

Senate Bill 1002

Sponsored by COMMITTEE ON RULES (at the request of Dana Baugher)

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**.

Reduces threshold contract value for requiring that residential construction contract be in written form. Makes contract voidable by consumer if not in written form when required.

A BILL FOR AN ACT

Relating to residential construction contracts; amending ORS 701.055.

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

SECTION 1. ORS 701.055 is amended to read:

701.055. (1) A person may not undertake, offer to undertake or submit a bid to do work as a contractor unless that person has a current, valid license issued by the Construction Contractors Board. A partnership, corporation or joint venture may not undertake, offer to undertake or submit a bid to do work as a contractor unless that partnership, corporation or joint venture is licensed under this chapter. A partnership or joint venture is licensed for the purpose of offering to undertake work as a contractor on a structure if any of the partners or joint venturers whose name appears in the business name of the partnership or joint venture is licensed under this chapter.

(2) A licensed partnership or corporation shall notify the board immediately upon any change in licensed partners or corporate officers. If a partnership no longer has a licensed partner, the partnership may not conduct activities that require a license under this chapter.

(3) A city, county or the State of Oregon shall not issue a building permit to any person required to be licensed under this chapter that does not have a current, valid license. A county, city or state agency that requires the issuance of a permit as a condition precedent to construction, alteration, improvement, demolition, movement or repair of any building or structure or the appurtenances to the structure shall, as a condition for issuing the permit, require that the applicant for a permit file a written statement, subscribed by the applicant. The statement must affirm that the applicant is licensed under this chapter, give the license number and state that the license is in full force and effect, or, if the applicant is exempt from licensing under this chapter, list the basis for the exemption. The city, county or state agency shall list the contractor's license number on the permit obtained by that contractor.

(4) If the applicant for a building permit is exempt from licensure under ORS 701.010 (6), the city, county or state shall supply the applicant with an Information Notice to Property Owners About Construction Responsibilities. The city, county or state shall not issue a building permit for a residential structure to the applicant until the applicant signs a statement in substantially the following form:

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 (a) I have read and understand the Information Notice to Property Owners About Construction
2 Responsibilities; and

3 (b) I own, reside in or will reside in the completed dwelling. My general contractor is
4 _____, Construction Contractors Board license no. _____, license expiration date
5 _____. I will instruct my general contractor that all subcontractors who work on this
6 dwelling must be licensed with the Construction Contractors Board; or

7 (c) I am performing work on property I own, a residence that I reside in or a residence that I
8 will reside in.

9 (d) I will be my own general contractor and, if I hire subcontractors, I will hire only subcon-
10 tractors licensed with the Construction Contractors Board.

11 (e) If I change my mind and do hire a general contractor, I will contract with a general con-
12 tractor who is licensed with the Construction Contractors Board and I will immediately notify the
13 office issuing this building permit of the name of the general contractor _____.

14 _____
15
16 (5) The board shall adopt by rule a form entitled "Information Notice to Property Owners About
17 Construction Responsibilities" that shall describe, in nontechnical language and in a clear and co-
18 herent manner using words in their common and everyday meaning, the responsibilities property
19 owners are undertaking by acting as their own general contractor and the problems that could de-
20 velop. The responsibilities described in the form shall include, but not be limited to:

21 (a) Compliance with state and federal laws regarding Social Security tax, income tax and un-
22 employment tax.

23 (b) Workers' compensation insurance on workers.

24 (c) Liability and property damage insurance.

25 (6) The board shall develop and furnish to city, county and state building permit offices, at no
26 cost to the offices, the Information Notice to Property Owners About Construction Responsibilities
27 and the statement to be signed by the permit applicant.

28 (7) A city or county that requires a business license for engaging in a business subject to reg-
29 ulation under this chapter shall require that the licensee or applicant for issuance or renewal of the
30 business license file, or have on file, with the city or county, a signed statement that the licensee
31 or applicant is licensed under this chapter.

32 (8) It is prima facie evidence of doing business as a contractor if a person for that person's own
33 use performs, employs others to perform, or for compensation and with the intent to sell the struc-
34 ture, arranges to have performed any work described in ORS 701.005 (2) if within any 36-month pe-
35 riod that person offers for sale two or more newly built structures on which that work was
36 performed.

37 (9) Licensure under this chapter is prima facie evidence that the licensee conducts a separate,
38 independent business.

39 (10) The provisions of this chapter are exclusive and a city, county or other political subdivision
40 may not require or issue any registrations, licenses or surety bonds, nor charge any fee for the
41 regulatory or surety registration of any contractor licensed with the board. This subsection does
42 not limit or abridge the authority of any city or county to:

43 (a) License and levy and collect a general and nondiscriminatory license fee levied upon all
44 businesses or upon business conducted by any firm within the city or county;

45 (b) Require a contractor to pay a fee, post a bond or require insurance when the city, county

1 or political subdivision is contracting for the service of the contractor; or

2 (c) Regulate a contractor that is not required to be licensed under this chapter.

3 (11)(a) A contractor shall maintain a list that includes the following information about all sub-
4 contractors or other contractors performing work on a project for that contractor:

5 (A) Names and addresses.

6 (B) License numbers.

7 (b) The contractor must deliver the list referred to in paragraph (a) of this subsection to the
8 board within 72 hours after a board request made during reasonable working hours.

9 (12) A contractor shall not hire any subcontractor or other contractor to perform work unless
10 the subcontractor or contractor is licensed under this chapter or exempt from licensure under ORS
11 701.010.

12 (13) A consumer notification form designed to specifically inform a property owner what the
13 property owner should do to protect themselves in a residential repair, remodel or construction
14 project shall be prepared by the board and provided at no cost to all licensed contractors. The
15 contractor shall deliver the form to the property owner when the contractor submits a bid or pro-
16 posal for work on a residential structure. The form shall include an explanation of the meaning of
17 licensure, including a statement that licensure is not an endorsement of a contractor's work, and
18 an explanation of the bond and insurance levels required of contractors for the benefit of property
19 owners. The form must not be larger than one side of a sheet of paper that is 8-1/2 inches by 11
20 inches. The contractor may reproduce the form on the contractor's bid proposal.

21 (14) A contractor may not perform work subject to this section for an owner of a residential
22 structure without a written contract if the aggregate contract price exceeds [~~\$2,500~~] **\$2,000**. If the
23 price of a contract was initially less than [~~\$2,500~~] **\$2,000**, but during the course of performance the
24 contract exceeds that amount, the contractor shall mail or otherwise deliver a written contract to
25 the owner not later than five days after the contractor knows or should reasonably know that the
26 contract price will exceed [~~\$2,500~~] **\$2,000**. Failure to have a written contract [*will not void the con-*
27 *tract*] **makes the contract voidable by the consumer.**

28 (15) Except as provided in ORS 671.540, a contractor that is not licensed under ORS 671.560
29 shall hire a person licensed under ORS 671.560 to perform landscaping work.

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