

## **812-003-0152**

### **Residential Bonds Generally**

(1) A properly executed residential bond must:

(a) Be signed by an authorized agent of the surety or by one having power of attorney; must bear a bond number; and must be filed within the time stated on the bond.

(b) Be in the form adopted by the Construction Contractors Board as the “Construction Contractors Board Residential Surety Bond” dated November 1, 2007.

(c) Be filed with the Construction Contractors Board within sixty (60) days from the date the bond is executed by the surety.

(2) If a complaint is filed against a licensee for work done during the work period of a contract entered while the security required under ORS 701.068 or 701.088 is in effect, the security must be held until final disposition of the complaint.

(3) Bond documents received at the agency office from a surety company or agent via electronic facsimile or as a PDF file transmitted by e-mail or electronically may be accepted as original documents. The surety must provide the original bond document to the agency upon request.

(4) A residential bond is available only for payments determined by the agency involving residential or small commercial structures or for the development of property zoned or intended for use compatible with residential or small commercial structures.

Stat. Auth.: ORS 670.310 and 701.235

Stats. Implemented: ORS 701.068 and 701.081

(2/08, 6/08, 12/13 eff. 1/1/14, 2/18 eff. 4/1/18)

## **812-003-0153**

### **Commercial Bonds Generally**

(1) A properly executed commercial bond must:

(a) Be signed by an authorized agent of the surety or by one having power of attorney; must bear a bond number; and must be filed within the time stated on the bond.

(b) Be in the form adopted by the Construction Contractors Board as the “Construction Contractors Board Commercial Surety Bond” dated November 1, 2007.

(c) Be filed with the Construction Contractors Board within sixty (60) days from the date the bond is executed by the surety.

(2) If a complaint is filed against a licensee for work done during the work period of a contract entered while the security required under ORS 701.068 is in effect, the security must be held until final disposition of the complaint.

(3) Bond documents received at the agency office from a surety company or agent via electronic facsimile or as a PDF file transmitted by e-mail or electronically may be accepted as original documents. The surety must provide the original bond document to the agency upon request.

(4) A commercial bond is available only for payments determined by the agency involving small or large commercial structures or for the development of property zoned or intended for use compatible with large or small commercial structures.

Stat. Auth.: ORS 670.310 and 701.235

Stats. Implemented: ORS 701.068 and 701.084

(2/08, 6/08, 12/13 eff. 1/1/14, 2/18 eff. 4/1/18)

## **812-003-0154**

### **Construction Flagger Bonds**

(1) A properly executed construction flagger bond must:

(a) Be signed by an authorized agent of the surety or by one having power of attorney; must bear a bond number; and must be filed within the time stated on the bond.

(b) Be in the form adopted by the Construction Contractors Board as the "Construction Contractors Board Commercial Surety Bond" dated July 1, 2017.

(c) Be filed with the Construction Contractors Board within sixty (60) days from the date the bond is executed by the surety.

(2) If a complaint is filed against a licensee for work done during the work period of a contract entered while the security required under ORS 701.068 and 701.470 is in effect, the security must be held until final disposition of the complaint.

(3) Bond documents received at the agency office from a surety company or agent via electronic facsimile or as a PDF file transmitted by e-mail or electronically may be accepted as original documents. The surety must provide the original bond document to the agency upon request.

(4) A construction flagger bond is available only for payments determined by the agency involving construction flaggers.

Stat. Auth.: ORS 670.310 and 701.235

Stats. Implemented: ORS 701.470

(10/17, eff. 12/1/17, 10/17 eff. 12/1/17, 2/18 eff. 4/1/18)

### **812-003-0440**

#### **Notification of Conviction of a Crime**

An applicant for a license, including an applicant for a renewed, reissued, reactivated or reinstated license, who has been convicted of a crime listed in ORS 701.098(1)(i) must notify the agency at the time of application that the applicant, or an owner or officer of the applicant, has been convicted of the crime(s). A licensee, RMI, an owner or officer of the licensee who has been convicted of a crime listed in ORS 701.098(1)(i) must notify the agency in writing within 30 days from the date of the entry of the judgment of conviction. Notification within 30 days is required even if the license has been suspended by the board or placed on inactive status.

Stat. Auth.: ORS 670.310 and 701.235

Stats. Implemented: ORS 701.098

(9/06, 2/08, 12/13 eff. 1/1/14, 2/18 eff. 4/1/18)

### **812-004-1450**

#### **On-site Meeting and Telephone Mediation; Attendance of the Complainant**

(1) The agency may schedule one or more on-site meetings or telephone mediations among the parties for the purpose of discussing a settlement of a complaint under ORS 701.145. The agency will transmit notice of an on-site meeting before the date scheduled for the meeting. The notice must include notice of the requirements of section (2) and (3) of this rule and must comply with the requirements of OAR 812-004-1260(2).

(2) If the agency schedules an on-site meeting, the following apply:

(a) The complainant must allow access to the property that is the subject of the complaint.

(b) The complainant or an agent of the complainant must attend the meeting. An agent of the complainant must have knowledge of all complaint items included in the complaint and must have authority to enter into a settlement of the complaint.

(c) The complainant must allow the respondent to be present at the on-site meeting as required by ORS 701.145.

(3) If the complainant does not comply with the requirements of section (2) of this rule, the agency may close the complaint. OAR 812-004-1260 applies to closure of a complaint under this section.

(4) Notwithstanding subsection (2)(b), the agency may continue to process the complaint if the respondent does not appear at the on-site meeting.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.139, 701.140 & 701.145

(temp. 7/8/11, 9/11 eff. 10/1/11, 4/12 eff. 5/1/12, 2/18 eff. 4/1/18)

## **812-005-0800**

### **Schedule of Penalties**

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

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

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

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

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

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

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

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

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

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

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

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

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

- (10) Failure to list with the Construction Contractors Board a business name under which business as a contractor is conducted in violation of OAR 812-003-0260 or 812-003-0280: First offense \$50, second offense \$100, subsequent offenses \$200.
- (11) Failure to notify the Construction Contractors Board of a new or additional business name or personal surname (for sole proprietors) under which business as a contractor is conducted, in violation of OAR 812-003-0320: First offense \$50, second offense \$100, subsequent offenses \$200.
- (12) Failing to use a written contract as required by ORS 701.305: \$500 for the first offense; \$1,000 for the second offense; and \$5,000 for subsequent offenses.
- (13) Violation of OAR 812-012-0130(1), failure to provide a Consumer Notification form; \$100 first offense; \$500 second offense; \$1,000 third offense; and \$5,000 for subsequent offenses. Civil penalties shall not be reduced unless the agency determines from clear and convincing evidence that compelling circumstances require a suspension of a portion of the penalty in the interest of justice. In no event shall a civil penalty for this offense be reduced below \$100.
- (14) Failure to conform to information provided on the application in violation of ORS 701.046(5), issuance of a \$5,000 civil penalty, and suspension of the license until the contractor provides the agency with proof of conformance with the application and the terms of the application.
- (a) If the violator is a limited contractor or residential limited contractor working in violation of the conditions established pursuant to OAR 812-003-0130 or 812-003-0131, the licensee shall be permanently barred from licensure in the limited contractor category or residential limited contractor endorsement.
- (b) If the violator is a licensed developer, residential developer or commercial developer working in violation of the conditions established pursuant to ORS 701.005(3), (6) or (14) or 701.042, the licensee shall be permanently barred from licensure in the licensed developer category or residential developer or commercial developer endorsement.
- (15) Knowingly assisting an unlicensed contractor to act in violation of ORS chapter 701, \$1,000.
- (16) Failure to comply with any part of ORS chapters 316, 656, or 657 or with ORS 701.035, 701.046 or 701.091, \$1,000 and suspension of the license until the contractor provides the agency with proof of compliance with the statute.
- (17) Violating an order to stop work as authorized by ORS 701.225(6), \$1,000 per day.
- (18) Working without a construction permit in violation of ORS 701.098, \$1,000 for the first offense; \$2,000 and suspension of CCB license for three (3) months for the second offense; \$5,000 and permanent revocation of CCB license for the third and subsequent offenses.
- (19) Failure to comply with an investigatory order issued by the Board, \$500 and suspension of the license until the contractor complies with the order.
- (20) Violation of ORS 701.098(1)(L) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public: first offense, \$1,000, suspension of the license or both; second and subsequent offenses, \$5,000, per violation, revocation or suspension of the license until the fraudulent conduct is mitigated in a manner satisfactory to the agency or both.
- (21) Engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public by:
- (a) Not paying prevailing wage on a public works job; or
- (b) Violating the federal Davis-Bacon Act; or
- (c) Failing to pay minimum wages or overtime wages as required under state and federal law; or
- (d) Failing to comply with the payroll certification requirements of ORS 279C.845; or
- (e) Failing to comply with the posting requirements of ORS 279C.840:

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

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

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

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

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

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

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

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

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

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

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

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

(33) Violation of ORS 279C.590:

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

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

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

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

- (34) Violation of ORS 701.315, inclusion of provisions in a contract that preclude a homeowner from filing a breach of contract complaint with the Board: \$1,000 for the first offense, \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.
- (35) Violation of ORS 701.345, failure to maintain the list of subcontractors: \$1,000 for the first offense; \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.
- (36) Violation of 701.098(1)(f), knowingly providing false information to the Board: \$1,000 and suspension of the license for up to three months for the first offense; \$2,000 and suspension of the license for up to one year for the second offense; and \$5,000 and permanent revocation of license for the third offense.
- (37) Failing to provide a written contract with the contractual terms provided by ORS 701.305 or OAR 812-012-0110: \$200 for the first offense; \$500 for the second offense; and \$1,000 for subsequent offenses.
- (38) Working while the license is suspended if the licensee was required to provide an increased bond under ORS 701.068(5), 701.068(6), or OAR 812-003-0175: revocation.
- (39) Working while the license is suspended for any violation of ORS 701.098(4)(a)(A) or ORS 701.098(4)(a)(B): \$5,000 for first offense, and revocation for second or subsequent offense.
- (40) Working while the license is suspended for any reason except as otherwise provided for by this rule: revocation.
- (41) Failure to comply with ORS 701.106(1)(a); \$1,000 for the first offense, \$5,000 for the second offense; \$5,000 and permanent revocation of CCB license for the third offense.
- (42) Failure to deliver as required by ORS 701.109(2) a copy of a final judgment; \$200 first offense, \$400 second offense; \$600 for the third offense; \$1,000 for each subsequent offense.
- (43) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is no claim of loss submitted to the insurance company: first offense, \$500; second offense, \$1,000; third and subsequent offenses, \$5,000.
- (44) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is a claim of loss submitted to the insurance company: first offense, \$2,000; second and subsequent offenses, \$5,000.
- (45) Undertaking, offering to undertake, or submitting a bid to work as a locksmith when an individual is not certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.
- (46) Undertaking, offering to undertake, or submitting a bid to provide locksmith services when a business is not a licensed construction contractor or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.
- (47) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the individual is a locksmith, unless an individual is certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.
- (48) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the business providing locksmith services, unless a business: (a) is a licensed construction contractor, and (b) is owned by or employs a certified locksmith or is otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.
- (49) Violating any applicable provision of the rules in division 30, including violating any standard of professional conduct other than OAR 812-030-0300(4): first offense, \$1,000; second offense, \$3,000;

third offense, \$5,000 and revocation of the certificate.

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

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

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

(4/82, 10/82, 1/83, 3/83, 10/83, 3/84, 5/84, 3/85, 4/85, 1/87, 3/87, 1/88, 2/88, 6/88, 1/89, 11/89, 2/90, 3/90, 4/90, 5/90, 6/90, 7/90, 10/90, 11/90, 3/91, 9/91, 1/92, 2/92, 4/92, 6/92, 5/93, 12/93, 1/95, 9/95, 10/95, 8/96, 10/98), temp. 11/99, 5/00, 6/00, temp. 11/00, 4/01, 12/01, temp. 3/02, 3/02, 6/02, 9/02, 12/03, 6/04, 12/04, 12/05, 1/06, 6/06, 12/06, 6/07, 2/08, 6/08, 9/08, 11/08, 1/09 eff. 2/1/09, 5/09, 2/10, 4/10, temp. 7/10, 2/11 eff. 3/1/11, 6/11 eff. 7/1/11, 9/11 eff. 10/1/11, 12/11 eff. 1/1/12, 3/12, 4/12 eff. 5/1/12, 6/14 eff. 7/1/14, 2/18 eff. 4/1/18)

### **812-007-0250**

#### **Denial, Suspension or Revocation of License for Lead-Based Paint Activities – Contractors**

(1) The board may deny, suspend, or revoke a license of a lead abatement contractor or a lead inspection contractor on the following grounds:

(a) Obtaining a license through invalid documentation;

(b) Permitting the duplication or use of the license by another;

(c) Violating a rule of the board;

(d) Failing to comply with applicable work practice standards set forth in 40 CFR 745.227;

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

(2/10, 9/11 eff. 10/1/11, 2/18 eff. 4/1/18)

### **812-008-0030**

#### **Certification and License Required**

(1) Except as provided in section (3) of this rule, no individual shall undertake, offer to undertake or submit a bid to do work as an Oregon certified home inspector without first receiving certification to do same from the agency and without being an owner or employee of a business that is licensed with the agency.

(2) Except as provided in section (3) of this rule, no business shall undertake, offer to undertake or submit a bid to do work as an Oregon certified home inspector without first becoming licensed with the agency as a residential general contractor, a residential specialty contractor, or a home inspection services contractor and without having an owner or employee who is an Oregon certified home inspector by the agency.

(3) The following persons are exempt from the requirements of this rule.

(a) Persons registered each year as a general contractor under ORS chapter 701 during the period from January 1, 1991, through August 11, 1997, as provided in section (3)(b) of chapter 814, 1997 Oregon Laws.

(b) Persons performing an energy audit or issuing a report on an energy audit.

(c) Persons performing a forensic evaluation or issuing a report on a forensic evaluation.

(d) Persons performing home performance testing or issuing a report on a home performance testing.

(e) Persons who assign home energy performance scores for residential buildings.

(4) No person, including persons covered by section (3) of this rule, shall use the title Oregon certified home inspector without receiving such certification from the agency.

(5) Certified individuals and licensed business undertaking certified home inspections shall comply with the standards of practice for undertaking certified home inspections as prescribed in these rules.

(6) All certificates for individuals to undertake home inspections are renewable upon meeting all requirements, including continuing education, as established by ORS 701.445(4) and OAR chapter 812.

(7) Home inspection service contractors are not required to complete continuing education as required under ORS 701.082.

Stat. Auth.: ORS 670.310, 701.235, 701.350 and 701.355

Stats. Implemented: ORS 701.081, 701.084, 701.350 and 701.355

(2/98, 10/98, temp. 6/99, 9/99, 6/00, 5/02, 2/08, 12/11 eff. 1/1/12, 12/13 eff. 1/1/14, 2/18 eff. 4/1/18)

[812-009-0010 repealed effective 4/1/18]

[812-009-0020 repealed effective 4/1/18]

### **812-009-0050**

#### **Providing Required Information to Parties**

The agency delegates to the Office of Administrative Hearings or the administrative law judge the responsibility to provide the information required to be given to each party under ORS 183.413(2) and OAR 137-003-0510(1).

Stat. Auth.: ORS 670.310, 701.235 & 1999 Or. Laws, ch. 849, sect. 8

Stats. Implemented: ORS 183.413, 183.415, 701.133 & 701.145

(temp. 3/00, 5/00, 8/03, 12/06, 6/08, 2/18 eff. 4/1/18)

[812-009-0070 repealed effective 4/1/18]

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[812-010-0430 repealed effective 4/1/18]

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