

# Enrolled House Bill 2922

Sponsored by Representative NELSON; Senator FREDERICK (Pre-session filed.)

CHAPTER .....

## AN ACT

Relating to bonding requirements for persons licensed by the Construction Contractors Board; creating new provisions; amending ORS 701.081, 701.084, 701.153 and 701.470; and prescribing an effective date.

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

**SECTION 1.** ORS 701.081 is amended to read:

701.081. (1) A residential general contractor shall:

- (a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$20,000~~] **\$25,000**;
- (b) Obtain general liability insurance under ORS 701.073 in an amount of not less than \$500,000;

and

(c) Have a responsible managing individual who meets the requirements of ORS 701.091.

(2) A residential specialty contractor shall:

- (a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$15,000~~] **\$20,000**;
- (b) Obtain general liability insurance under ORS 701.073 in an amount not less than \$300,000;

and

(c) Have a responsible managing individual who meets the requirements of ORS 701.091.

(3) A residential limited contractor shall:

- (a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$10,000~~] **\$15,000**;
- (b) Obtain general liability insurance under ORS 701.073 in an amount not less than \$100,000;

and

(c) Have a responsible managing individual who meets the requirements of ORS 701.091.

(4) A residential developer shall:

- (a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$20,000~~] **\$25,000**; and
- (b) Obtain general liability insurance under ORS 701.073 in an amount not less than \$500,000.

(5) A residential locksmith services contractor shall:

- (a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$10,000~~] **\$15,000**;
- (b) Obtain general liability insurance under ORS 701.073 in an amount of not less than \$100,000;

and

(c) Have a responsible managing individual for the business who is certified as a locksmith under ORS 701.485.

(6) A home inspector services contractor shall:

- (a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$10,000~~] **\$15,000**;
- (b) Obtain general liability insurance under ORS 701.073 in an amount of not less than \$100,000;

and

(c) Have a responsible managing individual for the business who is certified as a home inspector under ORS 701.445.

(7) A home services contractor shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$10,000~~] **\$15,000**; and

(b) Obtain general liability insurance under ORS 701.073 in an amount of not less than \$100,000.

(8) A home energy performance score contractor shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$10,000~~] **\$15,000**;

(b) Obtain general liability insurance under ORS 701.073 in an amount of not less than \$100,000;

and

(c) Have an owner or employee that is certified by the board as a home energy assessor.

(9) A residential restoration contractor shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$10,000~~] **\$15,000**; and

(b) Obtain general liability insurance under ORS 701.073 in an amount of not less than \$100,000.

**SECTION 2.** ORS 701.084 is amended to read:

701.084. (1) A commercial general contractor level 1 shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$75,000~~] **\$80,000**;

(b) Obtain general liability insurance under ORS 701.073 in an amount of not less than \$2 million;

(c) Have a responsible managing individual who meets the requirements of ORS 701.091; and

(d) Have one or more key employees with a combined total of at least eight years of experience described in ORS 701.050.

(2) A commercial specialty contractor level 1 shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$50,000~~] **\$55,000**;

(b) Obtain general liability insurance under ORS 701.073 in an amount not less than \$1 million;

(c) Have a responsible managing individual who meets the requirements of ORS 701.091; and

(d) Have one or more key employees with a combined total of at least eight years of experience described in ORS 701.050.

(3) A commercial general contractor level 2 shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$20,000~~] **\$25,000**;

(b) Obtain general liability insurance under ORS 701.073 in an amount of not less than \$1 million;

(c) Have a responsible managing individual who meets the requirements of ORS 701.091; and

(d) Have one or more key employees with a combined total of at least four years of experience described in ORS 701.050.

(4) A commercial specialty contractor level 2 shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$20,000~~] **\$25,000**;

(b) Obtain general liability insurance under ORS 701.073 in an amount not less than \$500,000;

(c) Have a responsible managing individual who meets the requirements of ORS 701.091; and

(d) Have one or more key employees with a combined total of at least four years of experience described in ORS 701.050.

(5) A commercial developer shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of [~~\$20,000~~] **\$25,000**; and

(b) Obtain general liability insurance under ORS 701.073 in an amount not less than \$500,000.

**SECTION 3.** ORS 701.153 is amended to read:

701.153. (1) If an order of the Construction Contractors Board determines a complaint against a residential contractor that was filed with the board prior to July 1, 2011, and the order becomes final by operation of law or on appeal and remains unpaid 10 days after the date the order becomes final, the complainant may file the order with the county clerk in any county of this state.

(2) Upon receipt of an order described in subsection (1) of this section, the clerk shall record the order in the County Clerk Lien Record. In addition to any other remedy provided by law, recording an order described in subsection (1) of this section in the County Clerk Lien Record pur-

suant to the provisions of this section has the effect provided for in ORS 205.125 and 205.126, and the order may be enforced as provided in ORS 205.125 and 205.126.

(3)(a) Payments from the surety bond of a residential contractor pursuant to a board determination under ORS 701.145 are satisfied in the following priority in any 90-day period:

(A) Board determinations as a result of complaints against a residential contractor by the owner of a residential or small commercial structure have payment priority to the full extent of the bond over all other types of complaints.

(B) If the determinations described in subparagraph (A) of this paragraph do not exhaust the bond, then amounts due under board determinations for all other types of residential or small commercial structure complaints filed with the board within that 90-day period may be paid from the bond, except that the total amount paid from any one bond to nonowner complainants may not exceed ~~[\$3,000]~~ **\$5,000**.

(b) A 90-day period begins on the date the first complaint is filed with the board. Subsequent 90-day periods begin on the date the first complaint is filed with the board after the close of the preceding 90-day period.

(4) If the total amount payable under determinations issued by the board for complaints against a residential contractor filed with the board within 90 days after the board receives notice of the first complaint against the contractor exceed the amount of the bond available for payment, subject to the priorities under this section, the board shall decide how payment of the determined amounts from the bond is to be apportioned.

(5) If the total amount payable under determinations issued by the board as a result of complaints that were filed with the board within 90 days after the board receives notice of the first complaint do not exceed the amount of the bond available for payment, those determinations have payment priority over amounts due under determinations resulting from subsequently filed complaints.

(6) The total amount paid from a residential contractor bond for costs and interest under all determinations issued by the board under ORS 701.145 may not exceed ~~[\$3,000]~~ **\$5,000**.

(7)(a) Notwithstanding subsection (3)(a)(B) of this section, if the board determines that the bond required is a higher amount than the amount required ordinarily of a licensee to file a bond under ORS 701.081, the ~~[\$3,000]~~ **\$5,000** limit payable from the bond for a nonowner complaint under subsection (3)(a)(B) of this section shall be increased in an amount that is proportional to the increased amount required to file the bond, as determined by the board under ORS 701.068 (5) or (6).

(b) If a complaint filed under ORS 701.140 (4) or a notice received under ORS 652.333 contributes to the board's determination under ORS 701.068 (5) or (6) that a licensee must file a bond in an amount that is higher than the amount required ordinarily of a licensee, the total amount available for payment of nonowner complaints shall be ~~[\$3,000]~~ **\$5,000** plus up to 50 percent of the amount of the bond as required by the board that exceeds the bond amount ordinarily required under ORS 701.081 or 701.084.

**SECTION 4.** ORS 701.470 is amended to read:

701.470. (1) As used in this section:

(a)(A) "Construction flagger" means an individual who, for compensation or with the expectation of compensation, directs or controls the flow of motor vehicle traffic on a public roadway to prevent or reduce conflict between the flow of traffic and construction activity on or near the roadway.

(B) "Construction flagger" does not mean an individual performing work for the federal government, a public body as defined in ORS 174.109 or a business regulated by the Public Utility Commission.

(b) "Construction flagging contractor" means a person who employs, contracts with or obtains through a worker leasing company, one or more individuals to act as construction flaggers.

(2) Except as provided in this section, a person may not undertake, offer to undertake or submit a bid to do work as a construction flagging contractor unless the person holds a construction flagging contractor license issued by the Construction Contractors Board.

(3) This section does not require a person to obtain a construction flagging contractor license if the person holds a valid license and endorsement as a:

- (a) Residential general contractor;
- (b) Commercial general contractor level 1;
- (c) Commercial specialty contractor level 1;
- (d) Commercial general contractor level 2; or
- (e) Commercial specialty contractor level 2.

(4) An applicant for a construction flagging contractor license must:

- (a) Submit an application in the manner described in ORS 701.046;
- (b) Obtain a surety bond under ORS 701.068 in the amount of [~~\$20,000~~] **\$25,000**; and
- (c) Obtain general liability insurance under ORS 701.073 in an amount of not less than \$500,000.

(5) A construction flagging contractor license authorizes a person to act as a construction flagging contractor but does not authorize the person to engage in any other activities that require a license issued under this chapter.

(6) Notwithstanding any other provision of this chapter, the board may not:

(a) Impose training or continuing education requirements for a construction flagging contractor or a responsible managing individual for the contractor.

(b) Require a construction flagging contractor or the responsible managing individual for the contractor to take a test measuring the knowledge of the contractor or responsible managing individual regarding business practices and laws affecting construction contractors.

**SECTION 5. (1) The amendments to ORS 701.081, 701.084, 701.153 and 701.470 by sections 1 to 4 of this 2023 Act become operative on January 1, 2024.**

**(2) The Construction Contractors Board may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the board to undertake and exercise all of the duties, functions and powers conferred on the board by the amendments to ORS 701.081, 701.084, 701.153 and 701.470 by sections 1 to 4 of this 2023 Act.**

**SECTION 6. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.**

Passed by House March 28, 2023

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate June 21, 2023

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

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Secretary of State