broad overview of other states' practices. The information contained in the outline creates general categories to classify the level of state regulation.

II. General Findings

The following is a sample of the information gathered by staff. For more specifics, please see Attachment 'A'.

- *Design and Construction Standards* – Six states amend their adopted base model codes to provide greater protection against moisture intrusion, and four state or municipalities within surveyed states amend their adopted base model code to provide greater mechanical ventilation standards
- *Construction Documents* – Two states (Ohio and Washington) specifically requires design details of the building envelope be included in the construction documents
- *Inspections* – Nine states allow or require third-party inspections. Two states (Washington and Texas) specifically require inspections of building envelope construction
- *Contractor Licensing* – Twenty of the states surveyed require contractors obtain some form of state license, registration or endorsement prior to doing business. Fifteen of those states require licenses, three states require registrations and one state requires an endorsement. One state (Montana) requires registration of contractors for workers compensation purposes only
- *Contractor Insurance Requirements* – Out of the states surveyed, fourteen require public or general liability insurance. The remaining eleven states do not require that contractors carry insurance coverage
- *Warranties* – Out of twenty-five states, eight states require some form of express or implied warranty for construction work. The remaining seventeen states do not require warranties by law
- *Recovery Funds* – Ten states establish a recovery fund for construction claims
- *Administrative Penalties* – Twenty-one states have administrative procedures to take some form of action against a contractor.
 - Six states can take action against a state for workmanship issues, and six states can take action against a contractor for negligence.
 - Two states (California and Utah) can require contractors to perform the work as required by a contract.
 - Two states (Florida, Virginia) can require remedial or additional continuing education once a violation occurs.
 - Where licensing is required, nineteen states can generally revoke, suspend or refuse to issue a license. One state (California) can apparently permanently revoke a contractor's license.
 - Four states do not take action against a contractor at the state level

Attachment 'A' – Summary of BCD Comparative Research Project

Code Adoption and Content

- Code Adoption
 - **17** states adopt a state building code
CT, FL, GA, ID, LA, MI, MN, MT, NC, NJ, NY, OH, OR, PA, TX, VA, WA
 - **4** states allow municipalities to enact local amendments, depending on certain conditions
FL, GA, ID, WA
 - **1** state allows local administrative procedures to enforce adopted building codes
GA
 - **8** states defer authority to municipalities to adopt building codes
AZ, AK, CA, CA, CO, HI, NV, TN, UT
- Design and Construction Standards
 - **18** states or their municipalities do not deviate from the base model code in regard to moisture intrusion standards
AK, AZ, CA, CO, CT, HI, ID, LA, MT, NY, OH, OR, PA, TN, TX, UT, VA, WA
 - **7** states or their municipalities amend their adopted codes to meet moisture or ventilation standards.
 - **6** states amend the code to provide for greater moisture intrusion protection than the adopted base model code
FL, GA, NJ, MI, MN, NC
 - **4** states or municipalities within surveyed states amend the code to provide for greater ventilation standards than the adopted base model code
CA, MN, NV, WA

Code Administration

- Permits
 - **25** states generally allow a homeowner or a contractor to obtain a building permit
AK, AZ, CA, CO, CT, FL, GA, HI, ID, LA, MI, MN, MT, NC, NJ, NV, NY, OH, OR, PA, TN, TX, UT, VA, WA
 - **7** states place additional restrictions or conditions on getting a permit
CT, MI, NJ, OH, UT, VA, WA
- Construction Documents
 - **25** states may require construction documents with the application for a permit
AK, AZ, CA, CO, CT, FL, GA, HI, ID, LA, MI, MN, MT, NC, NJ, NV, NY, OH, OR, PA, TN, TX, UT, VA, WA
 - **1** state specifically requires the inclusion of building envelope details in the construction documents for residential construction
OH
- Inspections
 - **25** states or municipalities require inspections of work when a permit is issued
AK, AZ, CA, CO, CT, FL, GA, HI, ID, LA, MI, MN, MT, NC, NJ, NV, NY, OH, OR, PA, TN, TX, UT, VA, WA
 - **No** states specifically require the inspection of the building envelope by local building departments
 - **9** states allow third party inspections
 - **4** of those states allow a permit applicant to hire third party inspectors for various purposes
FL, GA, LA, VA
 - **3** of those states may require the permit applicant to hire third party inspectors for various purposes
NJ, NY, PA

- **2** of those states allow or require inspections specifically for building envelope inspection
TX, WA
 - **16** states or their municipalities do not allow or require third party inspections
AK, AZ, CA, CO, CT, HI, ID, MI, MN, MT, NC, NV, OH, OR, TN, UT
- Certificates of Occupancy
 - **21** states require the issuance of a certificate of occupancy for residential structures
AK, AZ, CA, CO, CT, FL, GA, ID, LA, MI, MN, MT, NJ, NV, NY, NC, OH, PA, TN, VA, WA
 - **4** states or their municipalities do not require certificates of occupancy for residential structures
HI, TX, UT, OR

Contractor Regulation

- **20** states require some form of licensing
 - **15** states require contractor licenses
AZ, CA, FL, GA, HI, LA, MI, MN, NC, OR, NV, TN, UT, VA, WA
 - **3** states require contractor registrations
CT, ID, MT, TX
 - **1** state requires a contractor endorsement
AK
 - **1** state requires registration of contractors solely for worker's compensation purposes
MT
- **5** states do not require a license
CO, NJ, NY, OH, PA

Contractor License Requirements

- Testing
 - **15** states require the completion of an examination
 - **12** states require the completion of an open-book examination
AK, AZ, CA, FL, HI, MN, NC, NV, OR, TN, UT, VA
 - **2** states require the completion of a closed-book examination
LA, MI
 - **1** state requires some form of examination
GA
 - **15** states test on law and business practices
AK, AZ, CA, FL, GA, HI, LA, MI, MN, NC, NV, OR, TN, UT, VA
 - **No** states test on construction techniques or building science
 - **10** states do not require the completion of an examination at the state level
CO, CT, ID, MT, NJ, NY, OH, PA, TX, WA
- Background Checks
 - Financial Stability
 - **11** states require evidence of business stability or financial hardiness
AZ, GA, HI, LA, MI, MN, NC, NV, TN, TX, UT
 - **14** states do not require evidence of business stability or financial hardiness
AK, CA, CO, CT, FL, ID, MT, NJ, NY, OH, OR, PA, VA, WA
 - Criminal Checks
 - **9** states issue licenses only to persons without prior criminal convictions, or who have reasonably clean criminal records
AK, AZ, CA, FL, GA, HI, MI, MN, TX
 - **16** states do not consider prior criminal convictions when issuing contractor licenses
CO, CT, ID, LA, MT, NC, NJ, NV, NY, OH, OR, PA, TN, UT, VA, WA
- Bonds
 - **12** states require some form of a bond

- **3** states require a bond equaling \$50,000 or more
NC, TN, UT
 - **7** states require a bond less than \$50,000
AK, AZ, CA, HI, MN, OR, WA
 - **2** states require bonds based on other criteria
LA, NV
- **13** states do not require a bond
CO, CT, FL, GA, ID, MI, MT, NJ, NY, OH, PA, TX, VA
- Insurance
 - **14** states require some form of insurance coverage
 - **12** states require public or general liability insurance
AK, CT, FL, GA, HI, ID, LA, MN, NJ, OR, WA, UT
 - **2** states only requires workers compensation insurance
MT, NV
 - **11** states do not require insurance coverage
AZ, CA, CO, MI, NC, NY, OH, PA, TN, TX, VA
- Training, Education or Experience Requirements
 - **8** states require prior training, education or experience to obtain a licenses
 - **3** states require a certain amount of experience
CA, HI, VA
 - **4** states require either a certain amount of experience or education
AZ, FL, GA, OH
 - **1** state requires a set amount of state-approved training before being licensed
OR
 - **3** states offer voluntary training programs, but do not require training
NV, TX, WA
 - **14** states do not require any previous training, education or experience before getting a license
AK, CO, CT, LA, MI, MN, MT, NC, NJ, NY, OH, PA, TN, UT
- Continuing Education
 - **6** states require continuing education after getting a license
AK, FL, LA, MN, OR, UT
 - **3** provide voluntary continuing education courses
NV, TX, WA
 - **16** states do not require continuing education after getting a license
AZ, CA, CO, CT, GA, HI, ID, MI, MT, NC, NJ, NY, OH, PA, TN, VA

Additional Consumer Protection Mechanisms

- License Checks
 - **18** states give consumers an opportunity to check on the license of a contractor electronically
AK, AZ, CA, CT, FL, HI, ID, LA, MI, MN, NC, NJ, NV, OR, TN, TX, VA, WA
 - **7** states do not give consumers an opportunity to check on the license of a contractor electronically
CO, GA, MT, NY, OH, PA, UT
- Consumer Information
 - **15** states provide information to consumers electronically
AZ, CA, CT, HI, LA, MI, MN, NC, NJ, NV, OR, TN, TX, VA, WA
 - **10** states do not provide information to consumers electronically
AK, CO, FL, GA, ID, MT, NY, OH, PA, UT
- Complaint Process
 - **17** states provide some form of complaint process for consumers to follow
AK, AZ, CA, CT, GA, LA, MI, MN, NC, NJ, NV, OR, TN, TX, UT, VA, WA

- **8** states do not provide some sort of complaint process for consumers to follow
CO, FL, HI, ID, MT, NY, OH, PA
- Dispute Resolution Services
 - **10** states offer or require some form of dispute resolution before litigation
CA, CO, GA, HI, ID, NV, OR, TN, TX, WA
 - **15** states do not require or offer some form of dispute resolution before litigation
AK, AZ, CT, FL, LA, MI, MN, MT, NC, NJ, NY, OH, PA, UT, VA
- Warranties
 - **9** states require express or implied warranties covering construction work
AZ, CT, GA, LA, MN, NJ, NY, OR, TX
 - **16** states do not require express or implied warranties covering construction work
AK, CA, CO, FL, HI, ID, MI, MT, NC, NV, OH, PA, TN, UT, VA, WA
- Recovery Funds
 - **10** states establish some recovery fund
AZ, CT, FL, HI, MI, MN, NC, NV, OR, VA
 - **15** states do not offer a recovery fund
AK, CA, CO, GA, ID, LA, MT, NJ, NY, OH, PA, TN, TX, UT, WA

Enforcement

- Administrative Penalties
 - **21** states may take some sort of administrative action against a contractor
 - **20** states can assess civil penalties against contractors for some form of wrongful conduct
AK, AZ, CA, CT, FL, GA, HI, ID, LA, MI, MN, MT, NC, NJ, NV, OR, TN, TX, UT, VA, WA
 - **6** states can take action against a contractor for various workmanship issues
AZ, CA, MI, NC, NV, UT
 - **16** states can act against a contractor for various criminal convictions (e.g., fraud, felonies)
AK, AZ, CA, CT, FL, GA, HI, ID, LA, MI, MN, NV, TN, TX, UT, VA
 - **6** states can take action against a contractor for various levels of negligence
FL, ID, MN, NC, UT, VA
 - **19** states can revoke, suspend, or refuse to renew a license
AK, AZ, CA, CT, CO, FL, GA, HI, ID, LA, MI, MN, MT*, NC, NJ, NV, NY, OH, OR, PA, TN, TX, UT, VA, WA
 - **1** state can permanently revoke a contractor license
CA
 - **11** states can issue an injunction, a cease-and-desist order, or a stop-work order against a contractor
AZ, FL, GA, HI, LA, MN, NC, NV, OR, TN, UT, VA
 - **2** states can require specific performance of a contractual obligation or corrections to a jobsite
CA, UT
 - **2** states may require remedial education or additional continuing education after a violation occurs
FL, VA
 - **4** states do not take administrative actions against licenses or licensees at the state level
CO, NY, OH, PA