

1 “(6) A complaint by a subcontractor against a contractor for unpaid labor
2 or materials arising out of a contract.

3 “**SECTION 46.** ORS 701.145 is amended to read:

4 “701.145. For a complaint described in ORS 701.139 (1) or (3)(a) or a
5 complaint under ORS 701.139 (3)(b) that a complainant elects to have re-
6 solved under this section:

7 “(1) The complainant must file the complaint with the Construction Con-
8 tractors Board in a form prescribed by the board.

9 “(2) The board may suspend processing of the complaint if:

10 “(a) The same facts and issues involved in the complaint have been sub-
11 mitted to a court of competent jurisdiction for determination or have been
12 submitted to any other entity authorized by law or the parties to effect a
13 resolution or settlement; or

14 “(b) The board determines that the nature or complexity of the dispute
15 described in the complaint is such that a court is the appropriate forum for
16 the adjudication of the dispute.

17 “(3) The board may dismiss or close the complaint as established by rule
18 of the board if any of the following conditions apply:

19 “(a) The complainant does not respond to a board request and the request
20 is necessary to the board’s investigation of the complaint.

21 “(b) The complainant does not allow the board to conduct one or more
22 on-site meetings to mediate or investigate the complaint.

23 “(c) The complainant does not permit the contractor against whom the
24 complaint is filed to be present at an on-site investigation made by the board.

25 “*[(d) The board determines that the contractor against whom the complaint*
26 *is filed is capable of complying with recommendations made by the board rel-*
27 *ative to the complaint, but the complainant does not permit the contractor to*
28 *comply with the recommendations. The board may refuse to accept or further*
29 *process a complaint under this paragraph only if the contractor was licensed*
30 *at the time the work was first performed and is licensed at the time the board*

1 *makes its recommendations.]*

2 “[*(e)*] **(d)** The amount in controversy is less than an amount adopted by
3 the board and not more than \$250.

4 “[*(4)* Upon acceptance of the complaint, the board shall give notice to the
5 contractor against whom the complaint is made and shall initiate proceedings
6 to determine the validity of the complaint. If, after investigation, the board
7 determines that a violation of this chapter or of any rule adopted thereunder
8 has occurred, or damage has been caused by the contractor, the board may
9 recommend to the contractor such action as the board considers appropriate to
10 compensate the complainant. If the contractor performs accordingly, the board
11 shall give that fact due consideration in any subsequent disciplinary proceed-
12 ing brought by the board. The board may conduct one or more on-site meetings
13 to mediate or investigate the complaint.]

14 “[*(5)* Subject to ORS 701.148, if the board is unable to resolve the complaint
15 under subsection (4) of this section, the board may issue a contested case notice
16 under ORS 183.415 and:]

17 “[*(a)* Issue a proposed default order under ORS 183.417 to become effective
18 only if a party does not request a contested case hearing; or]

19 “[*(b)* Refer the matter for hearing.]

20 “[*(6)* The board shall send a copy of the notice and any proposed order
21 described in subsection (5) of this section to the surety on the contractor bond
22 required by ORS 701.068.]

23 **“(4) Upon acceptance of the complaint, the board shall give notice**
24 **to the contractor against whom the complaint is made and shall ini-**
25 **tiate proceedings to determine board jurisdiction over the complaint.**
26 **The board shall attempt to conduct one or more meetings on-site or**
27 **by telephone to mediate a dispute. During mediation of a dispute, the**
28 **board may recommend to the contractor such action as the board**
29 **considers appropriate to compensate the complainant. If the contrac-**
30 **tor performs accordingly, the board shall give that fact due consider-**

1 ation in any subsequent disciplinary proceeding brought by the board.

2 “(5) If the parties do not resolve or settle the complaint, except as
3 provided in subsection (6) of this section, the complainant may recover
4 payment from the bond of the contractor only by obtaining:

5 “(a) A final judgment against the contractor issued by a court of
6 competent jurisdiction; or

7 “(b) An arbitration award against the contractor that a court has
8 reduced to a final judgment.

9 “(6) If the complaint is filed under ORS 701.140 (4), the complainant
10 may recover payment from the bond of the contractor as provided in
11 subsection (5)(a) of this section or by obtaining a final order issued by
12 the Bureau of Labor and Industries that states an amount of unpaid
13 wages that the licensed contractor owes under ORS 652.140 or ORS
14 653.010 to 653.261.

15 “(7) For purposes of subsections (5) and (6) of this section, ‘final’
16 means that the judgment or order has become final by operation or
17 law or on appeal.

18 “(8) The board shall send the surety on the contractor bond re-
19 quired under ORS 701.068 a copy of the final judgment or bureau final
20 order, and a copy of a determination issued by the board that the
21 surety must pay the amount stated by the board. A determination is-
22 sued by the board may not include payment of any attorney fees
23 awarded in the final judgment or bureau final order. The determi-
24 nation issued by the board is an order in other than a contested case
25 proceeding. The determination order is not recordable under ORS
26 701.153 (1) and (2) to create a lien.

27 **“SECTION 47.** ORS 701.146 is amended to read:

28 “701.146. For a complaint described in ORS 701.139 (2) or (3)(c) or a com-
29 plaint under ORS 701.139 (3)(b) that a complainant elects to have resolved
30 under this section:

1 “(1) The person seeking to file the complaint with the Construction Con-
2 tractors Board must:

3 “(a) Bring an action on the dispute against the licensed contractor in a
4 court of competent jurisdiction; or

5 “(b) Initiate a proceeding to resolve the dispute through binding arbi-
6 tration substantially in conformance with ORS 36.600 to 36.740.

7 “(2) The complainant must file the complaint with the Construction Con-
8 tractors Board by delivering to the board a copy of the complainant’s court
9 pleading or the demand for arbitration or other document necessary to ini-
10 tiate arbitration. The pleading, demand or other document must be accom-
11 panied by a completed board complaint form. The complainant must also give
12 notice to the surety on the bond by delivering to the surety a copy of the
13 complainant’s court pleading or the demand for arbitration or other docu-
14 ment necessary to initiate arbitration and a copy of the completed board
15 complaint form. Delivery to the board and the surety must be accomplished
16 by certified mail, return receipt requested, no later than the earlier of:

17 “(a) The 90th day after filing the court action or after filing or making
18 the arbitration demand or other initiation of arbitration;

19 “(b) The 14th day before the first day of trial or arbitration; or

20 “(c) The 30th day before:

21 “(A) The court issues a judgment in the action; or

22 “(B) The arbitrator issues an award on the arbitration.

23 “(3) Filing the complaint with the board under subsection (2) of this sec-
24 tion constitutes filing the complaint for purposes of establishing timeliness
25 of the complaint under ORS 701.143 and priority of the complaint for possible
26 payment from the bond under ORS 701.157.

27 “(4) Except as provided in this subsection and subsection (7) of this sec-
28 tion, if the complainant properly gives notice to the surety under subsection
29 (2) of this section, a judgment or award against the contractor entered in the
30 action or arbitration is binding on the surety. If the complainant delivers the

1 notice required under subsection (2) of this section to the wrong surety, the
2 surety receiving the notice may avoid being bound by a judgment or award
3 by delivering notice of the mistake to the complainant or the complainant's
4 attorney of record, and to the board, on or before the 30th day after the
5 surety receives notice under subsection (2) of this section. Delivery of the
6 notice of mistake must be by certified mail, return receipt requested, or by
7 facsimile machine or other form of transmission with an acknowledgment of
8 receipt.

9 “(5) A surety under subsection (2) of this section has an absolute right
10 to intervene in an action or arbitration brought or initiated under subsection
11 (1) of this section. A complainant may not join a surety as a party to an
12 action or arbitration unless the complainant disputes the validity or timeli-
13 ness of the surety's notice of mistake or the surety disputes the validity or
14 timeliness of the delivery to the surety of the notice required by subsection
15 (2) of this section. If the surety elects to intervene or is joined as a party,
16 the surety is bound by all issues of fact and law determined by the court or
17 arbitrator and may not seek board review of those determinations.

18 “(6) If a court issues a judgment on an action, or reduces an arbitration
19 award to judgment, against a contractor on a complaint described in sub-
20 section (1) of this section, the complainant must deliver a certified copy of
21 the judgment to the board and to the surety no later than the 30th day after
22 entry of the judgment in order to maintain the complaint and possibly re-
23 ceive payment from the bond. The entry of a final judgment against the
24 contractor concludes the contractor's involvement in any proceedings to de-
25 termine whether the complaint is subject to payment from the bond. The
26 complainant and the surety are the only parties to the administrative process
27 set forth in subsection (7) of this section.

28 “(7) Upon receipt of a timely delivered certified copy of the judgment as
29 described in subsection (6) of this section, the board shall issue a [*proposed*
30 *order in*] **determination that the surety must pay the amount stated**

1 **by the board. The determination issued by the board is an order in**
2 **other than a contested case proceeding. The determination shall in-**
3 **clude** the amount of the judgment together with any costs, interest and at-
4 torney fees awarded under the judgment, to the extent that the judgment,
5 costs, interest and fees are within the jurisdiction of the board. The board's
6 determination of the complaint is limited to whether the complaint comes
7 within the jurisdiction of the board and is subject to payment by the surety.
8 *[The board shall issue the proposed order in a form that indicates the surety's*
9 *maximum liability to the complainant. If a hearing is not requested within the*
10 *time set forth in the proposed order, the proposed order becomes final without*
11 *any further action by the board. If a hearing is requested, unless review of an*
12 *issue is precluded under subsection (5) of this section, the board may deter-*
13 *mine:]*

14 *"[(a) Whether the complaint was timely filed with the board as provided in*
15 *ORS 701.143.]*

16 *"[(b) Whether the surety received timely notice as provided in subsections*
17 *(2) and (6) of this section.]*

18 *"[(c) Whether the complaint is for work subject to this chapter.]*

19 *"[(d) The extent of the surety's liability to the complainant.]*

20 **"SECTION 48. ORS 701.149 is amended to read:**

21 *"701.149. [(1) An arbitration conducted under ORS 701.148 must be held*
22 *before an administrative law judge assigned under ORS 183.605 to 183.690 to*
23 *act as arbitrator on behalf of the Construction Contractors Board. The as-*
24 *signment of an administrative law judge to act as arbitrator is subject to a*
25 *request for a different arbitrator under ORS 183.645 or a rule adopted pursu-*
26 *ant to ORS 183.645.]*

27 *"[(2) If a party to a complaint under ORS 701.145 requests a contested case*
28 *hearing, the board shall schedule the hearing.]*

29 *"[(3) The board may adopt rules governing the avoidance of a contested case*
30 *hearing. The rules may include, but need not be limited to, a limit on the time*

1 *period during which a party to a complaint may avoid a contested case hearing*
2 *by filing a court action.]*

3 “[(4) *Contested case hearings before the board must be conducted by an*
4 *administrative law judge assigned under ORS 183.605 to 183.690. Notwith-*
5 *standing ORS 670.325, the board may delegate authority to the administrative*
6 *law judge to issue a final order in any matter.]*

7 “[(5) *In assigning administrative law judges for arbitration and contested*
8 *case hearings conducted under this section, the chief administrative law judge*
9 *of the Office of Administrative Hearings established under ORS 183.605 shall*
10 *defer to board requests.]*

11 “[(6)] (1) *[If a complainant to the board files a court action,]* **If the Con-**
12 **struction Contractors Board suspends the processing of a complaint**
13 **because of the complaint having been submitted to a court or**
14 **arbitrator or because of a court having stayed action on the complaint,**
15 the board may require that the complainant provide status reports on the
16 pending court action **or arbitration.** The board may dismiss or close a
17 complaint filed under ORS 701.139 if the complainant fails to submit status
18 reports on a pending court action **or arbitration.**

19 “[(7)] (2) ORS 183.605 to 183.690 do not limit in any way the ability of the
20 board to make full use of alternative dispute resolution, including mediation
21 or **referral for** arbitration, to resolve complaints against contractors filed
22 under ORS 701.139.

23 “**SECTION 49.** ORS 701.150 is amended to read:

24 “701.150. [(1) *A Construction Contractors Board final order that is not paid*
25 *by the contractor and that:]*

26 “[(a) *Arises out of a complaint filed under ORS 701.145 must be satisfied*
27 *from a bond required for a residential contractor.]*

28 “[(b) *Arises out of a complaint filed under ORS 701.146 must be satisfied*
29 *from a bond required for a commercial contractor.]*

30 “(1) **If a licensed contractor fails to pay a complainant amounts due**

1 under a court judgment or under a final order of the Bureau of Labor
2 and Industries, the Construction Contractors Board shall issue a de-
3 termination stating the amount that a surety must pay the
4 complainant. The surety shall pay the amount required under the de-
5 termination as follows:

6 “(a) If the complaint was filed under ORS 701.145, the surety shall
7 pay the amount from a bond required for a residential contractor.

8 “(b) If the complaint was filed under ORS 701.146, the surety shall
9 pay the amount from a bond required for a commercial contractor.

10 “(2) [*If a board final order is not paid by the contractor, the board shall*
11 *notify the surety on the bond.*] The surety may not pay on a complaint until
12 the surety receives notice from the board that the complaint is ready for
13 payment.

14 “(3) Notwithstanding ORS 701.153 and 701.157, a bond is not subject to
15 payment for a complaint that is filed more than 14 months after the earlier
16 of:

17 “(a) The expiration or cancellation date of the license that was in force
18 when the work that is the subject of the complaint was completed or aban-
19 doned; or

20 “(b) The date that the surety canceled the bond.

21 “**SECTION 50.** ORS 701.153 is amended to read:

22 “701.153. (1) If an order of the Construction Contractors Board [*that*] de-
23 termines a complaint [*under ORS 701.145*] **against a residential contractor**
24 **that was filed with the board prior to July 1, 2011, and the order** be-
25 comes final by operation of law or on appeal and remains unpaid 10 days
26 after the date the order becomes final, the complainant may file the order
27 with the county clerk in any county of this state.

28 “(2) Upon receipt **of an order described in subsection (1) of this sec-**
29 **tion,** the clerk shall record the order in the County Clerk Lien Record. In
30 addition to any other remedy provided by law, recording an order **described**

1 **in subsection (1) of this section** in the County Clerk Lien Record pursuant
2 to the provisions of this section has the effect provided for in ORS 205.125
3 and 205.126, and the order may be enforced as provided in ORS 205.125 and
4 205.126.

5 “(3)(a) Payments from the surety bond of a residential contractor pursu-
6 ant to *[board order and notice]* **a board determination under ORS 701.145**
7 are satisfied in the following priority in any 90-day period:

8 “(A) Board *[orders]* **determinations** as a result of complaints against a
9 residential contractor by the owner of a residential or small commercial
10 structure have payment priority to the full extent of the bond over all other
11 types of complaints.

12 “[*(B) If the complaints described in subparagraph (A) of this paragraph*
13 *do not exhaust the bond, then amounts due as a result of all other types of*
14 *residential or small commercial structure complaints filed within that 90-day*
15 *period may be satisfied from the bond, except that the total amount paid from*
16 *any one bond to nonowner complainants may not exceed \$3,000.*”]

17 “(B) **If the determinations described in subparagraph (A) of this**
18 **paragraph do not exhaust the bond, then amounts due under board**
19 **determinations for all other types of residential or small commercial**
20 **structure complaints filed with the board within that 90-day period**
21 **may be paid from the bond, except that the total amount paid from**
22 **any one bond to nonowner complainants may not exceed \$3,000.**

23 “(b) A 90-day period begins on the date the first complaint is filed with
24 the board. Subsequent 90-day periods begin on the date the first complaint
25 is filed with the board after the close of the preceding 90-day period.

26 “[*(4) If the total complaints filed with the board against a residential con-*
27 *tractor within 90 days after the board receives notice of the first complaint*
28 *against the contractor exceed the amount of the bond available for those com-*
29 *plaints, the bond shall be apportioned as the board determines, subject to the*
30 *priorities established under this section.*”]

1 “(5) If the total amounts due as a result of complaints filed with the board
2 within 90 days after the first complaint is filed do not exceed the amount of
3 the bond available for those complaints, all amounts due as a result of com-
4 plaints filed within the 90-day period shall have priority over all complaints
5 subsequently filed until the amount of the bond available for the payment of
6 complaints is exhausted.]

7 “(6) The total amount paid from a residential contractor bond for costs,
8 interest and attorney fees may not exceed \$3,000.]

9 “(4) If the total amount payable under determinations issued by the
10 board for complaints against a residential contractor filed with the
11 board within 90 days after the board receives notice of the first com-
12 plaint against the contractor exceed the amount of the bond available
13 for payment, subject to the priorities under this section, the board
14 shall decide how payment of the determined amounts from the bond
15 is to be apportioned.

16 “(5) If the total amount payable under determinations issued by the
17 board as a result of complaints that were filed with the board within
18 90 days after the board receives notice of the first complaint do not
19 exceed the amount of the bond available for payment, those determi-
20 nations have payment priority over amounts due under determinations
21 resulting from subsequently filed complaints.

22 “(6) The total amount paid from a residential contractor bond for
23 costs and interest under all determinations issued by the board under
24 ORS 701.145 may not exceed \$3,000.

25 “SECTION 51. ORS 701.180 is amended to read:

26 “701.180. Notwithstanding the provisions of ORS 36.600 to 36.740, any
27 other provision of law or any contractual provision, failure of a contractor
28 to initiate mediation or arbitration proceedings within 30 days after notifi-
29 cation by the Construction Contractors Board of a complaint under ORS
30 701.145 is a waiver by the contractor of any contractual right to a mediation

1 or arbitration[.] **process in lieu of mediation by the board under ORS**
2 **701.145. If the parties do not resolve or settle the dispute pursuant to**
3 **board mediation under ORS 701.145, unless otherwise provided by law**
4 **regarding a dispute described under ORS 652.140 or 653.010 to 653.261,**
5 **the complainant must comply with any contractual provision for me-**
6 **diation or arbitration of the dispute as a condition for obtaining the**
7 **judgment required under ORS 701.145 (5).**

8 **SECTION 52.** ORS 701.235 is amended to read:

9 “701.235. (1) The Construction Contractors Board shall adopt rules to
10 carry out the provisions of this chapter including, but not limited to, rules
11 that:

12 “(a) Establish language for surety bonds;

13 “(b) Establish processing requirements for different types of complaints
14 described in this chapter;

15 “(c) Limit whether a complaint may be processed by the board if there is
16 no direct contractual relationship between the complainant and the con-
17 tractor;

18 “(d) Subject to ORS **701.145**, 701.153 and 701.157, exclude or limit recovery
19 from the contractor’s bond required by ORS 701.068 of amounts awarded by
20 a court or arbitrator for interest, service charges, costs and attorney fees
21 arising from commencing the arbitration or court action and proving dam-
22 ages; and

23 “(e) Designate a form to be used by an owner of residential property un-
24 der ORS 87.007 for the purpose of indicating the method the owner has se-
25 lected to comply with the requirements of ORS 87.007 (2) or to indicate that
26 ORS 87.007 (2) does not apply.

27 “(2) The board may adopt rules prescribing terms and conditions under
28 which a contractor may substitute a letter of credit from a bank authorized
29 to do business in this state instead of the bond requirements prescribed in
30 ORS 701.068.

1 **SECTION 53.** ORS 87.058 and 701.148 are repealed.

2 **SECTION 54.** (1) The amendments to ORS 701.005, 701.068, 701.088,
3 701.117, 701.133, 701.139, 701.140, 701.145, 701.146, 701.149, 701.150, 701.153,
4 701.180 and 701.235 by sections 38 to 52 of this 2011 Act apply to com-
5 plaints filed with the Construction Contractors Board on or after July
6 1, 2011. The Legislative Assembly expressly intends that the amend-
7 ments to ORS 701.005, 701.068, 701.088, 701.117, 701.133, 701.139, 701.140,
8 701.145, 701.146, 701.149, 701.150, 701.153, 701.180 and 701.235 by sections
9 38 to 52 of this 2011 Act may be applied retroactively if necessary to
10 process a complaint filed with the board on or after July 1, 2011.

11 “(2) Notwithstanding the repeal of ORS 701.148 by section 53 of this
12 2011 Act, the board shall complete the processing and resolution of any
13 complaint filed with the board prior to July 1, 2011, and pending on
14 July 1, 2011, in accordance with ORS 87.058, 701.005, 701.068, 701.088,
15 701.117, 701.133, 701.139, 701.140, 701.145, 701.146, 701.148, 701.149, 701.150,
16 701.153, 701.180 and 701.235 as amended and in effect immediately prior
17 to July 1, 2011.

18 “(3) The repeal of ORS 87.058 by section 53 of this 2011 Act does not
19 affect any stay of proceedings issued by a court prior to July 1, 2011,
20 under ORS 87.058. Notwithstanding the repeal of ORS 87.058 by section
21 53 of this 2011 Act, an owner of a structure subject to a lien perfected
22 under ORS 87.035 who files a complaint with the board prior to July
23 1, 2011, may obtain on or after July 1, 2011, a stay of proceedings as
24 described on the suit to foreclose the lien as described in ORS 87.058
25 as amended and in effect immediately prior to July 1, 2011.

26 **SECTION 55.** Section 56 of this 2011 Act is added to and made a
27 part of ORS 87.001 to 87.060.

28 **SECTION 56.** (1) As used in this section:

29 “(a) Notwithstanding ORS 87.005, ‘contractor’ has the meaning
30 given that term in ORS 701.005.

1 “(b) ‘Board’ means the Construction Contractors Board established
2 in ORS 701.205.

3 “(2) If a person files a suit to enforce a lien perfected under ORS
4 87.035 and the owner of the structure subject to that lien files a com-
5 plaint that is being processed by the board under ORS 701.145 against
6 a contractor who performed work on the structure, the owner may
7 obtain a stay of proceedings on the suit to enforce the lien if:

8 “(a) The owner already has paid the contractor for that contractor’s
9 work that is subject to this chapter on the structure;

10 “(b) The person suing to enforce the lien perfected under ORS
11 87.035:

12 “(A) Performed work that is subject to ORS chapter 701 on the
13 structure for the contractor who has been paid by the owner;

14 “(B) Furnished labor, services or materials or rented or supplied
15 equipment used on the structure to the contractor who has been paid
16 by the owner; or

17 “(C) Otherwise acquired the lien as a result of a contribution to-
18 ward completion of the structure for which the contractor has been
19 paid by the owner; and

20 “(c) The continued existence of the lien on which the suit is pending
21 is attributable to the failure of the contractor who has been paid by
22 the owner to pay the person suing for that person’s contribution to-
23 ward completion of the structure.

24 “(3) The owner may petition for the stay of proceedings described
25 in subsection (2) of this section by filing the following papers in the
26 circuit court in which the suit on the lien is pending:

27 “(a) A certified copy of the complaint filed for processing by the
28 board under ORS 701.145; and

29 “(b) An affidavit signed by the owner that contains:

30 “(A) A description of the structure;

1 **“(B) The street address of the structure;**

2 **“(C) A statement that the structure is the structure upon which the**
3 **suit to enforce the lien is pending; and**

4 **“(D) A statement that the petitioner is the owner of the structure.**

5 **“(4) Upon receipt of a complete petition described in subsection (3)**
6 **of this section, the circuit court shall stay proceedings on the suit to**
7 **enforce the lien.**

8 **“(5) After the board order on the complaint becomes final and the**
9 **board issues any required notice for payment against the contractor’s**
10 **bond or deposit, the circuit court shall dissolve the stay ordered under**
11 **subsection (4) of this section.**

12 **“SECTION 57. Section 58 of this 2011 Act is added to and made a**
13 **part of ORS chapter 701.**

14 **“SECTION 58. (1) Subject to subsection (4) of this section, if the**
15 **resolution of a complaint under ORS 701.145 requires a hearing, the**
16 **Construction Contractors Board may require that the hearing be con-**
17 **ducted as a binding arbitration under rules adopted by the board under**
18 **subsection (3) of this section. This subsection does not authorize the**
19 **board to require binding arbitration of a complaint that is subject to**
20 **ORS 701.146.**

21 **“(2) The board may use mediation or arbitration to resolve a con-**
22 **struction dispute between any parties who agree to follow the rules**
23 **of the board, other than a dispute involving work on a large commer-**
24 **cial structure.**

25 **“(3) Except as provided in this subsection, rules adopted by the**
26 **board to regulate arbitration under subsections (1) and (2) of this sec-**
27 **tion must substantially conform with the provisions of ORS 36.600,**
28 **36.610 to 36.630, 36.635 (2), 36.640, 36.645 (2), 36.650 to 36.680, 36.685 (1)**
29 **and 36.690 to 36.740. The rules may:**

30 **“(a) Require that a hearing under ORS 183.413 to 183.470 be con-**

1 ducted for issues for which a petition could be filed under ORS 36.615,
2 36.620, 36.625 and 36.640;

3 “(b) Limit orders and awards made by the arbitrator as necessary
4 to comply with this chapter;

5 “(c) Require that a request that an arbitrator modify or correct an
6 award under ORS 36.690 be submitted in a form specified by the rule;

7 “(d) Require that a petition under ORS 36.705 (2) or 36.710 (1) be filed
8 in a shorter period of time than provided by ORS 36.705 and 36.710; and

9 “(e) Include any other provision necessary to conform the arbi-
10 tration to this chapter.

11 “(4) A party to a complaint that is subject to a board order of
12 binding arbitration under subsection (1) of this section may avoid the
13 arbitration if the party requests to have the complaint resolved
14 through a contested case hearing or files a court action. A party
15 making a hearing request or filing a court action under this subsection
16 is subject to the following provisions:

17 “(a) If the party requests to have a complaint resolved through a
18 contested case hearing, the party must, within the time specified in
19 paragraph (c) of this subsection, deliver the request in writing to the
20 board and to all parties entitled by board rule to receive a copy of the
21 request.

22 “(b) If the party files a court action, the party must, within the
23 time specified in paragraph (c) of this subsection, deliver a copy of the
24 party’s court pleading to the board and to all persons entitled by board
25 rule to receive a copy of the pleading. If the party filing the court
26 action is the complainant to the board, the complainant must plead
27 all facts and issues of the board complaint in the court action. If the
28 court action is filed by the contractor against whom a board complaint
29 is alleged, the court action must be an action for damages, an action
30 for declaratory judgment or another action that allows the board

1 complainant to file a response pleading all facts and issues of the
2 board complaint. The board complainant has the burden of proving the
3 elements of the board complaint in a court action described in this
4 paragraph.

5 “(c) A party that is subject to paragraph (a) or (b) of this subsection
6 must deliver the contested case hearing request or the copy of the
7 party’s court pleading to the board as described in paragraphs (a) and
8 (b) of this subsection no later than the 30th day after the board sends
9 notice that an arbitration hearing has been scheduled. Failure to
10 timely deliver a request or court pleading under this paragraph con-
11 stitutes consent to the binding arbitration.

12 “(d) If a party makes a timely request under paragraph (a) of this
13 subsection for a contested case hearing and another party timely files
14 a court action and complies with paragraph (b) of this subsection, the
15 filing of the court action supersedes the request for a contested case
16 hearing.

17 “(e) A party may not withdraw a request made in compliance with
18 paragraph (a) of this subsection unless all parties agree to the with-
19 drawal.

20 “(f) The board may adopt a rule that a contested case hearing for
21 a complaint seeking less than \$1,000 is not available under this sub-
22 section.

23 “(g) The provisions of paragraph (b) of this subsection are in addi-
24 tion to any other requirements imposed by law regarding the filing of
25 a court action.

26 “(5) The board may refuse to accept a dispute for mediation or ar-
27 bitration under subsection (1) or (2) of this section if the board deter-
28 mines that the nature or complexity of the dispute is such that a court
29 or other forum is more appropriate for resolution of the dispute.

30 **SECTION 59.** ORS 701.005, as amended by section 4, chapter 77, Oregon

1 Laws 2010, and section 38 of this 2011 Act, is amended to read:

2 “701.005. As used in this chapter:

3 “(1) ‘Board’ means the Construction Contractors Board.

4 “(2) ‘Commercial contractor’ means a licensed contractor that holds an
5 endorsement as a:

6 “(a) Commercial general contractor level 1;

7 “(b) Commercial specialty contractor level 1;

8 “(c) Commercial general contractor level 2;

9 “(d) Commercial specialty contractor level 2; or

10 “(e) Commercial developer.

11 “(3) ‘Commercial developer’ means a developer of property that is zoned
12 for or intended for use compatible with a small commercial or large com-
13 mercial structure.

14 “(4) ‘Construction debt’ means an amount owed under:

15 “(a) An order or arbitration award issued by the board that has become
16 final by operation of law;

17 “(b) A judgment[, *arbitration award*] or civil penalty that has become final
18 by operation of law arising from construction activities within the United
19 States; or

20 “(c) A judgment or civil penalty that has become final by operation of law
21 arising from a failure to comply with ORS 656.017.

22 “(5) ‘Contractor’ means any of the following:

23 “(a) A person that, for compensation or with the intent to sell, arranges
24 or undertakes or offers to undertake or submits a bid to construct, alter,
25 repair, add to, subtract from, improve, inspect, move, wreck or demolish, for
26 another, a building, highway, road, railroad, excavation or other structure,
27 project, development or improvement attached to real estate, or to do any
28 part thereof.

29 “(b) A person that purchases or owns property and constructs or for
30 compensation arranges for the construction of one or more residential

1 structures or small commercial structures with the intent of selling the
2 structures.

3 “(c) A school district, as defined in ORS 332.002, that permits students to
4 construct a residential structure or small commercial structure as an edu-
5 cational experience to learn building techniques and sells the completed
6 structure.

7 “(d) A community college district, as defined in ORS 341.005, that permits
8 students to construct a residential structure or small commercial structure
9 as an educational experience to learn building techniques and sells the
10 completed structure.

11 “(e) A person except a landscape contracting business, nurseryman,
12 gardener or person engaged in the commercial harvest of forest products,
13 that is engaged as an independent contractor to remove trees, prune trees,
14 remove tree limbs or stumps or to engage in tree or limb guying.

15 “(f) A business that supplies the services of a home inspector certified
16 under ORS 701.350 or a cross-connection inspector and backflow assembly
17 tester certified under ORS 448.279.

18 “(g) A person that for compensation arranges, undertakes, offers to
19 undertake or submits a bid to clean or service chimneys.

20 “(6) ‘Developer’ means a contractor that owns property or an interest in
21 property and engages in the business of arranging for construction work or
22 performing other activities associated with the improvement of real property,
23 with the intent to sell the property.

24 “(7)(a) ‘General contractor’ means a contractor whose business operations
25 require the use of more than two unrelated building trades or crafts that the
26 contractor supervises or performs in whole or part, whenever the sum of all
27 contracts on any single property, including materials and labor, exceeds an
28 amount established by rule by the board.

29 “(b) ‘General contractor’ does not mean a specialty contractor or a resi-
30 dential limited contractor.

1 “(8)(a) ‘Home improvement’ means a renovation, remodel, repair or alter-
2 ation by a residential contractor to an existing owner-occupied:

3 “(A) Residence that is a site-built home;

4 “(B) Condominium, rental residential unit or other residential dwelling
5 unit that is part of a larger structure, if the property interest in the unit is
6 separate from the property interest in the larger structure;

7 “(C) Modular home constructed off-site;

8 “(D) Manufactured dwelling; or

9 “(E) Floating home, as defined in ORS 830.700.

10 “(b) ‘Home improvement’ does not include a renovation, remodel, repair
11 or alteration by a residential contractor:

12 “(A) To a structure that contains one or more dwelling units and is four
13 stories or less above grade; or

14 “(B) That the residential contractor performed in the course of con-
15 structing a new residential structure.

16 “(9)(a) ‘Home inspector’ means a person who, for a fee, inspects and pro-
17 vides written reports on the overall physical condition of a residential
18 structure and the appurtenances of the residential structure.

19 “(b) ‘Home inspector’ does not include persons certified under ORS chap-
20 ter 455 to inspect new, repaired or altered structures for compliance with the
21 state building code.

22 “(10) ‘Key employee’ means an employee or owner of a contractor who is
23 a corporate officer, manager, superintendent, foreperson or lead person or
24 any other employee the board identifies by rule.

25 “(11) ‘Large commercial structure’ means a structure that is not a resi-
26 dential structure or small commercial structure.

27 “(12) ‘Officer’ means any of the following persons:

28 “(a) A president, vice president, secretary, treasurer or director of a cor-
29 poration.

30 “(b) A general partner in a limited partnership.

- 1 “(c) A manager in a manager-managed limited liability company.
- 2 “(d) A member of a member-managed limited liability company.
- 3 “(e) A trustee.
- 4 “(f) A person the board defines by rule as an officer. The definition of
- 5 officer adopted by board rule may include persons not listed in this sub-
- 6 section who may exercise substantial control over a business.
- 7 “(13) ‘Residential contractor’ means a licensed contractor that holds an
- 8 endorsement as a:
- 9 “(a) Residential general contractor;
- 10 “(b) Residential specialty contractor;
- 11 “(c) Residential limited contractor; or
- 12 “(d) Residential developer.
- 13 “(14) ‘Residential developer’ means a developer of property that is zoned
- 14 for or intended for use compatible with a residential or small commercial
- 15 structure.
- 16 “(15)(a) ‘Residential structure’ means:
- 17 “(A) A residence that is a site-built home;
- 18 “(B) A structure that contains one or more dwelling units and is four
- 19 stories or less above grade;
- 20 “(C) A condominium, rental residential unit or other residential dwelling
- 21 unit that is part of a larger structure, if the property interest in the unit is
- 22 separate from the property interest in the larger structure;
- 23 “(D) A modular home constructed off-site;
- 24 “(E) A manufactured dwelling; or
- 25 “(F) A floating home as defined in ORS 830.700.
- 26 “(b) ‘Residential structure’ does not mean:
- 27 “(A) Subject to paragraph (a)(C) of this subsection, a structure that con-
- 28 tains both residential and nonresidential units;
- 29 “(B) Transient lodging;
- 30 “(C) A residential school or residence hall;

1 “(D) A state or local correctional facility other than a local facility for
2 persons enrolled in work release programs maintained under ORS 144.460;

3 “(E) A youth correction facility as defined in ORS 420.005;

4 “(F) A youth care center operated by a county juvenile department under
5 administrative control of a juvenile court pursuant to ORS 420.855 to 420.885;

6 “(G) A detention facility as defined in ORS 419A.004;

7 “(H) A nursing home;

8 “(I) A hospital; or

9 “(J) A place constructed primarily for recreational activities.

10 “(16) ‘Responsible managing individual’ means an individual who:

11 “(a) Is an owner described in ORS 701.094 or an employee of the business;

12 “(b) Exercises management or supervisory authority, as defined by the
13 board by rule, over the construction activities of the business; and

14 “(c)(A) Successfully completed the training and testing required for li-
15 censing under ORS 701.122 within a period the board identifies by rule;

16 “(B) Demonstrated experience the board requires by rule; or

17 “(C) Complied with the licensing requirements of ORS 446.395.

18 “(17) ‘Small commercial structure’ means:

19 “(a) A nonresidential structure that has a ground area of 10,000 square
20 feet or less, including exterior walls, and a height of not more than 20 feet
21 from the top surface of the lowest flooring to the highest interior overhead
22 finish of the structure;

23 “(b) A nonresidential leasehold, rental unit or other unit that is part of
24 a larger structure, if the unit has a ground area of 12,000 square feet or less,
25 excluding exterior walls, and a height of not more than 20 feet from the top
26 surface of the lowest flooring to the highest interior overhead finish of the
27 unit; or

28 “(c) A nonresidential structure of any size for which the contract price
29 of all construction contractor work to be performed on the structure as part
30 of a construction project does not total more than \$250,000.

1 “(18) ‘Specialty contractor’ means a contractor who performs work on a
2 structure, project, development or improvement and whose operations as such
3 do not fall within the definition of ‘general contractor.’ ‘Specialty
4 contractor’ includes a person who performs work regulated under ORS
5 446.395.

6 “(19) ‘Zero-lot-line dwelling’ means a single-family dwelling unit con-
7 structed in a group of attached units in which:

8 “(a) Each attached unit extends from foundation to roof with open space
9 on two sides; and

10 “(b) Each dwelling unit is separated by a property line.

11 “**SECTION 60.** ORS 701.068, as amended by section 39 of this 2011 Act,
12 is amended to read:

13 “701.068. (1) An applicant for issuance or renewal of a contractor license
14 shall file with the Construction Contractors Board a surety bond with one
15 or more corporate sureties authorized to do business in this state in the
16 amount set forth in ORS 701.081 or 701.084.

17 “(2) If an applicant for issuance, renewal or an additional endorsement
18 of a license will hold endorsements as both a residential contractor and a
19 commercial contractor, the applicant shall file with the board a surety bond
20 for each endorsement in the amount set forth in ORS 701.081 or 701.084.

21 “(3) The surety bond for a residential contractor must provide that the
22 applicant, with regard to work subject to this chapter, will pay amounts
23 [*determined*] **ordered paid** by the board [*as provided*] under ORS 701.145. The
24 surety bond for a commercial contractor must provide that the applicant,
25 with regard to work subject to this chapter, will pay amounts [*determined*]
26 **ordered paid** by the board [*as provided*] under ORS 701.146. Bonds filed un-
27 der this section shall remain in effect for at least one year or until depleted
28 by payments under ORS 701.150, 701.153 and 701.157, unless the surety sooner
29 cancels the bond. At the discretion of the surety the bond may be continued
30 for an additional period by continuation certificate. Except as provided in

1 subsection (4) of this section, the aggregate liability of the surety under the
2 bond for complaints against the contractor may not exceed the penal sum
3 of the bond no matter how many years the bond is in force. Except as pro-
4 vided in subsection (4) of this section, an extension by continuation certifi-
5 cate, reinstatement, reissue or renewal of the bond may not increase the
6 liability of the surety.

7 “(4) The board, by rule, may require a licensee to obtain a new surety
8 bond if, pursuant to a board [*determination issued under ORS 701.145 or*
9 *701.146*] **order for payment of a complaint described in ORS 701.140**, the
10 surety pays an amount out of the bond of the licensee. The new surety bond
11 must be in the applicable amount set forth in ORS 701.081 or 701.084 unless
12 a higher amount is required by a board condition or rule described in sub-
13 section (5) or (6) of this section. The board may allow a licensee to obtain,
14 instead of a new bond, a certification that the surety remains liable for the
15 full penal sum of the bond, notwithstanding payment by the surety on the
16 complaint.

17 “(5) If the amount the licensee must pay against the bond under sub-
18 section (3) of this section exceeds the amount of the bond, the board shall
19 suspend the contractor’s license until the amount owed is paid. The board,
20 as a condition of ending the suspension, may require a contractor requesting
21 reinstatement of a license to file a bond of an amount up to five times as
22 much as the amount required ordinarily of a licensee under ORS 701.081 or
23 701.084.

24 “(6) The board by rule may establish conditions for applicants or persons
25 licensed under this chapter under which the applicant or licensee must file
26 a bond of an amount up to five times as much as the amount required ordi-
27 narily of an applicant or licensee under ORS 701.081 or 701.084. The board
28 may reduce the amount of bond it would otherwise require if the contractor
29 demonstrates satisfactory completion of approved elective classes on dispute
30 resolution and prevention, basic accounting and record keeping or such other

1 classes as the board may prescribe.

2 “[(7) *The bond required under this section is for the exclusive purpose of*
3 *payment of amounts for which the board has determined the surety to have*
4 *responsibility.*]

5 “[(8) *Upon issuance of a determination under ORS 701.145 or 701.146 for*
6 *a complaint against a contractor who holds a bond required under this section,*
7 *the board shall notify the surety on the bond of the determination in a manner*
8 *determined by the board by rule. The notification shall include a list of all*
9 *board determinations for payment by the surety from the bond.*]

10 **“(7) The bond required under this section is for the exclusive pur-**
11 **pose of payment of final orders and arbitration awards of the board in**
12 **accordance with this chapter.**

13 **“(8) Upon determination under ORS 701.145 or 701.146 of a complaint**
14 **against a contractor who holds a bond required under this section, the**
15 **board shall notify the surety on the bond of the final order in a man-**
16 **ner determined by the board by rule. The notification shall include a**
17 **list of all complaints upon which a final order has been issued.**

18 “(9) A court action may not be commenced against a surety on a bond
19 required under this section until 30 days after the date that the surety is
20 notified by the board under ORS 701.150 that payment is due on the [*deter-*
21 *mination*] **final order.**

22 “(10) In any action against a surety on a bond under this section that is
23 based on the failure of the surety to pay [*an amount determined by the*
24 *board*] **a final order**, the court may award:

25 “(a) Costs;

26 “(b) Reasonable attorney fees to the prevailing party as part of the costs;
27 and

28 “[*(c) Twice the amount that the board determined the surety must pay on*
29 *the complaint, if the surety arbitrarily and capriciously refused to pay.*]

30 **“(c) Twice the amount of any damages that the board ordered the**

1 surety to pay on the complaint, if the surety arbitrarily and
2 capriciously refused to pay upon order of the board.

3 **SECTION 61.** ORS 701.088, as amended by section 40 of this 2011 Act,
4 is amended to read:

5 “701.088. (1) As used in this section:

6 “(a) ‘Illegal drug manufacturing site’ has the meaning given that term in
7 ORS 453.858.

8 “(b) ‘Nonprofit organization’ means an organization or group of organ-
9 izations described in section 501(c)(3) of the Internal Revenue Code that is
10 exempt from income tax under section 501(a) of the Internal Revenue Code.

11 “(2) The Construction Contractors Board shall adopt rules prescribing
12 terms and conditions under which a general or specialty contractor that is
13 a nonprofit organization engaged in rehabilitating an illegal drug manufac-
14 turing site may substitute a letter of credit from a bank authorized to do
15 business in this state, or substitute a cash deposit, for a bond required under
16 ORS 701.068. A letter of credit or cash deposit described in this section
17 substitutes for a bond only for purposes of work the contractor performs on
18 an illegal drug manufacturing site. The letter of credit or cash deposit must
19 be equivalent in amount to the bond that would otherwise be required of the
20 contractor under ORS 701.068.

21 “(3) The board may charge a contractor a fee to cover any expense in-
22 curred by the board in allowing the contractor to substitute a letter of credit
23 or cash deposit under this section.

24 “(4) A contractor that supplies a letter of credit or cash deposit under this
25 section is considered to be bonded under ORS 701.068 for purposes of per-
26 forming rehabilitation work on illegal drug manufacturing sites. A letter of
27 credit or cash deposit that a contractor supplies under this section is con-
28 sidered to be a surety bond issued under ORS 701.068 for purposes of claims
29 involving the contractor’s rehabilitation work on illegal drug manufacturing
30 sites. The issuer of a letter of credit described in this section is considered

1 to be a surety for a bond only for purposes of receiving [*notification of a*
2 *determination*] **notice** under ORS 701.068 or 701.146.

3 **“SECTION 62.** ORS 701.117, as amended by section 41 of this 2011 Act,
4 is amended to read:

5 “701.117. A contractor shall notify the Construction Contractors Board
6 of any change of address while licensed and for one year following the date
7 the contractor’s license expires or otherwise becomes inactive. The contrac-
8 tor shall so notify the board within 10 days of the date upon which the
9 change of address occurs. Initial notice of a contested case **or arbitration**
10 directed by the board to the last-known address of record shall be considered
11 delivered when deposited in the United States mail and sent registered or
12 certified or post office receipt secured. Any other communication directed
13 by the board to the last-known address of record shall be considered deliv-
14 ered when deposited in the United States mail, regular mail.

15 **“SECTION 63.** ORS 701.133, as amended by sections 49 and 50, chapter
16 107, Oregon Laws 2010, and section 43 of this 2011 Act, is amended to read:

17 “701.133. (1) Unless otherwise provided by the Construction Contractors
18 Board by rule, before filing a complaint under ORS 701.139, a person must
19 send notice to the contractor that the person intends to file the complaint.
20 The person must send the notice at least 30 days before filing the complaint.
21 The notice must be mailed by certified mail to the last known address of the
22 contractor as shown in board records. The board by rule may:

23 “(a) Specify the manner in which the person may show compliance with
24 this subsection at the time of filing the complaint.

25 “(b) Provide that all or part of the requirements for sending a notice un-
26 der this subsection may be waived if the contractor, by other means, has
27 actual notice of the dispute with the person filing the complaint.

28 “(2) If the notice described in subsection (1) of this section is mailed to
29 the contractor fewer than 45 days before expiration of the time limitation
30 under ORS 701.143 for the board to receive the complaint, the time limitation

1 for the board to receive the complaint does not expire until 60 days after the
2 notice is mailed.

3 “(3) The board by rule may impose a processing fee for complaints filed
4 under ORS 701.139. The fee amount may not exceed the amount of the filing
5 fee provided by ORS 21.110 (1) for a plaintiff filing a civil action in circuit
6 court. The board may impose different processing fees for complaints pro-
7 cessed under ORS 701.145 than for complaints processed under ORS 701.146.

8 “(4) If the board adopts rules under subsection (3) of this section, the
9 rules:

10 “(a) Except as provided in paragraphs (b) and (c) of this subsection, must
11 provide that a prevailing complainant recover processing fees **as damages**
12 **in the final order of the board.**

13 “(b) Must provide that the board may waive or defer all or part of the
14 processing fee upon application by the person filing the complaint that shows
15 the person is unable to pay all or part of the fee. The application must be
16 made under oath and notarized. The application must show the average
17 monthly income and expenses of the complainant, assets and liabilities of the
18 complainant and any other information required by board rule.

19 “(c) May provide for the processing fee to be waived for all complaints
20 that are based on the furnishing of labor by a complainant to a contractor.
21 The board may provide for processing fee waiver under this paragraph only
22 if, in the opinion of the board, a majority of complainants who file com-
23 plaints based on the furnishing of labor to contractors are eligible for fee
24 waivers as described in paragraph (b) of this subsection.

25 “**SECTION 64.** ORS 701.139, as amended by section 44 of this 2011 Act,
26 is amended to read:

27 “701.139. The Construction Contractors Board may determine the validity
28 of a complaint described in ORS 701.140 filed against a licensed contractor.
29 A person must file the complaint within the applicable time limitation de-
30 scribed in ORS 701.143. The complaint must be filed and resolved as follows:

1 “(1) A complaint against a residential contractor that is not also endorsed
2 as a commercial contractor involving work on a residential or small com-
3 mercial structure or an appurtenance to a residential or small commercial
4 structure must be resolved as provided in ORS 701.145.

5 “(2) A complaint against a commercial contractor that is not also en-
6 dorsed as a residential contractor involving work on a small commercial or
7 large commercial structure or an appurtenance to a small commercial or
8 large commercial structure must be resolved as provided in ORS 701.146.

9 “(3) A complaint against a contractor that is endorsed as both a residen-
10 tial contractor and a commercial contractor:

11 “(a) Involving work on a residential structure or an appurtenance to a
12 residential structure must be resolved as provided under ORS 701.145.

13 “(b) Involving work on a small commercial structure or an appurtenance
14 to a small commercial structure may be resolved as provided in ORS 701.145
15 or 701.146, at the complainant’s election.

16 “(c) Involving work on a large commercial structure or an appurtenance
17 to a large commercial structure must be resolved as provided in ORS 701.146.

18 “(4) **Notwithstanding subsections (1) to (3) of this section and except**
19 **as provided in section 58 of this 2011 Act, with prior agreement of the**
20 **complainant and the licensed contractor, a complaint may be resolved**
21 **by the board through binding arbitration under section 58 of this 2011**
22 **Act.**

23 “**SECTION 65.** ORS 701.140, as amended by section 45 of this 2011 Act,
24 is amended to read:

25 “701.140. A complaint under ORS 701.139 must arise from the performance,
26 or a contract for the performance, of work that requires a contractor license
27 issued by the Construction Contractors Board. The complaint must be of one
28 or more of the following types:

29 “(1) A complaint against a contractor by the owner of a structure or other
30 real property for the following:

1 “(a) Negligent work.

2 “(b) Improper work.

3 “(c) Breach of contract.

4 “(2) A complaint against a contractor by the owner of a structure or other
5 real property to discharge, or to recoup funds expended in discharging, a lien
6 established under ORS 87.010 to 87.060 and 87.075 to 87.093 under circum-
7 stances described under this subsection. **If the complaint is processed**
8 **under ORS 701.145, the Construction Contractors Board may reduce**
9 **the amount of the complaint by any amount the complainant owes the**
10 **contractor.** The board shall process complaints described in this subsection
11 under ORS 701.145 only if:

12 “(a) The owner paid the contractor for that contractor’s work subject to
13 this chapter;

14 “(b) A lien is filed against the property of the owner under ORS 87.010
15 to 87.060 and 87.075 to 87.093 because the contractor failed to pay the person
16 claiming the lien for that person’s contribution toward completion of the
17 improvement; and

18 “(c) The complaint is described in ORS 701.139 (1) or (3)(a) or (b).

19 “(3) A complaint against a licensed subcontractor by a licensed contractor
20 for the following:

21 “(a) Negligent work;

22 “(b) Improper work; or

23 “(c) Breach of contract.

24 “(4) A complaint by a person furnishing labor to a contractor or owed
25 employee benefits by a contractor.

26 “(5) A complaint, as limited by rule of the board, by a person furnishing
27 material or renting or supplying equipment to a contractor. The minimum
28 limit set by the board may not exceed \$150.

29 “(6) A complaint by a subcontractor against a contractor for unpaid labor
30 or materials arising out of a contract.

1 SECTION 66. ORS 701.145, as amended by section 46 of this 2011 Act,
2 is amended to read:

3 "701.145. For a complaint described in ORS 701.139 (1) or (3)(a) or a
4 complaint under ORS 701.139 (3)(b) that a complainant elects to have re-
5 solved under this section:

6 "(1) The complainant must file the complaint with the Construction Con-
7 tractors Board in a form prescribed by the board.

8 "(2) The board may suspend processing of the complaint if:

9 "(a) The same facts and issues involved in the complaint have been sub-
10 mitted to a court of competent jurisdiction for determination or have been
11 submitted to any other entity authorized by law or the parties to effect a
12 resolution or settlement; or

13 "(b) The board determines that the nature or complexity of the dispute
14 described in the complaint is such that a court is the appropriate forum for
15 the adjudication of the dispute.

16 "(3) The board may dismiss or close the complaint as established by rule
17 of the board if any of the following conditions apply:

18 "(a) The complainant does not respond to a board request and the request
19 is necessary to the board's investigation of the complaint.

20 "(b) The complainant does not allow the board to conduct one or more
21 on-site meetings to mediate or investigate the complaint.

22 "(c) The complainant does not permit the contractor against whom the
23 complaint is filed to be present at an on-site investigation made by the board.

24 **"(d) The board determines that the contractor against whom the**
25 **complaint is filed is capable of complying with recommendations made**
26 **by the board relative to the complaint, but the complainant does not**
27 **permit the contractor to comply with the recommendations. The board**
28 **may refuse to accept or further process a complaint under this para-**
29 **graph only if the contractor was licensed at the time the work was**
30 **first performed and is licensed at the time the board makes its rec-**

1 **ommendations.**

2 “[(d)] (e) The amount in controversy is less than an amount adopted by
3 the board and not more than \$250.

4 “[(4) Upon acceptance of the complaint, the board shall give notice to the
5 contractor against whom the complaint is made and shall initiate proceedings
6 to determine board jurisdiction over the complaint. The board shall attempt to
7 conduct one or more meetings on-site or by telephone to mediate a dispute.
8 During mediation of a dispute, the board may recommend to the contractor
9 such action as the board considers appropriate to compensate the complainant.
10 If the contractor performs accordingly, the board shall give that fact due con-
11 sideration in any subsequent disciplinary proceeding brought by the board.]

12 “[(5) If the parties do not resolve or settle the complaint, except as provided
13 in subsection (6) of this section, the complainant may recover payment from the
14 bond of the contractor only by obtaining:]

15 “[(a) A final judgment against the contractor issued by a court of competent
16 jurisdiction; or]

17 “[(b) An arbitration award against the contractor that a court has reduced
18 to a final judgment.]

19 “[(6) If the complaint is filed under ORS 701.140 (4), the complainant may
20 recover payment from the bond of the contractor as provided in subsection
21 (5)(a) of this section or by obtaining a final order issued by the Bureau of
22 Labor and Industries that states an amount of unpaid wages that the licensed
23 contractor owes under ORS 652.140 or ORS 653.010 to 653.261.]

24 “[(7) For purposes of subsections (5) and (6) of this section, ‘final’ means
25 that the judgment or order has become final by operation or law or on
26 appeal.]

27 “[(8) The board shall send the surety on the contractor bond required under
28 ORS 701.068 a copy of the final judgment or bureau final order, and a copy
29 of a determination issued by the board that the surety must pay the amount
30 stated by the board. A determination issued by the board may not include

1 *payment of any attorney fees awarded in the final judgment or bureau final*
2 *order. The determination issued by the board is an order in other than a*
3 *contested case proceeding. The determination order is not recordable under*
4 *ORS 701.153 (1) and (2) to create a lien.]*

5 **“(4) Upon acceptance of the complaint, the board shall give notice**
6 **to the contractor against whom the complaint is made and shall ini-**
7 **tiate proceedings to determine the validity of the complaint. If, after**
8 **investigation, the board determines that a violation of this chapter or**
9 **of any rule adopted thereunder has occurred, or damage has been**
10 **caused by the contractor, the board may recommend to the contractor**
11 **such action as the board considers appropriate to compensate the**
12 **complainant. If the contractor performs accordingly, the board shall**
13 **give that fact due consideration in any subsequent disciplinary pro-**
14 **ceeding brought by the board. The board may conduct one or more**
15 **on-site meetings to mediate or investigate the complaint.**

16 **“(5) Subject to section 58 of this 2011 Act, if the board is unable to**
17 **resolve the complaint under subsection (4) of this section, the board**
18 **may issue a contested case notice under ORS 183.415 and:**

19 **“(a) Issue a proposed default order under ORS 183.417 to become**
20 **effective only if a party does not request a contested case hearing; or**

21 **“(b) Refer the matter for hearing.**

22 **“(6) The board shall send a copy of the notice and any proposed**
23 **order described in subsection (5) of this section to the surety on the**
24 **contractor bond required by ORS 701.068.**

25 **“SECTION 67. ORS 701.146, as amended by section 47 of this 2011 Act,**
26 **is amended to read:**

27 **“701.146. For a complaint described in ORS 701.139 (2) or (3)(c) or a com-**
28 **plaint under ORS 701.139 (3)(b) that a complainant elects to have resolved**
29 **under this section:**

30 **“(1) The person seeking to file the complaint with the Construction Con-**

1 tractors Board must:

2 “(a) Bring an action on the dispute against the licensed contractor in a
3 court of competent jurisdiction; or

4 “(b) Initiate a proceeding to resolve the dispute through binding arbi-
5 tration substantially in conformance with ORS 36.600 to 36.740.

6 “(2) The complainant must file the complaint with the Construction Con-
7 tractors Board by delivering to the board a copy of the complainant’s court
8 pleading or the demand for arbitration or other document necessary to ini-
9 tiate arbitration. The pleading, demand or other document must be accom-
10 panied by a completed board complaint form. The complainant must also give
11 notice to the surety on the bond by delivering to the surety a copy of the
12 complainant’s court pleading or the demand for arbitration or other docu-
13 ment necessary to initiate arbitration and a copy of the completed board
14 complaint form. Delivery to the board and the surety must be accomplished
15 by certified mail, return receipt requested, no later than the earlier of:

16 “(a) The 90th day after filing the court action or after filing or making
17 the arbitration demand or other initiation of arbitration;

18 “(b) The 14th day before the first day of trial or arbitration; or

19 “(c) The 30th day before:

20 “(A) The court issues a judgment in the action; or

21 “(B) The arbitrator issues an award on the arbitration.

22 “(3) Filing the complaint with the board under subsection (2) of this sec-
23 tion constitutes filing the complaint for purposes of establishing timeliness
24 of the complaint under ORS 701.143 and priority of the complaint for possible
25 payment from the bond under ORS 701.157.

26 “(4) Except as provided in this subsection and subsection (7) of this sec-
27 tion, if the complainant properly gives notice to the surety under subsection
28 (2) of this section, a judgment or award against the contractor entered in the
29 action or arbitration is binding on the surety. If the complainant delivers the
30 notice required under subsection (2) of this section to the wrong surety, the

1 surety receiving the notice may avoid being bound by a judgment or award
2 by delivering notice of the mistake to the complainant or the complainant's
3 attorney of record, and to the board, on or before the 30th day after the
4 surety receives notice under subsection (2) of this section. Delivery of the
5 notice of mistake must be by certified mail, return receipt requested, or by
6 facsimile machine or other form of transmission with an acknowledgment of
7 receipt.

8 “(5) A surety under subsection (2) of this section has an absolute right
9 to intervene in an action or arbitration brought or initiated under subsection
10 (1) of this section. A complainant may not join a surety as a party to an
11 action or arbitration unless the complainant disputes the validity or timeli-
12 ness of the surety's notice of mistake or the surety disputes the validity or
13 timeliness of the delivery to the surety of the notice required by subsection
14 (2) of this section. If the surety elects to intervene or is joined as a party,
15 the surety is bound by all issues of fact and law determined by the court or
16 arbitrator and may not seek board review of those determinations.

17 “(6) If a court issues a judgment on an action, or reduces an arbitration
18 award to judgment, against a contractor on a complaint described in sub-
19 section (1) of this section, the complainant must deliver a certified copy of
20 the judgment to the board and to the surety no later than the 30th day after
21 entry of the judgment in order to maintain the complaint and possibly re-
22 ceive payment from the bond. The entry of a final judgment against the
23 contractor concludes the contractor's involvement in any proceedings to de-
24 termine whether the complaint is subject to payment from the bond. The
25 complainant and the surety are the only parties to the administrative process
26 set forth in subsection (7) of this section.

27 “(7) Upon receipt of a timely delivered certified copy of the judgment as
28 described in subsection (6) of this section, the board shall issue a [*determi-*
29 *nation that the surety must pay the amount stated by the board. The determi-*
30 *nation issued by the board is an order in other than a contested case*

1 *proceeding. The determination shall include]* **proposed order in** the amount
2 of the judgment together with any costs, interest and attorney fees awarded
3 under the judgment, to the extent that the judgment, costs, interest and fees
4 are within the jurisdiction of the board. The board's determination of the
5 complaint is limited to whether the complaint comes within the jurisdiction
6 of the board and is subject to payment by the surety. **The board shall issue**
7 **the proposed order in a form that indicates the surety's maximum li-**
8 **ability to the complainant. If a hearing is not requested within the**
9 **time set forth in the proposed order, the proposed order becomes final**
10 **without any further action by the board. If a hearing is requested,**
11 **unless review of an issue is precluded under subsection (5) of this**
12 **section, the board may determine:**

13 **“(a) Whether the complaint was timely filed with the board as**
14 **provided in ORS 701.143.**

15 **“(b) Whether the surety received timely notice as provided in sub-**
16 **sections (2) and (6) of this section.**

17 **“(c) Whether the complaint is for work subject to this chapter.**

18 **“(d) The extent of the surety's liability to the complainant.**

19 **“SECTION 68.** ORS 701.149, as amended by section 48 of this 2011 Act,
20 is amended to read:

21 **“701.149. (1) [If the Construction Contractors Board suspends the processing**
22 **of a complaint because of the complaint having been submitted to a court or**
23 **arbitrator or because of a court having stayed action on the complaint,] An**
24 **arbitration conducted under section 58 of this 2011 Act must be held**
25 **before an administrative law judge assigned under ORS 183.605 to**
26 **183.690 to act as arbitrator on behalf of the Construction Contractors**
27 **Board. The assignment of an administrative law judge to act as**
28 **arbitrator is subject to a request for a different arbitrator under ORS**
29 **183.645 or a rule adopted pursuant to ORS 183.645.**

30 **“(2) If a party to a complaint under ORS 701.145 requests a con-**

1 tested case hearing, the board shall schedule the hearing.

2 “(3) The board may adopt rules governing the avoidance of a con-
3 tested case hearing. The rules may include, but need not be limited to,
4 a limit on the time period during which a party to a complaint may
5 avoid a contested case hearing by filing a court action.

6 “(4) Contested case hearings before the board must be conducted
7 by an administrative law judge assigned under ORS 183.605 to 183.690.
8 Notwithstanding ORS 670.325, the board may delegate authority to the
9 administrative law judge to issue a final order in any matter.

10 “(5) In assigning administrative law judges for arbitration and
11 contested case hearings conducted under this section, the chief ad-
12 ministrative law judge of the Office of Administrative Hearings estab-
13 lished under ORS 183.605 shall defer to board requests.

14 “(6) If a complainant to the board files a court action, the board may
15 require that the complainant provide status reports on the pending court
16 action [*or arbitration*]. The board may dismiss or close a complaint filed un-
17 der ORS 701.139 if the complainant fails to submit status reports on a pend-
18 ing court action [*or arbitration*].

19 “[2] (7) ORS 183.605 to 183.690 do not limit in any way the ability of the
20 board to make full use of alternative dispute resolution, including mediation
21 or [*referral for*] arbitration, to resolve complaints against contractors filed
22 under ORS 701.139.

23 “**SECTION 69.** ORS 701.150, as amended by section 49 of this 2011 Act,
24 is amended to read:

25 “701.150. [(1) *If a licensed contractor fails to pay a complainant amounts*
26 *due under a court judgment or under a final order of the Bureau of Labor and*
27 *Industries, the Construction Contractors Board shall issue a determination*
28 *stating the amount that a surety must pay the complainant. The surety shall*
29 *pay the amount required under the determination as follows:]*

30 “[*(a) If the complaint was filed under ORS 701.145, the surety shall pay the*

1 amount from a bond required for a residential contractor.]

2 “[(b) If the complaint was filed under ORS 701.146, the surety shall pay the
3 amount from a bond required for a commercial contractor.]

4 “(1) **A Construction Contractors Board final order that is not paid
5 by the contractor and that:**

6 “(a) **Arises out of a complaint filed under ORS 701.145 must be sat-
7 isfied from a bond required for a residential contractor.**

8 “(b) **Arises out of a complaint filed under ORS 701.146 must be sat-
9 isfied from a bond required for a commercial contractor.**

10 “(2) **If a board final order is not paid by the contractor, the board
11 shall notify the surety on the bond.** The surety may not pay on a com-
12 plaint until the surety receives notice from the board that the complaint is
13 ready for payment.

14 “(3) Notwithstanding ORS 701.153 and 701.157, a bond is not subject to
15 payment for a complaint that is filed more than 14 months after the earlier
16 of:

17 “(a) The expiration or cancellation date of the license that was in force
18 when the work that is the subject of the complaint was completed or aban-
19 doned; or

20 “(b) The date that the surety canceled the bond.

21 “**SECTION 70.** ORS 701.153, as amended by section 50 of this 2011 Act,
22 is amended to read:

23 “701.153. (1) If an order of the Construction Contractors Board **that** de-
24 termines a complaint [*against a residential contractor that was filed with the*
25 *board prior to July 1, 2011, and the order*] **under ORS 701.145** becomes final
26 by operation of law or on appeal and remains unpaid 10 days after the date
27 the order becomes final, the complainant may file the order with the county
28 clerk in any county of this state.

29 “(2) Upon receipt [*of an order described in subsection (1) of this section*],
30 the clerk shall record the order in the County Clerk Lien Record. In addition

1 to any other remedy provided by law, recording an order [*described in sub-*
2 *section (1) of this section*] in the County Clerk Lien Record pursuant to the
3 provisions of this section has the effect provided for in ORS 205.125 and
4 205.126, and the order may be enforced as provided in ORS 205.125 and
5 205.126.

6 “(3)(a) Payments from the surety bond of a residential contractor pursu-
7 ant to [*a board determination under ORS 701.145*] **board order and notice**
8 are satisfied in the following priority in any 90-day period:

9 “(A) Board [*determinations*] **orders** as a result of complaints against a
10 residential contractor by the owner of a residential or small commercial
11 structure have payment priority to the full extent of the bond over all other
12 types of complaints.

13 “[*(B) If the determinations described in subparagraph (A) of this para-*
14 *graph do not exhaust the bond, then amounts due under board determinations*
15 *for all other types of residential or small commercial structure complaints filed*
16 *with the board within that 90-day period may be paid from the bond, except*
17 *that the total amount paid from any one bond to nonowner complainants may*
18 *not exceed \$3,000.*]

19 “(B) **If the complaints described in subparagraph (A) of this para-**
20 **graph do not exhaust the bond, then amounts due as a result of all**
21 **other types of residential or small commercial structure complaints**
22 **filed within that 90-day period may be satisfied from the bond, except**
23 **that the total amount paid from any one bond to nonowner**
24 **complainants may not exceed \$3,000.**

25 “(b) A 90-day period begins on the date the first complaint is filed with
26 the board. Subsequent 90-day periods begin on the date the first complaint
27 is filed with the board after the close of the preceding 90-day period.

28 “[*(4) If the total amount payable under determinations issued by the board*
29 *for complaints against a residential contractor filed with the board within 90*
30 *days after the board receives notice of the first complaint against the contractor*”

1 exceed the amount of the bond available for payment, subject to the priorities
2 under this section, the board shall decide how payment of the determined
3 amounts from the bond is to be apportioned.]

4 “[5] If the total amount payable under determinations issued by the board
5 as a result of complaints that were filed with the board within 90 days after
6 the board receives notice of the first complaint do not exceed the amount of the
7 bond available for payment, those determinations have payment priority over
8 amounts due under determinations resulting from subsequently filed com-
9 plaints.]

10 “[6] The total amount paid from a residential contractor bond for costs and
11 interest under all determinations issued by the board under ORS 701.145 may
12 not exceed \$3,000.]

13 **“(4) If the total complaints filed with the board against a residential
14 contractor within 90 days after the board receives notice of the first
15 complaint against the contractor exceed the amount of the bond
16 available for those complaints, the bond shall be apportioned as the
17 board determines, subject to the priorities established under this sec-
18 tion.**

19 **“(5) If the total amounts due as a result of complaints filed with the
20 board within 90 days after the first complaint is filed do not exceed the
21 amount of the bond available for those complaints, all amounts due
22 as a result of complaints filed within the 90-day period shall have pri-
23 ority over all complaints subsequently filed until the amount of the
24 bond available for the payment of complaints is exhausted.**

25 **“(6) The total amount paid from a residential contractor bond for
26 costs, interest and attorney fees may not exceed \$3,000.**

27 **“SECTION 71.** ORS 701.180, as amended by section 51 of this 2011 Act,
28 is amended to read:

29 **“701.180.** Notwithstanding the provisions of ORS 36.600 to 36.740, any
30 other provision of law or any contractual provision, failure of a contractor

1 to initiate mediation or arbitration proceedings within 30 days after notifi-
2 cation by the Construction Contractors Board of a complaint under ORS
3 701.145 is a waiver by the contractor of any contractual right to [a] medi-
4 ation or arbitration. [*process in lieu of mediation by the board under ORS*
5 *701.145. If the parties do not resolve or settle the dispute pursuant to board*
6 *mediation under ORS 701.145, unless otherwise provided by law regarding a*
7 *dispute described under ORS 652.140 or 653.010 to 653.261, the complainant*
8 *must comply with any contractual provision for mediation or arbitration of the*
9 *dispute as a condition for obtaining the judgment required under ORS 701.145*
10 *(5).]*

11 **SECTION 72.** ORS 701.235, as amended by section 52 of this 2011 Act,
12 is amended to read:

13 “701.235. (1) The Construction Contractors Board shall adopt rules to
14 carry out the provisions of this chapter including, but not limited to, rules
15 that:

16 “(a) Establish language for surety bonds;

17 “(b) Establish processing requirements for different types of complaints
18 described in this chapter;

19 “(c) Limit whether a complaint may be processed by the board if there is
20 no direct contractual relationship between the complainant and the con-
21 tractor;

22 “(d) Subject to ORS [701.145,] 701.153 and 701.157, exclude or limit recov-
23 ery from the contractor’s bond required by ORS 701.068 of amounts awarded
24 by a court or arbitrator for interest, service charges, costs and attorney fees
25 arising from commencing the arbitration or court action and proving dam-
26 ages; and

27 “(e) Designate a form to be used by an owner of residential property un-
28 der ORS 87.007 for the purpose of indicating the method the owner has se-
29 lected to comply with the requirements of ORS 87.007 (2) or to indicate that
30 ORS 87.007 (2) does not apply.

1 “(2) The board may adopt rules prescribing terms and conditions under
2 which a contractor may substitute a letter of credit from a bank authorized
3 to do business in this state instead of the bond requirements prescribed in
4 ORS 701.068.

5 “**SECTION 73.** (1) Sections 56 and 58 of this 2011 Act and the
6 amendments to ORS 701.005, 701.068, 701.088, 701.117, 701.133, 701.139,
7 701.140, 701.145, 701.146, 701.149, 701.150, 701.153, 701.180 and 701.235 by
8 sections 59 to 72 of this 2011 Act become operative July 1, 2017, and
9 apply to complaints filed with the Construction Contractors Board on
10 or after July 1, 2017.

11 “(2) The board shall complete the processing and resolution of any
12 complaint filed with the board prior to July 1, 2017, and pending on
13 July 1, 2017, in accordance with ORS 701.005, 701.068, 701.088, 701.117,
14 701.133, 701.139, 701.140, 701.145, 701.146, 701.149, 701.150, 701.153, 701.180
15 and 701.235 as amended and in effect immediately prior to July 1, 2017.
16 Any determination authorized under this subsection is payable as
17 provided under ORS 701.068, 701.145, 701.146, 701.150 and 701.153 as
18 amended and in effect immediately prior to July 1, 2017.

19
20 **“PROJECT CLEAN SLATE**

21
22 “**SECTION 74.** Notwithstanding any other provision of law, during
23 the biennium beginning July 1, 2011, the Department of Justice is au-
24 thorized to grant to Project Clean Slate an amount not to exceed
25 \$300,000 from moneys appropriated to the department, out of the Gen-
26 eral Fund, for the biennium beginning July 1, 2011.

27
28 **“PUBLIC SAFETY**

29
30 “**SECTION 75.** Notwithstanding ORS 180.180, the amount of

1 \$6,000,000 is transferred from the Department of Justice Operating
2 Account to the General Fund for general governmental purposes. The
3 transfer shall be made on the effective date of this 2011 Act or July
4 1, 2011, whichever is later.

5

6

“DEPARTMENT OF REVENUE

7

8 **“SECTION 76. Notwithstanding and in lieu of section 7 (4), chapter**
9 **710, Oregon Laws 2009, the amount of \$2,600,000 is transferred from the**
10 **Tax Amnesty Fund to the General Fund for general governmental**
11 **purposes. The transfer shall be made on the effective date of this 2011**
12 **Act or July 1, 2011, whichever is later.**

13

14 **“SECTION 77. (1) Notwithstanding ORS 293.205 to 293.225, on a date**
15 **determined by the State Treasurer and the Director of the Department**
16 **of Revenue, the State Treasurer shall transfer the amount of \$19**
17 **million of unexpended moneys in the Common School Fund to the**
18 **credit of the Senior Property Tax Deferral Revolving Account estab-**
19 **lished under ORS 311.701.**

20

21 **“(2) As soon as practicable after June 15, 2013, the Department of**
22 **Revenue shall transfer the amount of \$19 million, plus interest at a**
23 **rate equal to the average positive rate of interest earned on all other**
24 **unexpended moneys from the Common School Fund invested over the**
25 **period of time beginning with the date of the transfer required under**
26 **subsection (1) of this section and ending on June 1, 2013, from the**
27 **Senior Property Tax Deferral Revolving Account to the State Treas-**
28 **urer for deposit in the Common School Fund.**

29

30 **“(3) Notwithstanding subsection (2) of this section:**
“(a) If, on February 15, 2013, the Department of Revenue determines
that the balance in the Senior Property Tax Deferral Revolving Ac-
count on June 15, 2013, will not be sufficient to make the transfer re-

1 required under subsection (2) of this section, the Department of Revenue
2 shall, not later than March 15, 2013, submit a report to the Legislative
3 Assembly that:

4 “(A) Explains the impact of the reforms made by chapter ____,
5 Oregon Laws 2011 (Enrolled House Bill 2543), on the homestead prop-
6 erty tax deferral program;

7 “(B) Includes revenue projections for the program and an assess-
8 ment of the long-term viability of the program; and

9 “(C) Recommends changes necessary to ensure the long-term vi-
10 ability of the program without further temporary transfers of funds.

11 “(b) If, on June 3, 2013, the Department of Revenue determines that
12 the balance in the Senior Property Tax Deferral Revolving Account
13 will not be sufficient to make the transfer required under subsection
14 (2) of this section, the Department of Revenue shall, as soon as prac-
15 ticable, transfer to the State Treasurer for deposit in the Common
16 School Fund any positive balance in the Senior Property Tax Deferral
17 Revolving Account in excess of the amounts required to be paid to the
18 respective county tax collectors pursuant to ORS 311.676.

19 “(4)(a) Upon receipt of a report pursuant to subsection (3)(a) of this
20 section, the Legislative Assembly shall make a determination of the
21 long-term viability of the homestead property tax deferral program
22 and consider alternatives to the program, including curtailment to
23 ensure the long-term viability of the program and elimination of the
24 program.

25 “(b) If the Department of Revenue determines pursuant to sub-
26 section (3)(b) of this section that there are insufficient funds to make
27 the transfer required under subsection (2) of this section, the Legisla-
28 tive Assembly shall, not later than June 15, 2013, appropriate to the
29 credit of the Common School Fund:

30 “(A) An amount equal to the difference between the amount re-

1 **quired to be transferred under subsection (2) of this section and any**
2 **amount actually transferred pursuant to subsection (3)(b) of this sec-**
3 **tion; or**

4 **“(B) If there is no positive balance in the Senior Property Tax**
5 **Deferral Revolving Account as described in subsection (3)(b) of this**
6 **section, the amount required under subsection (2) of this section.**

7
8 **“OREGON GOVERNMENT ETHICS COMMISSION**

9
10 **“SECTION 78.** Section 8b, chapter 877, Oregon Laws 2007, as amended
11 by section 24, chapter 68, Oregon Laws 2009, is amended to read:

12 **“Sec. 8b.** The amendments to ORS 171.772 by section 8a, chapter 877,
13 Oregon Laws 2007, become operative January 1, [2013] **2015.**

14 **“SECTION 79.** Section 9e, chapter 877, Oregon Laws 2007, as amended
15 by section 25, chapter 68, Oregon Laws 2009, is amended to read:

16 **“Sec. 9e.** The amendments to ORS 244.290 by section 9d, chapter 877,
17 Oregon Laws 2007, become operative January 1, [2013] **2015.**

18
19 **“LEGISLATIVE ASSEMBLY**

20
21 **“SECTION 80.** Notwithstanding ORS 171.072 (4), a member of the
22 **Legislative Assembly may not receive an allowance for expenses in-**
23 **curring in the performance of official duties during any period in the**
24 **month of June 2011 when the Legislative Assembly is not in session.**

25 **“SECTION 81.** ORS 171.305 is amended to read:

26 **“171.305. (1)** The proceeds from the sale of an edition or publication made
27 pursuant to ORS 171.275 shall be deposited in the State Treasury to the
28 credit of a revolving account for the use of the Legislative Counsel Com-
29 mittee in publishing and distributing future editions or publications. The
30 account, to be known as the ORS Revolving Account, is continuously ap-

1 appropriated to the committee for this purpose.

2 “(2) There shall also be deposited to the credit of the ORS Revolving
3 Account any moneys received through the sale of a medium of publication
4 belonging to the Legislative Counsel Committee or any moneys received by
5 the committee in connection with the use of a medium, or material printed
6 with a medium pursuant to ORS 171.295.

7 “(3) The Legislative Counsel Committee, from time to time, may cause to
8 be transferred from the ORS Revolving Account to the General Fund the
9 moneys that the committee considers unnecessary for use in publishing and
10 distributing future editions or publications.

11 “(4) Any unexpended and unobligated balance in the ORS Revolving Ac-
12 count in excess of [~~\$400,000~~] **\$500,000** as of July 1 of any odd-numbered year,
13 as certified by the Legislative Counsel, shall be transferred from the account
14 to the General Fund to be available for general governmental expenditures.

15

16

“HUMAN SERVICES

17

18 **“SECTION 82. If House Bill 2049 becomes law, section 6, chapter ___,**
19 **Oregon Laws 2011 (Enrolled House Bill 2049), is repealed.**

20 **“SECTION 83. Notwithstanding ORS 412.124, for the biennium be-**
21 **ginning July 1, 2011, the Department of Human Services may provide**
22 **aid described in ORS 412.124 subject to available funding as approved**
23 **in the legislatively adopted or legislatively approved budget for the**
24 **department.**

25 **“(2) As used in this section:**

26 **“(a) ‘Legislatively adopted budget’ has the meaning given that term**
27 **in ORS 291.002.**

28 **“(b) ‘Legislatively approved budget’ has the meaning given that**
29 **term in ORS 291.002.**

30 **“SECTION 84. Section 19, chapter 827, Oregon Laws 2009, is amended to**

1 read:

2 “**Sec. 19.** Notwithstanding section 24, chapter 736, Oregon Laws 2003, for
3 the biennium beginning July 1, [2009] **2011**, the Department of Human Ser-
4 vices may limit [*the administrative cost and property expense components of*
5 *the allowable costs that are reimbursed pursuant to section 24 (4)(f), chapter*
6 *736, Oregon Laws 2003*] **reimbursement paid to Medicaid-certified long**
7 **term care facilities to the rates in effect on June 30, 2011**, in accordance
8 with the legislatively adopted budget.

9 “**SECTION 85.** Section 20, chapter 827, Oregon Laws 2009, is amended to
10 read:

11 “**Sec. 20.** Section 19 [*of this 2009 Act*], **chapter 827, Oregon Laws 2009**,
12 is repealed on June 30, [2011] **2013**.

13 “**SECTION 86.** (1) **Notwithstanding ORS 427.340, during the period**
14 **beginning July 1, 2012, and ending June 30, 2013, the Department of**
15 **Human Services may transfer from the Community Housing Trust**
16 **Account established by ORS 427.340 to the Department of Human Ser-**
17 **vices Account established by ORS 409.060 no more than \$6,950,134.**

18 “(2) **Moneys transferred from the Community Housing Trust Ac-**
19 **count under subsection (1) of this section may be used only for ser-**
20 **vices provided to children and adults with intellectual or other**
21 **developmental disabilities.**

22

23

“EDUCATION

24

25 “**SECTION 87.** Section 5, chapter 755, Oregon Laws 2009, is amended to
26 read:

27 “**Sec. 5.** Section 4, **chapter 755, Oregon Laws 2009**, [*of this 2009 Act*] is
28 repealed on January 2, 2012.

29 “(2) **Any moneys remaining in the Oregon School Facilities Task Force**
30 **Fund on January 2, 2012, that are unexpended, unobligated and not subject**

1 to any conditions shall *[revert to the General Fund]* be transferred to the
2 **Administrative Services Economic Development Fund** established un-
3 **der ORS 461.540.**

4

5

“ECONOMIC DEVELOPMENT

6

7 **“SECTION 88. Section 5, chapter 93, Oregon Laws 2010, as amended**
8 **by section 8, chapter 93, Oregon Laws 2010, is repealed.**

9 **“SECTION 89. Section 9, chapter 93, Oregon Laws 2010, is amended to**
10 **read:**

11 **“Sec. 9. Sections 2 to [5 of this 2010 Act] 4, chapter 93, Oregon Laws**
12 **2010, are repealed on June 30, 2013.**

13 **“SECTION 90. Section 10, chapter 93, Oregon Laws 2010, is amended to**
14 **read:**

15 **“Sec. 10. (1) All moneys remaining in the Tax Enforcement Fund on [June**
16 **30, 2011,] the effective date of this 2011 Act shall be transferred to the**
17 **General Fund.**

18 **“(2) All moneys remaining in the Building Opportunities for Oregon Small**
19 **Business Today Account on June 30, 2013, shall be transferred to the General**
20 **Fund.**

21 **“[(3) All moneys remaining in the Tax Enforcement Fund on June 30, 2013,**
22 **shall be transferred to the General Fund.]**

23

24

“ADMINISTRATIVE

25

26 **“SECTION 91. Notwithstanding ORS 283.076, the amount of**
27 **\$9,101,000 is transferred from the Oregon Department of Administra-**
28 **tive Services Operating Fund to the General Fund for general govern-**
29 **mental purposes. The transfer shall be made on the effective date of**
30 **this 2011 Act, or July 1, 2011, whichever is later.**

1 181.534 of any person whose name is submitted as a person responsible for
2 a marijuana grow site.

3 “(b) A person convicted of a Class A or Class B felony under ORS 475.840
4 to 475.920 for the manufacture or delivery of a controlled substance in
5 Schedule I or Schedule II may not be issued a marijuana grow site registra-
6 tion card or produce marijuana for a registry identification cardholder for
7 five years from the date of conviction.

8 “(c) A person convicted more than once of a Class A or Class B felony
9 under ORS 475.840 to 475.920 for the manufacture or delivery of a controlled
10 substance in Schedule I or Schedule II may not be issued a marijuana grow
11 site registration card or produce marijuana for a registry identification
12 cardholder.

13 “(7) A registry identification cardholder or the designated primary
14 caregiver of the cardholder may reimburse the person responsible for a
15 marijuana grow site for the costs of supplies and utilities associated with the
16 production of marijuana for the registry identification cardholder. No other
17 costs associated with the production of marijuana for the registry identifi-
18 cation cardholder, including the cost of labor, may be reimbursed.

19 “(8) **The authority may adopt rules imposing a fee in an amount**
20 **established by the authority for registration of a marijuana grow site**
21 **under this section.**

22 “**SECTION 93. Notwithstanding ORS 431.832 (2), the amount of**
23 **\$1,733,000 is transferred from the Tobacco Use Reduction Account to**
24 **the General Fund for general governmental purposes. The transfer**
25 **shall be made on the effective date of this 2011 Act or July 1, 2011,**
26 **whichever is later.**

27

28

“LOTTERY

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30 “**SECTION 94. (1) Notwithstanding ORS 461.558, the lottery ending**

1 balance for the biennium beginning July 1, 2011, shall not be trans-
2 ferred as provided in ORS 461.558 (2). The lottery ending balance for
3 the biennium beginning July 1, 2011, shall be maintained in the Ad-
4 ministrative Services Economic Development Fund.

5 “(2) As used in this section, ‘lottery ending balance’ has the mean-
6 ing given that term in ORS 461.558.

7

8

“INSURANCE FUND

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10 “SECTION 95. Notwithstanding ORS 30.282 and 278.425, the amount
11 of \$5,000,000 is transferred from the Insurance Fund to the General
12 Fund for general governmental purposes. The transfer shall be made
13 on the effective date of this 2011 Act or July 1, 2011, whichever is later.

14

15

“TRANSFERS

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17 “SECTION 96. The transfers described in sections 27, 75, 76, 91, 93
18 and 95 of this 2011 Act shall be made from moneys maintained, on the
19 effective date of this 2011 Act, in the funds or accounts from which the
20 transfers are made.

21

22

“CAPTIONS AND EMERGENCY CLAUSE

23

24 “SECTION 97. The unit captions used in this 2011 Act are provided
25 only for the convenience of the reader and do not become part of the
26 statutory law of this state or express any legislative intent in the
27 enactment of this 2011 Act.

28

29 “SECTION 98. This 2011 Act being necessary for the immediate
30 preservation of the public peace, health and safety, an emergency is
declared to exist, and this 2011 Act takes effect on its passage.”.

