

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

STEPHANIE CLARK  
DIRECTOR

800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 808  
LANDSCAPE CONTRACTORS BOARD

**FILED**

09/21/2023 8:32 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Requires contract to show subcontractor work; implements HB 2292, right of rescission.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/31/2023 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

CONTACT: Kim Gladwill-Rowley  
503-967-6291, Ext. 223  
kim.gladwill@lcb.oregon.gov

2111 Front Street NE Ste 2-101  
Salem, OR 97301

Filed By:  
Kim Gladwill-Rowley  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 10/30/2023

TIME: 9:00 AM - 11:00 AM

OFFICER: Annie von Domitz

HEARING LOCATION

ADDRESS: Keizer Community Center, 930 Chemawa Road NE, Keizer, OR 97303

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-503-446-4951

CONFERENCE ID: 240076397532

SPECIAL INSTRUCTIONS:

Web Passcode: pSG9fk

Phone Conference ID: 265 559 201#

NEED FOR THE RULE(S)

Requires that if subcontractors are to be used, the contract must include such a statement and which portions of the landscaping work are to be completed by subcontractor(s).

Implement HB 2292 from the 2023 legislative session. This amendment requires a separate page be added to all written contracts for landscaping work that notifies the consumer they have three business days to cancel the contract and that the cancellation should be in writing. This also requires the landscaping business to supply a form of electronic submission for any contract cancellation to the consumer. The consumer may also waive their right to cancel the contract and allow the landscaping business to perform or order materials prior to the three-business day expiration period.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

HB 2992, which is available at

[olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2292/Enrolled](https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2292/Enrolled)

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STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The rule amendment will not affect racial equity.

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FISCAL AND ECONOMIC IMPACT:

There is a minimal fiscal and economic impact to licensed landscape contracting businesses. This will only be the cost to add the separate page to each written contract and make sure it is signed and returned.

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COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

Effect on small businesses (a) estimate the number and type of small businesses subject to the rules: as of 7/20/2023 there are 1413 licensed landscape contracting businesses in the state of Oregon that will need to comply.

(b) describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule: All licensed landscaping businesses will need to have a separate page that must be attached to all written contracts for landscaping work.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule: There will be a very low cost to add a separate page to all written contracts.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Several Board members are small business owners.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The Board acts as its own Rule Advisory Committee.

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AMEND: 808-002-0020

**RULE SUMMARY:** Requires that if subcontractors are to be used, the contract must include such a statement and which portions of the landscaping work are to be completed by subcontractor(s). Implement HB 2292 from the 2023 legislative session to require a separate page be added to all written contracts for landscaping work that notifies the consumer they have three business days to cancel the contract and that the cancellation should be in writing. This also requires the landscaping business to supply a form of electronic submission for any contract cancellation to the consumer. The consumer may also waive their right to cancel the contract and allow the landscaping business to perform or order materials prior to the three-business day expiration period.

CHANGES TO RULE:

808-002-0020

Minimum Standards for Written Contracts and Billings ¶

(1) Contracts. Pursuant to ORS 671.625(2) a contract for landscaping work for which the business charges \$2,000 or more for a landscape job must be in writing. For the purpose of this rule, "landscape job," has the same meaning

it does under OAR 808-002-0495.¶

(2) Written landscaping contracts and subcontracts with a homeowner/consumer or an agent of the homeowner/consumer/lessee shall include, but not be limited to, the following:¶

(a) Landscape contracting business name, license number, business address and telephone number;¶

(b) Homeowner's/Consumer's name and address;¶

(c) Address or location of work to be performed if different from the homeowner/consumer's address;¶

(d) General description of the work to be performed and materials to be installed;¶

(e) Estimated time for completion or estimated completion date;¶

(f) Price and payment schedule;¶

(g) Description of guarantee; if no guarantee ~~such is being provided~~, a statement ~~shall~~ no guarantee is being included provided;¶

(h) Signatures of the authorized business representative and homeowner/consumer;¶

(i) Statement that the business is licensed by the Oregon State Landscape Contractors Board (Board) and the current address and phone number of the ~~B~~Board;¶

~~(j) Effective January 1, 2012:~~ If subcontractors will be used for the performance of any of the landscaping work, the contract must include a statement:¶

~~(A) notifying the consumer that there will be~~ homeowner/consumer subcontractors may be used to perform portions of the landscaping work; and¶

~~(B) Effective July 1, 2018:~~ which portions of the landscaping work may be completed by subcontractor(s).¶

~~(k) If the contract contains an arbitration clause or binding arbitration clause, the contract must include language explaining that if the homeowner/consumer signs the contract, they homeowner/consumer may be waiving their right to access the Board's claims process and may not have access to the landscape Contractors Board claims process and may not have access to the landscape contracting business' bonding business' bond.~~¶

(L) Pursuant to HB 2292 (2023), Chapter 304 and effective January 2, 2024, a Notice of Right to Cancel Contract must be included as an attachment to the contract when first presented to a homeowner/lessee. Both the contract and the Notice of Right to Cancel Contract must bear the signatures of the homeowner/lessee and an authorized business representative before the three-business day right to cancel time period commences. The Notice of Right to Cancel Contract must be on the form provided by the Board. The Notice of Right to Cancel Contract will explain that a homeowner/lessee who signs a written contract with a landscape contracting business may, within three business days after the date of signing, cancel the contract in writing unless:¶

(A) The homeowner/lessee agrees in writing that the landscape work may begin before the three-business day right to cancel period expires; or¶

(B) The homeowner/lessee agrees to an amendment of the terms or conditions of the contract after the three-business day cancellation period has already expired.¶

~~(3m) Written landscaping contracts or subcontracts with another contractor licensed~~ As used in subsection (L) of this rule three business days means three consecutive business days, excluding Saturdays, Sundays, and holidays. For example, if the day the contract and the Notice of Right to Cancel Contract are signed by the homeowner/lessee is a Friday, then three business days after the execution of the contract and Notice of Right to Cancel Contract would run through midnight on the following Wednesday. However, if the homeowner/lessee who signed on a Friday waives the three-business day right to cancel, then the landscape contracting business may order materials and start work any day between, and including, the Friday signing day and the following Wednesday.¶

(n) Effective January 2, 2024, the landscape contracting business must provide a form of electronic communication such as facsimile, email, or text messaging. The homeowner/lessee may send a written cancellation of the contract to the ~~L~~landscape ~~Contractors~~contracting business as required in subsection (L) of this rule and HB 2292 (2023), Chapter 304 using the electronic form of messaging identified in the contract.¶

~~(3) Written landscaping contracts or subcontracts with another contractor licensed with the Board or with the Construction Contractors Board shall~~ must include, but not be limited to, the following:¶

(a) Landscape contracting business name;¶

(b) Other contractor's name;¶

(c) Address or location of work to be performed;¶

(d) General description of the work to be performed;¶

(e) Estimated completion date or statement regarding schedule of work;¶

(f) Price and, if payments are to be made, a payment schedule;¶

(g) Description of guarantee; if no guarantee ~~such is being provided~~, a statement ~~shall be included; and~~ no guarantee is being provided;¶

(h) Signatures of the authorized business representative for both the other contractor and the landscape contracting business.¶

(i) Notification of the date the landscape contracting business signed the contract with the homeowner/lessee and

the date the three-day business period for homeowner/lessee cancellation will have expired.¶

(4) Changes or amendments to landscaping contracts and subcontracts ~~shall~~must identify the scope of the change or amendment, ~~be agreed to by both parties, and be in writing~~must demonstrate that the change or amendment is agreed to by both parties, and be in writing. Changes or amendments to the landscape contract and subcontracts may be in the form of facsimile, email, or text messaging.¶

(5) All billings by a licensed landscape contracting business shall include the following:¶

(a) Name, address and telephone number of the licensed landscape contracting business;¶

(b) Name and address of the homeowner/consumer;¶

(c) Total contract price and amount paid to date;¶

(d) The amount now due and the work performed for the amount due.

Statutory/Other Authority: ORS 183, ORS 671.670, ORS 670.310

Statutes/Other Implemented: ORS 671.625, HB 2992 (2023), Chapter 304