

House Bill 3385

Sponsored by Representative SMITH G

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**.

Requires certain residential general contractors proposing remodel or repair project of more than \$20,000 in value to tour residential structure with property owner and provide property owner with itemized and detailed description for each feature of proposed construction work. Limits amount contractor may collect before completion and before property owner's approval and acceptance of itemized and described construction features. Requires contractor to request mediation by Construction Contractors Board before bringing action or suit or pursuing other remedies to collect payment from property owner that unreasonably withholds approval and acceptance.

Applies to contracts entered into on or after January 1, 2024.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to construction contractors; and prescribing an effective date.

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

4 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 701.**

5 **SECTION 2. (1) As used in this section, "major residential contractor" means a residen-**
6 **tial contractor that is:**

7 (a) **A general contractor; and**

8 (b) **A company that offers securities registered with the United States Securities and**
9 **Exchange Commission for sale to the general public.**

10 (2) **A major residential contractor may not enter into a contract to remodel or repair an**
11 **owner-occupied one-family or two-family residential structure for a contract price that ex-**
12 **ceeds \$20,000 unless:**

13 (a) **The major residential contractor and the property owner jointly tour the residential**
14 **structure before entering into the contract and jointly identify the construction work the**
15 **major residential contractor will perform or oversee; and**

16 (b) **The written contract for the construction work that the major residential contractor**
17 **will perform or oversee itemizes and describes in detail each of the major features of the**
18 **construction work.**

19 (3) **Subsection (2) of this section does not prevent a mutual agreement to amend or alter**
20 **the construction contract without conducting an additional joint tour, but in the amendment**
21 **or alteration the major residential contractor shall itemize and describe in detail and in**
22 **writing any additions or alterations to the construction features to which the major resi-**
23 **dential contractor and property owner originally agreed.**

24 (4) **If a major residential contractor enters into a contract described in subsection (2) of**
25 **this section, upon substantial completion of the construction work the major residential**
26 **contractor shall jointly tour the structure with the property owner. Before beginning the**
27 **joint tour, the major residential contractor shall present the property owner with a listing**

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 of the features of the construction work that the written contract had itemized and de-
 2 scribed in detail. The property owner shall initial each item in the listing to indicate approval
 3 and acceptance of the feature or shall state in writing on the listing, or separately in writing,
 4 the specific reason why the feature does not comply with the itemized and detailed de-
 5 scription of the feature in the written contract. If the property owner does not approve and
 6 accept a construction feature, the property owner shall state in writing the specific changes
 7 in the work that are necessary to bring the feature into compliance with the itemized and
 8 detailed description of the feature in the written contract.

9 (5) Except as provided in this subsection, before a property owner approves and accepts
 10 the completed construction work under subsection (4) of this section, a major residential
 11 contractor may not collect or retain more than 50 percent of the original contract price. If
 12 the property owner agrees in writing to contract changes that result in a net increase in the
 13 contract price of \$20,000 or more, the major residential contractor may collect and retain 50
 14 percent of the contract price increase. This subsection does not prohibit a major residential
 15 contractor from retaining properly collected amounts after a contract price decrease. Sub-
 16 ject to subsection (6) of this section, this subsection does not prevent a major residential
 17 contractor from obtaining payment for completed construction work from a property owner
 18 that unreasonably withholds approval and acceptance.

19 (6) If a major residential contractor believes that a property owner has unreasonably
 20 withheld approval and acceptance of properly completed construction work, the major resi-
 21 dential contractor may file a request with the Construction Contractors Board for mediation
 22 of the dispute. The major residential contractor may initiate an action or suit or pursue
 23 other available remedies to collect the balance of the moneys due under a contract described
 24 in subsection (2) of this section only if:

25 (a) The property owner refuses a board offer to mediate the dispute; or

26 (b) The board declares after reasonable effort that the board cannot resolve the dispute
 27 by mediation.

28 (7) The board may adopt rules to identify and define construction features and establish
 29 requirements for itemizing and describing construction features in contracts that are subject
 30 to this section.

31 **SECTION 3.** Section 2 of this 2023 Act applies to contracts into which a major residential
 32 contractor and a property owner enter on or after January 1, 2024.

33 **SECTION 4.** This 2023 Act takes effect on the 91st day after the date on which the 2023
 34 regular session of the Eighty-second Legislative Assembly adjourns sine die.