



CONSTRUCTION CONTRACTORS BULLETIN BOARD

HELPING TO PREVENT AND RESOLVE PROBLEMS IN THE CONSTRUCTION INDUSTRY

OCTOBER 2004

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Oregon Construction Contractors Board

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(Education questions: 503-378-4621)

Licensing Manager: Kristie Patton
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New Web Site Helps Contractors Find Liability Insurance

A new state-sponsored web site should make it easier for certain Oregon construction contractors to find liability insurance.

The web site is the centerpiece of a market assistance plan (MAP) for contractors developed by the Insurance Division of the Department of Consumer and Business Services (DCBS) and the Construction Contractors Board (CCB).

Licensed agents and agencies selling liability insurance can register with the Insurance Division to be listed on the web site. Contractors can search the site to find insurance producers in their area that offer the type of liability coverage needed for their business.

Because of high claim costs, fewer companies are selling contractor liability insurance, making it increasingly difficult for contractors to find coverage at an affordable price. The MAP was developed to help those hit hardest by problems in the marketplace, including residential builders, framers, siders and roofers.

"We recognize creating this MAP won't solve all of the

problems in the market or guarantee that every contractor will be able to find affordable liability insurance," DCBS Director Cory Streisinger said. "But it should save time and effort for contractors in certain specialties when they shop for insurance. In addition, we will continue to work with the CCB and the construction and insurance industries to address market problems."

Under Oregon law, a MAP can be formed when liability insurance becomes unavailable or very hard to find. The CCB has received hundreds of letters, faxes and e-mail messages from construction contractors who are finding it very difficult to find a carrier who will insure them. DCBS officials heard similar testimony from those attending an April public hearing to determine if a MAP could help the situation.

Oregon law requires construction contractors to carry liability insurance. Contractors must keep their coverage current to maintain their licenses.

Contractor's liability insurance is a contractual relationship between a construction contractor and an insurance carrier to reimburse a third party (customer) for property damage or personal injury loss caused by the contractor.

The MAP web site address is <http://ccbed.ccb.state.or.us/contractorsMAP/>. There is also a link from the main CCB web site, www.ccb.state.or.us.

Contractors without web access may call 503-947-7268 to request a list of participating agents and agencies in their area or statewide.

Correction

The last part of the sentence in the article titled "Construction Contractors Board May 5, 2004 Resolution" on page 3 of the July 2004 issue of the *Construction Contractors Bulletin Board* was inadvertently cut off. The sentence should have read -

Be it resolved: The Construction Contractors Board finds that the cost and availability of statutorily mandated liability insurance for CCB licensees constitutes an emergency and has directed staff to prioritize their efforts and dedicate all available resources to finding solutions to this problem.

Board Eliminates License Renewal Late Fee

The Construction Contractors Board recently voted to eliminate the \$20 license renewal late fee (also called reinstatement fee). As of September 1, 2004 businesses that do not renew their license by their renewal date will no longer be subject to a \$20 late fee.

The board chose to eliminate the late fee based on staff recommendations that the late fee was not an effective way of encouraging contractors to turn their renewal materials in on time.

“A small monetary penalty really doesn’t compare to the penalty of an expired license,”

said Kristie Patton, CCB Licensing Manager.

Contractors with an expired (lapsed) license:

- Cannot legally perform construction work.
- Can be cited for class A misdemeanor for working with an expired license.
- Can be subject to civil penalties for working with an expired license.
- If a contractor works with an expired license, they have lost their rights to file a claim, file a lien, or file a lawsuit to collect any money owed to them for work performed while not licensed.

The abolishment of the late fee will actually help the CCB process renewals in a more timely manner. Assuming the contractor paid the correct renewal fee and all other required items have been received, the contractor’s license will be renewed without delay. The contractor will no longer have to wait to have their license renewed and will not have to pay a \$20 late fee if they are late.

“Contractors still need to make sure that they renew their licenses on time,” said Patton. “Having your license lapse for even one day can have serious consequences.”

HIAC Members Needed

The Oregon Construction Contractors Board (CCB) is accepting applications for two committee member positions on the Home Inspector Advisory Committee (HIAC). HIAC advises the CCB on its statutorily mandated home inspector certification program.

The committee consists of five certified home inspectors, one public representative and the CCB chairperson or designee. Committee members are appointed to three-year terms by the CCB chairperson. Committee members are volunteers.

See HIAC on page 4

Construction Contractors Bulletin Board, Issue #59

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:

*Jim Fairchild, Dallas
 **Walt Gamble, West Linn
 Chuck Crump, Salem
 Tom Fitzpatrick, Portland
 Cliff Harkins, Canby
 Dennis Schad, Coos Bay
 Mike Smith, Keizer
 Rich Tolvstad, Oregon City
 Sandy Trainor, Sherwood
 *Chair, **Vice-chair

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In compliance with the Americans with Disabilities Act, this publication is available in alternative formats by contacting the editor.

Do Property Owners or Developers Need a License?

According to Oregon law, an individual or business entity must be licensed with the Oregon Construction Contractors Board (CCB) if they do construction, remodeling, repairs, alterations or improvements to real property for compensation or with the intent to sell (ORS 701.005).

Individuals or business entities must be licensed with the CCB when they do construction work on property they own or have an interest in. For example, if an individual is in the business of buying homes, fixing them up, then selling them, the individual needs to be licensed with the CCB.

Does this mean that every homeowner who fixes up his/her home before selling it needs to be licensed? No. The key phrase in the law is “for compensation or with the intent to sell.” The average homeowner is not in the business of buying homes, fixing them up for compensation or with the in-

tent to sell. However, many real estate investors, developers and others are in that business.

Real estate investors, developers and others who own property or an interest in property, and engage in the business of arranging for construction work and perform other activities associated with the improvement of real property, with the intent to sell the property must be licensed with the CCB even though they do not do any of the actual construction work themselves. For example, if an individual is in the business of buying land, hiring licensed contractors to build office buildings on the land and then selling the office buildings, the individual needs to be licensed with the CCB.

Again, the key phrase in the law is “for compensation or with the intent to sell.”

Individuals and business entities who perform construction

work on the property they intend to sell must be licensed in one of the CCB’s general contractor categories. Individuals and business entities that do not do any of the construction work themselves but hire licensed contractors to perform construction work on the property they intend to sell may license in the licensed developer category.

Eric Grassberger, a partner with Stoel Rives LLP Construction and Design Practice Group has written an article titled *Why Developers Must License with the CCB, and What Happens When They Don't*. The article provides some additional information and perspective on CCB licensing for developers. The article is posted on the CCB web site, www.ccb.state.or.us, under “What’s New”.

For additional information about CCB licensing laws and rules, call 503-378-4621.

Exempt or Non-Exempt: What Class of Independent Contractor Are You?

When a business gets licensed with the Construction Contractors Board (CCB), the business must certify that it will conduct its business as an independent contractor (ORS 670.600). In addition to qualifying as an independent contractor, Oregon law also requires that the business choose a class of independent contractor. There are two classes of independent contractors, **exempt** and **non-exempt**.

The **exempt** class consists of business entities that do not have employees subject to worker's compensation insurance requirements. This includes:

- Sole proprietorships with no employees. Spouses and children are considered employees if they are paid for work they perform for the business.
- Partnerships with no employees and with only two partners.
- Partnerships with no employees where ALL partners are immediate family members.
- Corporations with no employees and with only two corporate officers.
- Corporations with no employees where ALL corporate officers are immediate family members and they all serve on the board of directors and are owners of at least 10 percent of the stock or equivalent amount.
- Limited liability companies (LLC) with no employees and with only two members.
- LLC's with no employees where ALL members are immediate family members and they all serve on the board of directors and are owners of at least 10 percent of the stock or equivalent amount.
- Sole proprietorships, partnerships, corporations and LLC's that have no employees, but lease workers from a worker leasing company.

The **non-exempt** class consists of business entities that do have employees subject to worker's compensation insurance requirements or will have employees in the future. This includes but is not limited to:

- Sole proprietorships with employees. Spouses and children are considered employees if they are paid for work they performed for the business.
- Partnerships with employees.
- Partnerships with more than two partners.
- Partnerships having three or more partners where any one of those partners is not an immediate family member.
- Corporations with employees.
- Corporations with more than two corporate officers.
- Corporations having three or more officers where any one of those officers is not an immediate family member.
- Corporations that have corporate officers that do not serve on the board of directors and do not own at least 10 percent

of the stock or an equivalent amount.

- LLC's with employees.
- LLC's with more than two members.
- LLC's having three or more members where any one of those members is not an immediate family member.
- LLC's that have members that do not serve on the board of directors and do not own at least 10 percent of the stock or an equivalent amount.

Staff from the CCB and the Oregon Department of Business and Consumer Services Worker's Compensation Division (WCD) have found that some CCB licensees chose the wrong class of independent contractor when they originally became licensed, or failed to change their class of independent contractor when they decided to hire employees or otherwise act as a non-exempt contractor.

These businesses risk a CCB penalty of up to \$1,000 and a license suspension. They also risk penalties and fines from WCD. In addition, if an employee is injured on the job, the non-complying business may have to pay all of the associated costs and could be sued in civil court.

If a business selected the exempt class of independent contractor when it was originally licensed by the CCB, it may not have employees. "If your business is licensed as exempt, you cannot have employees, even for one day," said Kristie Patton, CCB Licensing Manager. "However, an exempt contractor can use the services of a WCD licensed worker leasing company."

If the business decides to have employees or otherwise act as a non-exempt contractor, it must comply with all applicable state and federal regulations. The business must also submit a record change request form and a \$20 fee to the CCB.

The terms exempt and non-exempt refer only to whether or not a business is exempt from worker's compensation insurance requirements. Many people mistakenly believe that being licensed as an exempt independent contractor with the CCB means that they do not have to comply with Oregon Occupational Safety and Health Administration (OR-OSHA) laws and rules. For more information on who needs to comply with OR-OSHA laws and rules see the article titled *Are you really exempt from OR-OSHA rules?* in the April 2004 CCB newsletter or call 503-378-3272.

A Helpful Tip From the CCB's Customer Service Unit

Contractors with licenses in inactive status must still submit renewal forms and fees each new licensing period (two or four years). When you get that renewal notice in the mail. Don't ignore it or throw it away.

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HIAC from page 2

Currently, the CCB is accepting applications for one certified home inspector member and one public member. Current committee members are eligible to reapply.

To apply, send a resume and a letter stating your experience and ability to represent the industry to Sally Ridenour, CCB Education Manager at the following address. You may also include recommendations from trade associations.

Oregon CCB
Attn: Education Manager
PO Box 14140
Salem, Oregon 97309-5052 or
sally.d.ridenour@sate.or.us

Applications must be received by November 1, 2004. Applicants will be notified in January of the appointments.

What's the buzz? News you can use from the CCBee



Where should your CCB number be? Almost everywhere!

The CCB gets questions every day from contractors asking where and when to use their CCB numbers.

Contractors must include their CCB license numbers on all of the following items:

- Business cards
- Written bids
- Building-related contracts
- Advertising
- Business stationery
- Signs at construction sites
- Written inspection reports

“You should be proud of that CCB license number,” says Bob Rambo, CCB Compli-

ance Specialist. “You went through a lot to get it. Display it prominently, like a flag.”

The number should include “CCB” and then your license number (for example, CCB #123456). You can also include the words “licensed and bonded” if you like. Violating OAR 812-003-0000(8) by failing to provide a CCB number can bring a fine of up to \$400.

Many contractors don’t realize that advertising includes radio and television ads as well as telephone book and newspaper ads. And although highly encouraged, license numbers are

not required on business vehicles. CCB numbers are also encouraged but 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 required on clothing or uniforms for sports teams sponsored by construction businesses.

Consumers, contractors and others wanting to check the license and claims history of a contractor can either use the CCB’s web site www.ccb.state.or.us or call the CCB at 503-378-4621.