



CONSTRUCTION CONTRACTORS BULLETIN BOARD

HELPING TO PREVENT AND RESOLVE PROBLEMS IN THE CONSTRUCTION INDUSTRY

April 2006

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Officer: Gina Fox

Licensing Manager: Kristie Patton

Dispute Resolution Manager: Bill Boyd

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Required Residential Construction Notices

The first of two parts

There are four notices Oregon construction contractors are required to give to their residential clients. This issue will cover two of the four notices, the **Consumer Notification** form and the **Owner's Duty to Notify Contractor in the Event of a Residential Construction Dispute**.

The **Consumer Notification** form is designed to specifically inform a property owner what they should do to protect themselves in a residential repair, remodel or construction project.

Oregon law states it shall be prepared by the CCB and provided at no cost to all licensed contractors. The contractor must deliver the form to the

property owner when the contractor submits a bid or proposal for work on a residential structure. The form must include an explanation of the meaning of licensure, including a statement that licensure is not an endorsement of a contractor's work, and an explanation of the bond and insurance levels required of contractors for the benefit of property owners. The form must not be larger than one side of a sheet of paper that is 8-1/2 inches by 11 inches. The contractor may reproduce the form on the contractor's bid proposal. ORS 701.055 (13)

Contractors must be able to prove it was given to the client. Some

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New CCB Website

CCB moves to new site and enhances information

The Oregon Construction Contractors Board (CCB) has a new website. The new site at www.oregon.gov/ccb offers a more user friendly layout, a Consumer Help page that has tips on hiring a contractor and an enhanced contractor license search.

Some of the topics on the Consumer Help page, include Best Practices for Hiring a Contractor; What is a Construction Lien?; What does bonded and insured mean? and many others topics useful when making building or remodeling decisions.

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New rebate program to increase mercury thermostat recycling

Incentives reward contractors for protecting the environment

A new rebate program aims to recycle 4,000 mercury-containing thermostats in an effort to keep mercury out of the environment. Contractors who participate in the program will receive a rebate coupon for each mercury-containing thermostat they return to a participating wholesaler for recycling. The \$4 coupons can be used toward the purchase of mercury-free ENERGY STAR® qualified thermostats.

The initiative is sponsored by Portland General Electric (PGE), the Oregon Department of Environmental Quality (DEQ), Thermostat Recycling Corporation (TRC) and the Product

Stewardship Institute (PSI). PGE is underwriting the \$20,000 rebate cost, DEQ is providing education and outreach to contractors and TRC is managing the rebate and recycling program.

“In Oregon, thousands of mercury thermostats go into the garbage each year, making them one of the largest sources of mercury in our landfills,” said Wayne Lei, PGE’s director of environmental policy. “By giving heating, ventilation and air conditioning contractors an incentive to recycle, we hope to dramatically reduce mercury levels in Oregon’s environment.”

The rebate is an addition to a mercury thermostat recycling program that TRC

has operated nationally since 1998 and in Oregon since 2001. Through the TRC program, contractors can recycle mercury-containing thermostats at no cost. Participating wholesalers provide TRC recycling containers on-site and ship thermostats to TRC for recycling. Participating wholesalers are listed at www.nema.org/trc.

The rebate program coincides with the start of a new state law that makes it illegal for contractors to install mercury thermostats. Oregon Environmental Council (OEC) led the lobbying efforts that created the state installation ban.

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Construction Contractors Bulletin Board, Issue #64

This newsletter, an official publication of the Oregon Construction Contractors Board, gives Oregon contractors information on laws, policies and activities of the CCB and better business practices.

CCB mission:

The CCB protects the public's interest relating to improvements to real property. The Board regulates construction contractors and promotes a competitive business environment through education, contractor licensing, dispute resolution and law enforcement.

Board members:

*Cliff Harkins, Canby
 **Walt Gamble, West Linn
 Chuck Crump, Salem
 Gwen Elster, Redmond
 Jim Fairchild, Dallas
 Dennis Schad, Coos Bay
 Tom Skaar, Portland
 Sandy Trainor, Sherwood
 *Chair, **Vice-chair

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The enhanced contractor’s license search now offers the dispute (complaint) history that a consumer could have ordered by mail, as well as disciplinary actions taken by the CCB. Personal information of complainants is not listed on the website for privacy reasons.

Board members put together a task force in October, 2005 to review the information a consumer received from the website when searching the complaint history of a construction contractor. At the December, 2005 meeting, the board approved the task force’s recommendations to the website.

The agency licenses more than 43,000 contractors and most construction projects are successful and problem-free.

The improved CCB website and Consumer Help page has been in production over the last three months and is an important part of the agency’s effort to provide consumers with the tools they need to make informed buying decisions.

“We believe that it is our job to increase consumer awareness, educate consumers and provide information needed to make wise decisions,” says Craig P. Smith, Administrator for the CCB.

Consumers who log on to the old CCB website will be automatically taken to the new site. Migration to the new site continues and users may notice that information is still in transition.

Testing Subversion Rules Added

If a person cheats on the Construction Contractors Board (CCB) licensing test, they may have to wait a full year before taking the test again.

That is part of the new Oregon Administrative Rule (OAR) 812-006-0015, titled “Testing Subversion” adopted at the December board meeting. The new rule identifies the actions that are considered “cheating” and what the agency’s actions may be. The amendments were recommended by the CCB Training and Education Advisory Committee (TEAC).

“Many of the rules are the same ones anyone would expect when taking a test— no copying someone else’s answers, no talking between the examinees, and not allowing someone to take the test in the examinee’s

place.” says Gina Fox, CCB Education Manager. “Other rules are designed to protect the integrity of the test— such as no leaving the room during the test or no copying down the test questions.”

Education providers offering the prerequisite education supply the students with information about the testing process, rules about testing and copies of the most current administrative rules and statutes.

The CCB has not identified any increased incidents in cheating.

You can visit the CCB website at www.oregon.gov/ccb, under Statutes & Rules, to read the complete text of OAR 812-006-0015.

Required notices

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contractors keep a copy of the signed form, others have a place in the contract where the client initials they received it.

Contractors can be assessed a civil penalty of up to \$5000 for several violations.

Required Residential Construction Notices

- Consumer Notification
- Owner’s Duty to Notify...
- Information Notice to Owner about Construction Liens
- Notice of Right to Lien

See page six for a copy of the Consumer Notification Form.

The **Owner’s Duty to Notify Contractor in the Event of a Residential Construction Dispute** is a notice explaining the procedures required before starting court action or arbitration against a construction contractor if the actions are **not** part of the CCB Dispute Resolution Services (DRS) process. Contractors are required to deliver this notice to an owner along with the Consumer Notification Form. ORS 701.590

The notice must be conspicuous and may be included as part of the underlying contract. As with the

Corrections:

The CCB strives to provide accurate and timely information. The following information may require clarification or correction:

In the article *Preventing Construction Disputes*, tip #7 stated, “If you have employees, you must be licensed as non-exempt with the CCB. Or you can use temporary workers from a CCB-licensed business.”

Temporary workers can be from a non CCB-licensed business.



Consumer Notification Form, contractors must be able to prove it was given to the client.

See page seven for a copy of the Owner’s Duty to Notify Contractor... notice.

These forms, as well as the other required residential construction notices can be downloaded from the CCB website at www.oregon.gov/CCB. Follow the links to Contractor Forms.

The July 2006 issue of Construction Contractors Bulletin Board will cover the two required construction lien notices.

Where Should Your CCB Number Be

All contractors must include their CCB license number on everything from business cards to site signs. **License numbers are required on all of the following items (if you use them):**

- " **Business cards**
- " **Written bids**
- " **Building-related contracts**
- " **Advertising***
- " **Business letterhead stationery**
- " **Business signs at construction sites**
- " **Written inspection reports**

Consumers, contractors and others wanting to check the license and claims history of a contractor can either use the CCB's website or call CCB staff at 503-378-4621. People who want to confirm a license can do it more quickly if they know your license number because it's on your business card, bids, etc. that your customers see. Think of your CCB license number as a marketing tool and a way for

Change in Construction Licensing Requirement

During the June 2005 Construction Contractors Board (CCB) meeting, board members voted to eliminate CCB license requirements for chimney or flue cleaning, cleaning of new structures prior to occupancy, pressure washing, sandblasting or chemical treatment, and the erection of scaffolding.

The change was needed to comply with the statutory definition of "contractor" contained in ORS 701.005. Recent advice from the agency's counsel mandated the change.

potential customers to confirm that you are a licensed professional.

Many homeowners call the CCB to check on contractors, but they don't know the owner's name or the correct spelling. If CCB staff can't find your license number because a potential customer doesn't give us the right information, you lose work because people think you're unlicensed. If customers give us your correct CCB number, these problems are eliminated.

Violating OAR 812-003-0120(2) by failing to provide a CCB number can bring a fine of up to \$400.

Although highly encouraged, license numbers are **not** required on business vehicles. CCB numbers are encouraged but are **not** required on promotional items such as on pens, pencils, bug deflectors, refrigerator magnets, etc. where it is not practical to include them. Numbers are also **not**

Chimney inspection or repair, remain on the list of activities requiring a license. Though scaffolding was removed from the list, shoring up of structures during a building project remains a licensed activity.

Consumers and contractors questioning whether a construction activity requires a license can call the CCB licensing section at 503-378-4621 to get current information concerning a specific construction related activity.

required on clothing or uniforms for sports teams sponsored by construction businesses.

*Advertising includes display ads, as well as newspaper, radio and television ads.



Rebate continued from page 2

"Since digital thermostats offer an excellent alternative to the mercury thermostat, eliminating the mercury type makes good sense," said Laura Weiss, OEC's toxics program director. "We are glad that this new rebate program is being offered to help reduce mercury pollution in Oregon."

Mercury-containing thermostats can be hazardous when disposed improperly. Each mercury thermostat contains about 4 grams, or almost a teaspoon, of mercury. Because there are so many mercury thermostats in use, they are one of the largest sources of disposed mercury in Oregon. Collecting and recycling mercury-containing products such as thermostats is an important way to minimize mercury releases into the environment.

Contractors can get complete information on Oregon's mercury thermostat recycling and rebate program by calling DEQ toll-free in Oregon at 1-800-452-4011.

CCB Will Require Some Contractors to Provide Larger Bonds

During its December 2005 board meeting, the Construction Contractors Board (CCB) passed rules that establish conditions under which CCB licensees may lose their license and be directed to post larger surety bonds with the agency in order to increase financial protections for the public.

ORS 701.085(7) mandates suspension of a contractor's licenses in the event the agency issues a CCB Dispute Resolution Services (DRS) final order for damages that exceed

the amount of the contractor's surety bond. CCB license suspensions will remain in effect until DRS final orders have been paid, or the license expires. Licenses will not be reinstated or renewed until CCB orders have been paid in full, or discharged in bankruptcy. The agency may require a licensee to file a bond up to five times the amount otherwise required by law. Rules adopted at the board meeting dictate the size of the larger bond requirement based upon the size of the CCB DRS final order.

The CCB also passed rules that increase public protection by requiring contractors that have excessive CCB DRS complaints to post larger bonds with the agency. Excessive is defined as five or more complaints, by five or more separate complainants, within a one-year period.



Construction Claims Task Force Update

January

The Construction Claims Task Force heard presentations from the Building Codes Panel, Developer's Panel and Owner Panel.

The Building Codes panel gave an overview of how model codes are developed at the national level and the process in Oregon for adopting the model codes that sets the minimum and maximum requirements applicable statewide. Additional information was presented on the process during a building inspection.

Members of the owner panel reported their experiences with their own home constructions projects and the impact of defects on families.

Task force staff will begin concept papers on the five recommendations initially selected by the task force:

- Increased oversight on the jobsite
- Building envelope certification
- Code changes

- Require general contractor to obtain required permits
- Increased bond amount/recovery fund

February

Representatives from construction businesses and associations, building material suppliers and construction trades offered solutions and support in correcting construction-related problems. Education and building standards were common themes.

Each task force member prioritized their top five recommendations. Staff would tally the selections. April's meeting will be a review and analysis meeting. Staff will give an overview of what other states' requirements are: license requirements, insurance and bonds. Task force members asked that staff include a summary of other states' efforts and how they view their success, what is working for them and what is not working.

Task force members asked that Construction Contractors Board and Building Codes Division report their recommendations for changes, input on what their agency can do to improve, what items the task force can help them with, and what legislative concepts the agencies may introduce next session.

March

No meeting was held

Upcoming CCTF Meetings:

April 11, 2006
1:30 pm - 5:00 pm

May 24, 2006
1:30 pm - 5:00 pm

June 28, 2006
1:30 pm - 5:00 pm

Meetings are located in Room 260 at the Labor and Industries Bldg. in Salem

Please check the website <http://egov.oregon.gov/DCBS/CCTF/> for changes to meeting date or time.

Consumer Notification

[ORS 701.055 (13)]

You can do more to protect yourself before hiring a contractor than the CCB can do to help you after problems have developed. Here are some suggestions to prevent problems on construction projects.

Choose a licensed contractor

Check if your contractor is licensed with the CCB at www.oregon.gov/ccb or 503-378-4621 using the contractor's license number or phone number.

A license means the contractor has a surety bond and liability and property damage insurance. Licensing is not a guarantee of the contractor's work.

Check the contractor's license category. Each category has different surety bond and liability insurance requirements for contractors:

- General Contractor—All Structures (\$15,000 bond, \$500,000 insurance)
- General Contractor—Residential Only (\$15,000 bond, \$500,000 insurance)
- Specialty Contractor—All Structures (\$10,000 bond, \$500,000 insurance)
- Specialty Contractor—Residential Only (\$10,000 bond, \$300,000 insurance)
- Limited Contractor (\$5,000 bond, \$100,000 insurance)
- Inspector (\$10,000 bond, \$300,000 insurance)
- Licensed Developer (\$15,000 bond, \$500,000 insurance)

Check out your contractor

Ask for and check references.

Don't automatically accept the lowest bid.

Get educated. Request a free brochure called *16 Ways to Avoid Repair, Remodeling and Construction Problems*. Use the phone number or web address below.

Be smart during the project

Take your time and plan your project.

Have a signed, written contract before the work is started or you pay any money. Only sign a contract when you understand all the terms.

Keep good written records. Keep receipts, change orders, a phone conversation log, etc.

Read your lien notice. The business you contract with is required by law to give you a document called "Information Notice to Owner about Construction Liens" if the contract price is more than \$1,000. You can also get a copy by contacting the CCB.

Do not pay the full cost of the job in cash before work begins.

Make changes to the original contract in writing, including any differences in cost and extensions of completion dates.

Read your EPA pamphlet. Federal law requires contractors to distribute the pamphlet "Protect Your Family from Lead in Your Home" to homeowners before beginning work on pre-1978 housing. You can also get a copy by calling 800-424-LEAD or visit www.epa.gov/lead.

If you have a complaint

Contact the CCB. Phone 503-378-4621 or e-mail ccb.info@state.or.us

You can file a claim against a licensed contractor within one year of the work being substantially completed.

(Information in this brochure is not legal advice. For legal advice, consult with an attorney.)



Construction Contractors Board
PO Box 14140, 700 Summer St NE Suite 300, Salem OR 97309-5052
phone: 503-378-4621 www.oregon.gov/ccb fax: 503-373-2007



Owner's Duty to Notify Contractor in the Event of a Residential Construction Dispute (ORS 701.560)

Oregon law contains important requirements you must follow before you may start a court action or arbitration against any contractor, subcontractor or supplier (materials or equipment) for construction defects.

Before you commence a court action or arbitration, you must do the following:

1. Deliver a written notice of any conditions you allege are defective to the contractor, subcontractor or supplier you believe is responsible for the alleged defect.
2. Provide the contractor, subcontractor or supplier the opportunity to make an offer to repair or pay for the defects. You are not obligated to accept any offer made by the contractor, subcontractor or supplier.

There are strict deadlines and procedures that must be followed under Oregon law. Failure to meet those deadlines or follow those procedures will affect your ability to commence arbitration or a court action. You should contact an attorney for information on deadlines and procedures required under Oregon law.

Your contractor is supplying this notice to you to fulfill the requirements of ORS 701.560 enacted by the 2003 Oregon legislature.

Oregon Construction Contractors Board
PO Box 14140
700 Summer St. NE, Suite 300
Salem, OR 97309-5052

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Reporting Business Volume

CCB's "My License" is a service which allows licensed contractors to conduct certain business actions online. The Business Volume Reporting feature was recently added as an opportunity for contractors to voluntarily submit the number of construction projects completed in the last calendar year. This feature may help consumer's, when checking a contractor's license, understand the overall picture of contractor's history.

The CCB defines a "construction project" as a job or series of connected jobs for a specific owner at a specific address. For more information or to register for My License, visit www.oregon.gov/CCB.

What's the buzz?

News you can use from the CCBee
When do material suppliers need to have a CCB license?



If a material supplier advertises, offers, bids, arranges for, or actually performs the installation of the materials they are selling, they must be licensed with the Construction Contractors Board (CCB).

Those who sell flooring, windows, tile, cabinets, plumbing supplies, siding or any other materials that go into the remodeling or construction of a structure

may recommend installers that can perform the actual installation. They can even provide names of installers. However, the supplier may not have a contractual agreement with the installer, and the cost of the installation cannot be included in the price of the materials supplied by the supplier.

To become licensed, businesses must have a CCB surety bond and

liability insurance. In addition they must have a responsible managing individual who has completed 16 hours of training in construction law and business, then, pass a test based on the 16-hour course. They must then pay license fees, file a license application and comply with all other applicable requirements.