

Requested by Representative SMITH G

**PROPOSED AMENDMENTS TO
HOUSE BILL 3385**

1 On page 1 of the printed bill, delete lines 4 through 27.

2 On page 2, delete lines 1 through 34 and insert:

3 **“SECTION 1. Sections 2 and 3 of this 2023 Act are added to and**
4 **made a part of ORS chapter 701.**

5 **“SECTION 2. (1) As used in this section, ‘major residential con-**
6 **tractor’ means a residential contractor that is:**

7 **“(a) A general contractor; and**

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

11 **“(2)(a) A major residential contractor may not, in a contract to**
12 **remodel or repair an owner-occupied one-family or two-family resi-**
13 **dential structure with a contract price that exceeds \$40,000, collect or**
14 **retain more than 50 percent of the original contract price before sub-**
15 **stantial completion of the remodeling or repair.**

16 **“(b) If a property owner agrees in writing to contract changes that**
17 **result in a net increase in the original contract price of \$20,000 or**
18 **more, the major residential contractor may collect and retain not**
19 **more than 50 percent of the contract price increase.**

20 **“(3) If a major residential contractor’s costs of materials, supplies**
21 **and payments to subcontractors at the commencement of the remodel**

1 or repair exceeds 50 percent of the total contract price, the major
2 residential contractor may require the property owner to make
3 progress payments solely to cover the costs of materials, supplies and
4 payments to subcontractors. If the major residential contractor re-
5 quires progress payments, the contract must include:

6 “(a) An itemized list of all materials, supplies and payments to
7 subcontractors;

8 “(b) A schedule of progress payments due that is linked to specific
9 items of work completed or a specific completed percentage of the
10 total work specified in the contract; and

11 “(c) A specification of the progress the major residential contractor
12 must make on the renovation or repair before each progress payment
13 is due.

14 “(4) This section does not prohibit a major residential contractor
15 from retaining properly collected amounts after a contract price de-
16 crease. Subject to subsection (5) of this section, this section does not
17 prevent a major residential contractor from obtaining payment for
18 completed construction work from a property owner that unreasonably
19 withholds approval and acceptance.

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

28 “(a) The property owner refuses a board offer to mediate the dis-
29 pute; or

30 “(b) The board declares after reasonable effort that the board can-

1 not resolve the dispute by mediation.

2 “(6) The board may adopt rules to implement the provisions of this
3 section.

4 **“SECTION 3. (1) A business may not install, apply, repair or main-
5 tain, or offer to install, apply, repair or maintain, spray-on
6 fireproofing material or a fireproofing system in an essential facility
7 in this state unless the business has a current and valid certification
8 from the Construction Contractors Board as a fireproofing contractor.**

9 **“(2) The board shall certify a business as a fireproofing contractor
10 if the business meets the requirements of this section and of any rule
11 the board adopts under this section. A certification as a fireproofing
12 contractor expires three years after the date on which the board issues
13 the certification.**

14 **“(3)(a) Except as provided in paragraph (c) of this subsection, the
15 board shall require that a business that applies for initial certification,
16 or for renewal of a certification, as a fireproofing contractor provide
17 proof in the application that at least one individual who is an owner,
18 manager or full-time employee of the business has passed a training
19 program that the board approves by rule. The training program that
20 the board approves must, at a minimum:**

21 **“(A) Use a nationally recognized body of knowledge, techniques and
22 best practices and nationally recognized safety standards in the
23 program’s design, contents and instruction;**

24 **“(B) Examine and score or otherwise assess the knowledge and
25 competence of a participant in the training program;**

26 **“(C) Train participants in how to correctly install, apply, repair and
27 maintain spray-on fireproofing material and fireproofing systems; and**

28 **“(D) Instruct participants in methods of installation, application,
29 repair and maintenance that meet applicable occupational health and
30 safety standards and environmental standards and that otherwise**

1 minimize or eliminate adverse safety or environmental impacts.

2 “(b) The board by rule shall specify scores or demonstrations of
3 knowledge and competence required to obtain a certification as a
4 fireproofing contractor under this section.

5 “(c) The board may not require from a business that applies for
6 certification, or for renewal of a certification, training, experience or
7 practices that exceed or are inconsistent with the training, experience
8 or practices required generally in the fireproofing industry.

9 “(d) In lieu of proof of having passed an approved training program,
10 as provided in paragraph (a) of this subsection, the board may accept
11 a certification from another state, or from a nationally recognized
12 organization of fireproofing experts or practitioners, if the board is
13 satisfied that the other certification meets standards and provides
14 training and content that is substantially similar to a training pro-
15 gram that the board approves by rule.

16 “(e) The board may suspend or revoke a certification the board is-
17 sues under this section if a business the board has certified does not
18 retain during the entire period during which the certification is valid
19 at least one owner, manager or full-time employee who has passed an
20 approved training program or holds a certificate from another state
21 or from a nationally recognized organization of fireproofing experts
22 or practitioners.

23 “(4) The board may adopt rules to govern the administration of the
24 board’s certification program under this section and to regulate the
25 practice of fireproofing, including:

26 “(a) Requiring an applicant to list the applicant’s name and as-
27 sumed business name, if any, physical address and telephone number,
28 along with any available electronic contact information, on the appli-
29 cation for certification;

30 “(b) Requiring a business to identify the individuals within the

1 business who completed and passed the training course or hold an-
2 other certification described in subsection (3)(d) of this section and
3 who have responsibility for training, education and monitoring of the
4 fireproofing practices of the business;

5 “(c) Identifying structures or infrastructure that constitutes an es-
6 sential facility for the purposes of requiring certification under this
7 section, except that an essential facility may not include a pipeline or
8 compressor substation; and

9 “(d) Establishing fees necessary to administer this section that do
10 not exceed the following amounts:

11 “(A) \$500 for an initial application for certification as a fireproofing
12 contractor; and

13 “(B) \$150 for renewal of a certification as a fireproofing contractor.

14 “(5) The board shall maintain and make available and easily acces-
15 sible on the board’s website, or provide in response to a request, a list
16 or searchable database of businesses that the board has certified under
17 this section.

18 “(6) A building official, as defined in ORS 455.715, may require as a
19 condition of issuing a permit that a business that installs, applies, re-
20 pairs or maintains spray-on fireproofing material or fireproofing sys-
21 tems provide the building official with a copy of a certification the
22 business obtained under this section.

23 “SECTION 4. Section 2 of this 2023 Act applies to contracts into
24 which a major residential contractor and a property owner enter on
25 or after January 1, 2024.

26 “SECTION 5. (1) Section 3 of this 2023 Act becomes operative on
27 January 1, 2024.

28 “(2) The Construction Contractors Board may adopt rules and take
29 any other action before the operative date specified in subsection (1)
30 of this section that is necessary to enable the board, on and after the

1 **operative date specified in subsection (1) of this section, to undertake**
2 **and exercise all of the duties, functions and powers conferred on the**
3 **board by section 3 of this 2023 Act.**

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

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