

House Bill 2200

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Construction Contractors Board)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Changes construction business owner or responsible employee requirement. Revises training and testing requirements for construction business owners and responsible employees.

Shortens maximum term for construction contractor license.

Revises provision allowing Construction Contractors Board to suspend or refuse to issue license to construction business based on past activity of owners and others.

Replaces contractor license fees with application fees.

A BILL FOR AN ACT

1
2 Relating to construction contractors; creating new provisions; amending ORS 454.715, 701.005,
3 701.075, 701.102, 701.115, 701.125, 701.130, 701.135, 701.350, 701.355 and 701.992; and repealing
4 ORS 701.280.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1. Sections 2 and 3 of this 2005 Act are added to and made a part of ORS**
7 **chapter 701.**

8 **SECTION 2. (1) The Construction Contractors Board, by rule, shall impose training re-**
9 **quirements for individuals seeking to be licensed under this chapter. The training required**
10 **by the board must relate to business practices and laws affecting construction contractors.**
11 **The board shall adopt standards for programs that provide training meeting the require-**
12 **ments of this subsection.**

13 **(2) In establishing training requirements under subsection (1) of this section, the board**
14 **shall take into consideration the availability of training programs within the state and shall**
15 **encourage training providers to use the most up-to-date technology. The board must recog-**
16 **nize and grant credit for training provided by private organizations if the training program**
17 **meets the standards established by the board under subsection (1) of this section. The board**
18 **periodically shall review the qualifications of private organizations and instructors to deter-**
19 **mine compliance with the program standards. The board shall develop and make available to**
20 **the public a list of public and private programs that provide training that meets the training**
21 **requirements established by the board under subsection (1) of this section.**

22 **(3) The board, by rule, shall approve a test for applicants for licensing under ORS 701.075.**
23 **The test shall measure the applicant's knowledge regarding business practices and laws that**
24 **are the subject of training required under subsection (1) of this section.**

25 **SECTION 3. (1) As used in this section, "responsible managing individual" means a per-**
26 **son who:**

27 **(a)(A) Is the owner of a business as defined in ORS 701.102; or**

28 **(B) Is an employee of the business, designated by the owner, who exercises management**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 or supervisory authority over the construction activities of the business; and

2 (b)(A) Has successfully completed the training and testing required for licensing under
 3 section 2 of this 2005 Act within a period identified by the Construction Contractors Board
 4 by rule;

5 (B) Has demonstrated experience required by the board by rule; or

6 (C) Has complied with the licensing requirements of ORS 446.395.

7 (2) Except as provided in ORS 701.075 (3), a business licensed under this chapter must
 8 at all times have at least one responsible managing individual.

9 **SECTION 4.** ORS 454.715 is amended to read:

10 454.715. Subject to ORS chapter 183, the Department of Environmental Quality at any time may
 11 suspend or revoke any license issued pursuant to ORS 454.695 if it finds:

12 (1) A material misrepresentation or false statement in the application for the license.

13 (2) Failure to comply with the applicable provisions of this chapter.

14 (3) Violation of any rule of the Environmental Quality Commission regarding sewage disposal
 15 services.

16 (4) The licensee was licensed by the Construction Contractors Board at the time of licensing
 17 under ORS 454.695 and the license issued by the board was revoked or suspended [*for a failure to*
 18 *comply with*] as provided under ORS 701.100 or 701.102 and rules adopted [*thereunder*] by the
 19 board.

20 **SECTION 5.** ORS 701.075 is amended to read:

21 701.075. (1) An applicant for a construction contractor license must submit the application on
 22 a form prescribed by the Construction Contractors Board. The application shall include, but not be
 23 limited to, [*at least*] the following information regarding the applicant:

24 (a) Classification of the license being sought.

25 [*(b) A list of unsatisfied judgments resulting from bond claims and litigation involving the appli-*
 26 *cant or its principals within the prior five years.*]

27 (b) A list of construction debts, as defined in ORS 701.102, owed under a final order, ar-
 28 bitration award, judgment or civil penalty, determined within the preceding five years and
 29 involving the applicant or an owner or officer, as defined in ORS 701.102, of the applicant.

30 (c) Social Security number.

31 (d) Workers' compensation insurance account number, if [*help is hired or traded*] the applicant
 32 is required to have workers' compensation insurance.

33 (e) Unemployment insurance account number, if [*help is hired*] the applicant is required to
 34 have unemployment insurance.

35 (f) State withholding tax account number, if [*help is hired*] the applicant is required to with-
 36 hold state income tax.

37 (g) Federal employer identification number, if [*help is hired or if self-employed and participating*
 38 *in a retirement plan*] the applicant is required to have, or has, a federal employer identification
 39 number.

40 (h) The name and address of:

41 (A) Each partner, venturer or member, if the applicant is a partnership, joint venture or limited
 42 liability company.

43 (B) The owner, if the applicant is an individual proprietorship.

44 (C) The corporate officers, if the applicant is a corporation.

45 (i) The basis on which the applicant meets the standards for independent contractor

1 **status under ORS 670.600.**

2 **(2) The application described in subsection (1) of this section must be accompanied by**
 3 **proof satisfactory to the board that the applicant:**

4 **(a) Has complied with section 3 of this 2005 Act.**

5 **(b) Has the legal capacity to contract.**

6 **(3) Subsection (2)(a) of this section and section 3 of this 2005 Act do not apply to a li-**
 7 **censed developer.**

8 [(2)] (4) An applicant shall conform to the information provided by the applicant on the appli-
 9 cation and to the terms of the application.

10 [(3) *The board shall adopt by rule an application form that requires an applicant to indicate, as*
 11 *set forth in ORS 670.600, the basis under which the applicant qualifies as an independent contractor.*]

12 [(4) *Prior to licensure, an applicant must demonstrate compliance with the licensure education re-*
 13 *quirements described in ORS 701.280 (1) and pass an examination based on the requirements.*]

14 [(5) *Prior to licensure, an applicant shall submit proof satisfactory to the board that the applicant*
 15 *has the legal capacity to contract.*]

16 [(6) *Notwithstanding subsection (4) of this section, the examination requirement for licensure does*
 17 *not apply to a person registered with the board prior to July 1, 2000, unless the person's license has*
 18 *lapsed more than two years prior to the application date.*]

19 [(7) *A business licensed under this chapter must at all times have at least one owner or employee*
 20 *who:*]

21 [(a) *Has passed an examination under subsection (4) of this section; or]*

22 [(b) *Is exempt under subsection (6) of this section from examination and was, at any time prior to*
 23 *July 1, 2000, an owner of the business or an employee designated by an owner to exercise management*
 24 *or supervisory authority over the construction activities of the business.*]

25 [(8) *Subsections (4), (6) and (7) of this section do not apply to a licensed developer.*]

26 **SECTION 6.** ORS 701.102 is amended to read:

27 701.102. [(1) *The Construction Contractors Board may suspend the license of or refuse to license*
 28 *a person if the person, or the owner or holder of a direct or indirect interest in the person, is a business*
 29 *or the owner or holder of a direct or indirect interest in a business that:*]

30 [(a) *Owes any amount pursuant to a final order or arbitration award of the board;*]

31 [(b) *Owes any amount under final judgment of a court or civil penalty arising from construction*
 32 *business activities in Oregon or any other state of the United States; or]*

33 [(c) *Has had a license to operate as a construction contractor revoked by a construction contractor*
 34 *licensing agency of any state.*]

35 [(2) *The board may hold the suspension or refusal of a license under subsection (1) of this section*
 36 *in abeyance if the person is adhering to a board-approved plan for restitution of the amount owed.*]

37 **(1) As used in this section:**

38 **(a) "Construction debt" means an amount owed under:**

39 **(A) A final order or arbitration award issued by the Construction Contractors Board for**
 40 **a claim filed under ORS 701.139; or**

41 **(B) A judgment or civil penalty arising from construction activities within the United**
 42 **States.**

43 **(b) "Construction license" means a license issued within the United States to engage in**
 44 **construction contracting business.**

45 **(c) "Officer" means any of the following persons:**

1 (A) A president, vice president, secretary, treasurer or director of a corporation.

2 (B) A general partner in a limited partnership.

3 (C) A manager in a manager-managed limited liability company.

4 (D) A member of a member-managed limited liability company.

5 (E) A trustee.

6 (F) A person qualifying as an officer under board rules. The definition of officer adopted
7 by board rule may include persons not listed in this paragraph who may exercise substantial
8 control over a business.

9 (d) "Owner" means a sole proprietor of, partner in or holder of a controlling interest in
10 a business, or a person defined as an owner by board rule.

11 [(3)] (2) The board shall adopt rules defining [*the ownership or holding of a direct or indirect*
12 *interest*] **an owner** for purposes of subsection (1) of this section. The rules may not define [*direct or*
13 *indirect interest*] **an owner** in a manner that includes [*the interest of*] an investor who has no right
14 to manage a business, including but not limited to[, *the interest of*]:

15 (a) A person who is solely a minority shareholder in a corporation;

16 (b) A member of a manager-managed limited liability company; or

17 (c) A limited partner in a limited partnership who does not participate in the control of the
18 business of the limited partnership.

19 (3) The board may suspend or refuse to issue a contractor license to a business if:

20 (a) The business owes a construction debt or has had a construction license revoked;

21 (b) An owner or officer of the business owes a construction debt or has had a con-
22 struction license revoked; or

23 (c) An owner or officer of the business was an owner or officer of another business at
24 the time the other business incurred a construction debt that is owing or at the time of an
25 event that resulted in the revocation of the other business's construction license.

26 (4) The board may place a contractor on probation if a total of three or more claims are filed
27 with the board within a 12-month period against the contractor or a former licensed construction
28 [*company*] **contracting business** in which the contractor held at least a 10 percent ownership in-
29 terest, measured as determined by board rule. A contractor may not be placed on probation unless
30 the board determines after investigation that it is likely that the contractor has caused harm to the
31 claimants. The board may require a contractor that is placed on probation to develop a corrective
32 action plan, to attend specific classes and to resolve outstanding claims. The board may require a
33 contractor that is placed on probation to take [*any education and training described under ORS*
34 *701.280 and to pass an examination on subjects relating to business practices and laws affecting con-*
35 *struction contractors*] **training and pass a test, both as described in section 2 of this 2005 Act.**
36 The board shall take action to terminate the contractor's license if the contractor is unwilling or
37 unable to comply with the conditions of probation.

38 **SECTION 7.** ORS 701.115 is amended to read:

39 701.115. (1) A license is valid for two years [*or four years, at the discretion of the applicant,*] from
40 the date of issuance unless the license is revoked or suspended as set forth in ORS 701.135. [*Upon*
41 *application, a license may be renewed by the same procedure provided for an original license if the*
42 *applicant:*]

43 [(a) *Submits any additional supplemental information or completes any required education as the*
44 *Construction Contractors Board may require by rule; and*]

45 [(b) *Passes the examination required in ORS 701.075 (4), if the applicant has not previously satis-*

1 *fied the examination requirement and is not exempt under ORS 701.075 (6) or (8).]*

2 *[(2) The board shall issue a pocket-card certificate of licensure to a contractor licensed under this*
 3 *chapter indicating the type of license.]*

4 **(2) A license may be renewed by submitting an application for renewal on the prescribed**
 5 **form, providing any additional information required, including evidence of completion of any**
 6 **required education, and submitting the appropriate application fee, as provided by Con-**
 7 **struction Contractors Board rule.**

8 (3) The board may vary the dates of license renewal by giving to the licensee written notice of
 9 the renewal date assigned and by making appropriate adjustments in the *[renewal fee]* **fee for the**
 10 **license renewal application.**

11 (4) If a contractor applies for renewal not more than one year after the contractor's license
 12 lapses, upon the contractor's compliance with the requirements of subsection *[(1)]* **(2)** of this section,
 13 the board may renew the lapsed license. The board may designate the effective date of renewal as
 14 the last date on which the contractor was licensed.

15 (5) A contractor may convert a license to inactive status if the contractor is not engaged in
 16 work as a contractor. A contractor having an inactive license is subject to board licensing re-
 17 quirements and **application** fees, but is not subject to the bonding requirement of ORS 701.085 or
 18 the insurance requirement of ORS 701.105. An inactive license is not considered a valid license for
 19 purposes of offering to undertake construction work, submitting a bid for construction work, ob-
 20 taining a building permit or performing construction work. A license may not be placed or main-
 21 tained in inactive status more than once during any two-year *[period]* **licensing term.**

22 **(6) The board shall issue a pocket-card certificate of licensure to a contractor licensed**
 23 **under this chapter indicating the type of license.**

24 **SECTION 8.** ORS 701.125 is amended to read:

25 701.125. (1) Each applicant shall pay to the Construction Contractors Board:

26 *[(a) For the original application for or renewal of a contractor license, a fee as determined by the*
 27 *board under ORS 701.130.]*

28 *[(b) A fee for all changes in the contractor license, as prescribed by the board, other than those*
 29 *due to clerical errors.]*

30 *[(2) The board shall set the fees referred to in subsection (1) of this section so that the moneys re-*
 31 *ceived are adequate to administer the provisions of this chapter pursuant to ORS 701.130.]*

32 **(a) For applications for the issuance or renewal of a contractor license, nonrefundable**
 33 **application fees as determined by the board under ORS 701.130.**

34 **(b) For applications for changes to a contractor license, other than changes due to cler-**
 35 **ical errors by the board, an application fee established by board rule.**

36 **(2) The board may not charge a fee for issuing or renewing a contractor license to an**
 37 **applicant.**

38 **SECTION 9.** ORS 701.130 is amended to read:

39 701.130. (1) Before July 1 of each year, the Construction Contractors Board shall determine the
 40 *[amount of the fee an applicant must pay for a contractor license or renewal of contractor license under*
 41 *ORS 701.125.]* **amounts of the fees to be charged for applications under ORS 701.125 for the**
 42 **issuance or renewal of contractor licenses.** The *[fees shall be]* **fee amounts** are subject to prior
 43 approval of the Oregon Department of Administrative Services and a report to the Emergency Board
 44 prior to *[adopting the fees and]* **adoption. The fee amounts** shall be within the budget authorized
 45 by the Legislative Assembly as that budget may be modified by the Emergency Board. The *[fees and*

1 *charges* **fee amounts** established under this section *[shall]* **may** not exceed the cost of administer-
 2 ing the regulatory program of the board *[pertaining to the purpose for which the fee or charge is es-*
 3 *tablished]* **under this chapter**, as authorized by the Legislative Assembly within the board’s budget,
 4 as the budget may be modified by the Emergency Board.

5 (2) The *[amount of the fee]* **amounts of the fees** determined by the board under subsection (1)
 6 of this section shall be effective as set by rule.

7 **SECTION 10.** ORS 701.135 is amended to read:

8 701.135. (1) The Construction Contractors Board may revoke, suspend or refuse to issue or re-
 9 issue a license and the board may assess a civil penalty as provided in ORS 701.992 if *[it]* **the board**
 10 determines after notice and opportunity for hearing:

11 (a) That the licensee or applicant has violated ORS 701.055 **or section 3 of this 2005 Act.**

12 (b) That the licensee or applicant *[has failed to pay in full any final judgment on claims adjudged*
 13 *by the board or by a court of competent jurisdiction referred to]* **owes a construction debt or has**
 14 **had a construction license revoked, both as described** in ORS 701.102.

15 (c) That the licensee has violated a rule or order of the board.

16 (d) That the licensee has knowingly assisted an unlicensed person to act in violation of this
 17 chapter.

18 (e) That a lien was filed on a structure under ORS 87.010 to 87.060 and 87.075 to 87.093 because
 19 the licensee or applicant wrongfully failed to perform a contractual duty to pay money to the person
 20 claiming the lien.

21 (f) That the licensee has knowingly provided false information to the board.

22 (g) That the licensee has worked without a construction permit where *[such]* **a** permit is re-
 23 quired and *[such]* **the** work resulted in a claim **being** filed with the board. For purposes of this
 24 paragraph, “construction permit” includes a building permit, electrical permit, mechanical permit
 25 or plumbing permit.

26 (h) That the number of licensed contractors working together on the same task on the same job
 27 site, where one of the contractors is licensed as exempt under ORS 701.035 (2)(b), exceeded the fol-
 28 lowing:

- 29 (A) Two sole proprietors;
- 30 (B) One partnership;
- 31 (C) One corporation; or
- 32 (D) One limited liability company.

33 (i) Consistent with the provisions of ORS 670.280, that the licensee or applicant has been con-
 34 victed of one of the following crimes:

- 35 (A) Murder;
- 36 (B) Assault in the first degree;
- 37 (C) Kidnapping;
- 38 (D) Rape, sodomy or unlawful sexual penetration;
- 39 (E) Sexual abuse;
- 40 (F) Arson in the first degree;
- 41 (G) Robbery in the first degree;
- 42 (H) Theft in the first degree; or
- 43 (I) Theft by extortion.

44 (j) That the licensee or applicant has not, within 90 days after the date when payment was re-
 45 ceived from the public contracting agency, or contractor in the case of a subcontractor, made pay-

1 ment to any person for supplying labor or materials contracted for with a public contract for a
 2 public improvement plus the amount of interest due.

3 (k) That the licensee or applicant has repeatedly reported bad faith or false claims of nonpay-
 4 ment against contractors or subcontractors.

5 (L) That the licensee or applicant has engaged in conduct as a contractor that is dishonest or
 6 fraudulent and that the board finds injurious to the welfare of the public.

7 (2)(a) The administrator of the board, in accordance with administrative rules adopted by the
 8 board and after setting forth specific reasons for *[such]* **the** findings, may suspend or refuse to renew
 9 a license without hearing in any case where the administrator finds a serious danger to the public
 10 welfare, including but not limited to:

11 (A) Lack of a surety bond required by ORS 701.085;

12 (B) Lack of liability insurance required by ORS 701.105;

13 (C) Hiring employees while licensed as exempt under ORS 701.035; or

14 (D) Conduct as a construction contractor that is dishonest or fraudulent.

15 (b) If the licensee or applicant demands a hearing within 90 days after the date of notice to the
 16 licensee or applicant of the suspension or refusal to renew, then a hearing must be granted to the
 17 licensee or applicant as soon as practicable after the demand, and the administrator shall issue an
 18 order pursuant to the hearing as required by ORS chapter 183 confirming, altering or revoking the
 19 administrator's earlier order. Notwithstanding ORS 670.325, a hearing need not be held where the
 20 order of suspension or refusal to renew is accompanied by or is pursuant to a citation for violation
 21 that is subject to judicial determination in any court of this state, and the order by its terms will
 22 terminate in case of final judgment in favor of the licensee or applicant.

23 (3) In addition to all other remedies, *[when]* **if** it appears to the board that a person has engaged
 24 in, or is engaging in, any act, practice or transaction *[which]* **that** violates the provisions of this
 25 chapter, the board may direct the Attorney General or the district attorney of the county in which
 26 the act, practice or transaction occurs, to apply to the court for an injunction restraining the person
 27 from violating the provisions of this chapter. An injunction shall not issue for failure to maintain
 28 the list provided for in ORS 701.055 (11) unless the court determines that the failure is intentional.

29 (4) A certified copy of the record of conviction shall be conclusive evidence of a conviction un-
 30 der subsection (1)(i) of this section.

31 **(5) If a person's license is suspended for a violation of subsection (1)(h) of this section,**
 32 **and the person has not previously taken the training and passed the test described in section**
 33 **2 of this 2005 Act, the board may not restore the license to the person until the person**
 34 **successfully completes the training and testing described in section 2 of this 2005 Act.**

35 **SECTION 11.** ORS 701.350 is amended to read:

36 701.350. (1) An individual may not undertake, offer to undertake or submit a bid to do work as
 37 a home inspector unless the individual is certified as a home inspector under this section by the
 38 Construction Contractors Board and is an owner of, or employed by, a business that is licensed by
 39 the board.

40 (2) A business entity *[shall]* **may** not undertake, offer to undertake or submit a bid to do work
 41 as a home inspector unless the business entity is licensed by the *[Construction Contractors]* board
 42 under this chapter and has an owner or an employee who is certified as a home inspector under this
 43 section.

44 (3) *[The Construction Contractors Board shall adopt education, training and examination require-*
 45 *ments for certification of home inspectors.]* **The board shall require that an applicant for certif-**

1 **ication as a home inspector pass a test demonstrating the competency of the applicant to**
 2 **act as a home inspector. The board, by rule, may accept the results of competency testing**
 3 **by a nationally recognized certification program for home inspectors. The board, by rule,**
 4 **may adopt additional requirements for the issuance or renewal of a home inspector certif-**
 5 **icate, including but not limited to, training and continuing education requirements.**

6 (4) The [*Construction Contractors*] board by rule shall adopt procedures for the issuance, renewal
 7 and revocation of home inspector certification.

8 (5) The board by rule may adopt fees necessary for the administration of this section. The fees
 9 shall not exceed the following:

10 (a) \$50 for application;

11 (b) \$50 for [*examination*] **testing**; and

12 (c) \$75 for annual [*license*] **certificate** renewal.

13 (6) This section does not apply to a person acting within the scope of a license or certificate
 14 issued to the person by the Appraiser Certification and Licensure Board under ORS chapter 674.

15 **SECTION 12.** ORS 701.355 is amended to read:

16 701.355. A business [*entity*] licensed as a [*home inspector with the Construction Contractors*
 17 *Board*] **contractor** under this chapter **and providing home inspector services** may not **under-**
 18 **take**, offer to undertake or offer to submit a bid to undertake work to repair a structure inspected
 19 by an owner or employee of the business [*entity*] within the 12 months following the inspection.

20 **SECTION 13.** ORS 701.992 is amended to read:

21 701.992. (1) Except as provided in subsections (4) and [(7)] **(6)** of this section, any person who
 22 violates any provision of this chapter or any rule adopted [*thereunder*] **by the Construction Con-**
 23 **tractors Board** shall forfeit and pay into the General Fund of the State Treasury a civil penalty in
 24 an amount determined by the [*Construction Contractors*] board of not more than \$5,000 for each of-
 25 fense.

26 (2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

27 (3) The provisions of this section are in addition to and not in lieu of any other penalty or
 28 sanction provided by law.

29 (4) [*Civil penalties shall be imposed*] **The board shall impose sanctions** for violation of ORS
 30 701.135 (1)(h) on both the person to whom the contract is awarded and the person who awards the
 31 contract as follows:

32 (a) A penalty not less than \$500 nor more than \$1,000 for the first offense;

33 (b) A penalty not less than \$1,000 nor more than \$2,000 for the second offense;

34 (c) Suspension of the person's license for six months for a third offense; [*and*]

35 (d) Revocation of the person's license for three years for a fourth offense; **and**

36 (e) **Permanent revocation of the person's license for a fifth offense.**

37 (5) The board shall provide by rule a process and criteria that must be met for restoration of
 38 a license that has been revoked **other than a license that has been permanently revoked.**

39 [(6) *If at any time following restoration of a license of a person who has violated ORS 701.135*
 40 *(1)(h), the person is found to have again violated ORS 701.135 (1)(h), the person's license shall be*
 41 *permanently revoked.*]

42 [(7)] **(6)** The board may impose a civil penalty not to exceed \$100 for each violation of ORS
 43 87.007 (3).

44 **SECTION 14.** ORS 701.005 is amended to read:

45 701.005. As used in this chapter:

- 1 (1) “Board” means the Construction Contractors Board.
- 2 (2) “Contractor” means a person who, for compensation or with the intent to sell, arranges or
 3 undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from,
 4 improve, inspect, move, wreck or demolish, for another, any building, highway, road, railroad, exca-
 5 vation or other structure, project, development or improvement attached to real estate or to do any
 6 part thereof. “Contractor” includes general contractors, residential-only contractors and specialty
 7 contractors as defined in this section.
- 8 (3) “General contractor” means a contractor whose business operations require the use of more
 9 than two unrelated building trades or crafts that the contractor supervises or performs in whole or
 10 part, whenever the sum of all contracts on any single property, including materials and labor, ex-
 11 ceeds an amount established by rule by the board. “General contractor” does not include specialty
 12 contractors or limited contractors, as described in ORS 701.085.
- 13 (4) “Home inspector” means a person who, for a fee, inspects and provides written reports on
 14 the overall physical condition of a residential structure and the appurtenances thereto. “Home in-
 15 spector” does not include persons certified under ORS chapter 455 to inspect new, repaired or al-
 16 tered structures for compliance with the state building code.
- 17 (5) “Inspector” means a contractor registered with the board who inspects or otherwise provides
 18 services to a property owner or other contractor but does not substantively add to or subtract from
 19 a structure. “Inspector” includes but is not limited to a home inspector certified [*or licensed*] under
 20 ORS 701.350, a lead-based paint inspector licensed under ORS 701.515 and a cross connection and
 21 backflow prevention device inspector certified under ORS 448.279. “Inspector” does not include city
 22 or county inspectors acting under ORS 701.225 or an inspector as defined in ORS 455.715.
- 23 (6) “Large commercial structure” means a structure that is not a residential structure or small
 24 commercial structure.
- 25 (7) “Licensed developer” means a contractor who owns property or an interest in property and
 26 arranges for construction work, if the contractor:
- 27 (a) Engages in the business of arranging for construction work and performing other activities
 28 associated with the improvement of real property, with the intent to sell the property;
- 29 (b) Acts in association with one or more licensed general contractors and the general contractor
 30 or combination of general contractors have sole responsibility for overseeing all phases of con-
 31 struction activity on the property; and
- 32 (c) Does not perform any construction work on the property.
- 33 (8) “Residential-only contractor” means a general contractor or specialty contractor who per-
 34 forms work exclusively in connection with residential structures and small commercial structures,
 35 and the appurtenances thereto. “Residential-only contractor” includes, but is not limited to:
- 36 (a) A person who purchases or owns property and constructs or for compensation arranges for
 37 the construction of one or more residential structures or small commercial structures with the in-
 38 tent of selling the structures;
- 39 (b) A school district, as defined in ORS 332.002, that permits students to construct a residential
 40 structure or small commercial structure as an educational experience to learn building techniques
 41 and sells the completed structure;
- 42 (c) A community college district, as defined in ORS 341.005, that permits students to construct
 43 a residential structure or small commercial structure as an educational experience to learn building
 44 techniques and sells the completed structure; or
- 45 (d) Any person except a landscape contractor, nurseryman, gardener or person engaged in the

1 commercial harvest of forest products who is engaged as an independent contractor to remove trees,
 2 prune trees, remove tree limbs or stumps or to engage in tree or limb guying.

3 (9) "Residential structure" means a residence, including a site-built home, modular home con-
 4 structed off-site, floating home as defined in ORS 830.700, condominium unit, manufactured dwelling
 5 or duplex, or a multiunit residential building consisting of four units or less that is not part of a
 6 multistructure complex of buildings.

7 (10) "Small commercial structure" means a nonresidential structure that has a ground area of
 8 4,000 square feet or less, including exterior walls, and a height of not more than 20 feet from the
 9 top surface of the lowest flooring to the highest interior overhead finish of the structure.

10 (11) "Specialty contractor" means a contractor who performs work on a structure, project, de-
 11 velopment or improvement and whose operations as such do not fall within the definition of "general
 12 contractor." "Specialty contractor" includes a person who performs work regulated under ORS
 13 chapter 446.

14 **SECTION 15. ORS 701.280 is repealed.**

15 **SECTION 16. (1) The amendments to ORS 701.115, 701.125 and 701.130 by sections 7, 8 and**
 16 **9 of this 2005 Act apply to the issuance, renewal or changing of licenses for which an appli-**
 17 **cation is filed on or after the effective date of this 2005 Act. If an application is filed before**
 18 **the effective date of this 2005 Act and remains pending on the effective date of this 2005 Act,**
 19 **the Construction Contractors Board may charge the applicant the applicable license, renewal**
 20 **or change fee that was in effect on the date the application was filed.**

21 **(2) Subject to any approval of fees under ORS 701.130 occurring after the effective date**
 22 **of this 2005 Act, the Construction Contractors Board may charge a fee for an application for**
 23 **issuance or renewal of a license under ORS 701.125 that is equal in amount to the fee for**
 24 **issuance or renewal of a license under ORS 701.125 in effect immediately prior to the effec-**
 25 **tive date of this 2005 Act.**

26 **(3) Subject to any board rule adopted after the effective date of this 2005 Act that im-**
 27 **poses a fee for an application to change a license, the board may charge a fee for an appli-**
 28 **cation to change a license under ORS 701.125 that is equal in amount to the fee for changing**
 29 **a license under ORS 701.125 in effect immediately prior to the effective date of this 2005 Act.**

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