

Enrolled House Bill 2800

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of Governor Tina Kotek for Department of Consumer and Business Services)

CHAPTER

AN ACT

Relating to professional employer organizations under workers' compensation law; creating new provisions; amending ORS 653.412, 656.005, 656.018, 656.403, 656.702, 656.850, 656.855, 671.525, 671.527, 671.540, 671.562, 671.565, 701.005, 701.010, 701.035, 701.098, 701.470, 737.270, 743.521 and 743.522; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS chapter 656.

SECTION 2. As used in ORS 656.018, 656.403, 656.702, 656.850, 656.855 and 737.270 and this section:

(1) "Client worker" means an individual who performs services for compensation for the client of a professional employer organization.

(2) "Covered employee" means a client worker for whom a PEO has assumed employer responsibilities under a PEO relationship.

(3) "Direct hire employee" means a client worker for whom a PEO has not assumed employer responsibilities under a PEO relationship.

(4) "Multiple coordinated policy basis" means an arrangement under which a separate policy for workers' compensation coverage is issued to or on behalf of each client or group of affiliated clients of a PEO, which coordinates the premium obligations and stated policy communications with respect to the policy.

(5) "PEO relationship" means an agreement between a PEO and a client employer under which certain employer responsibilities for some or all of the client employer's workers are allocated.

(6)(a) "Professional employer organization" or "PEO" means a person that enters into a PEO relationship with a client employer.

(b) "Professional employer organization" or "PEO" does not mean a person that solely provides workers to a client on a temporary basis or a person that provides payroll processing or similar administrative services without assuming employer responsibilities for client workers.

(7) "Temporary basis" means providing workers to a client:

(a) For special situations, including but not limited to employee absences, employee leaves, professional skill shortages, seasonal workloads and special assignments and projects with the expectation that the position will be terminated when the special situation ends.

(b) As probationary new hires with a reasonable expectation of transitioning to permanent employment with the client, if the client uses a preestablished probationary period in its overall employment selection program.

(8) "Temporary service provider" means a person that:

(a) Regardless of the terminology the parties use to describe the relationship, enters into contracts with clients under which:

(A) The person provides workers to the client on a temporary basis;

(B) The worker's contract of employment is with the person rather than the person's client; and

(C) The person retains all employer responsibilities for the worker, except to the extent necessary to allow the person's client to direct and control the services provided by the worker for the client; and

(b) Customarily attempts to reassign the person's workers to other clients when the workers finish each assignment, except for workers provided as described in subsection (7)(b) of this section.

SECTION 3. ORS 656.850 is amended to read:

656.850. *[(1) As used in this section and ORS 656.018, 656.403, 656.855 and 737.270:]*

[(a) "Worker leasing company" means a person who provides workers, by contract and for a fee, to work for a client but does not include a person who provides workers to a client on a temporary basis.]

[(b) "Temporary basis" means providing workers to a client for special situations such as to cover employee absences, employee leaves, professional skill shortages, seasonal workloads and special assignments and projects with the expectation that the position or positions will be terminated upon completion of the special situation. Workers also are provided on a temporary basis if they are provided as probationary new hires with a reasonable expectation of transitioning to permanent employment with the client and the client uses a preestablished probationary period in its overall employment selection program.]

[(c) "Temporary service provider" means a person who provides workers, by contract and for a fee, to a client on a temporary basis.]

[(2) No person shall perform services as a worker leasing company in this state without first having obtained a license therefor from the Director of the Department of Consumer and Business Services. No person required by this section to obtain a license shall fail to comply with this section or ORS 656.855, or any rule adopted pursuant thereto.]

[(3) When a worker leasing company provides workers to a client, the worker leasing company shall satisfy the requirements of ORS 656.017 and 656.407 and provide workers' compensation coverage for those workers and any subject workers employed by the client unless during the term of the lease arrangement the client has proof of coverage on file with the director that extends coverage to subject workers employed by the client and any workers leased by the client. If the client allows the coverage to expire and continues to employ subject workers or has leased workers, the client shall be considered a noncomplying employer unless the worker leasing company has complied with subsection (5) of this section.]

[(4) When a worker leasing company provides workers for a client, the worker leasing company shall assure that the client provides adequate training, supervision and instruction for those workers to meet the requirements of ORS chapter 654.]

[(5) When a worker leasing company provides subject workers to work for a client and also provides workers' compensation coverage for those workers, the worker leasing company shall notify the director in writing. The notification shall be given in such manner as the director may prescribe. A worker leasing company may terminate its obligation to provide workers' compensation coverage for workers provided to a client by giving to the client and the director written notice of the termination. A notice of termination shall state the effective date and hour of the termination, but the termination shall be effective not less than 30 days after the notice is received by the director. Notice to the client under this section shall be given by mail, addressed to the client at the client's last-known address. If

the client is a partnership, notice may be given to any of the partners. If the client is a corporation, notice may be given to any agent or officer of the corporation upon whom legal process may be served.]

(1)(a) A person may not provide services as a professional employer organization (PEO) in this state without first having obtained a license from the Director of the Department of Consumer and Business Services.

(b) No person required to obtain a license under this section shall fail to comply with this section or ORS 656.855 or any rule adopted pursuant to such sections.

(2)(a) When a PEO enters into a PEO relationship, the PEO shall satisfy the requirements of ORS 656.017 and 656.407 and provide workers' compensation coverage for all of the client's covered employees and direct hire employees unless, during the term of the PEO's agreement with the client, the client has proof of coverage on file with the director.

(b) If the client has proof of coverage on file with the director, the client's coverage shall extend to all of the client's covered employees and direct hire employees.

(c) If the client allows the coverage to expire and continues to employ covered employees or direct hire employees, the client shall be considered a noncomplying employer unless the PEO has complied with subsection (4) of this section.

(3) When a PEO enters into a PEO relationship, the PEO shall ensure that the client provides adequate training, supervision and instruction for the client's covered employees to meet the requirements of ORS chapter 654.

(4) If a PEO enters into a PEO relationship and the PEO is responsible for providing workers' compensation coverage to the client under subsection (2) of this section, the PEO shall:

(a) If the PEO is a carrier-insured employer, notify the insurer in writing. The insurer shall file proof of coverage with the director within 30 days after workers' compensation coverage of the client becomes effective.

(b) If the PEO is a self-insured employer, notify the director in writing.

(5)(a) A PEO's responsibility to provide workers' compensation coverage under subsection (2) of this section shall continue until the earlier of the date on which:

(A) The client obtains alternate coverage; or

(B) The PEO terminates its responsibility to provide coverage.

(b) For purposes of paragraph (a)(A) of this subsection, if a client obtains alternate workers' compensation coverage, the PEO's responsibility to provide coverage ends on:

(A) The effective date of a policy for which an insurer makes a proof of coverage filing on behalf of the employer;

(B) The date on which another PEO becomes responsible for providing coverage to the client; or

(C) The date on which the client becomes a self-insured employer.

(c) For purposes of paragraph (a)(B) of this subsection:

(A) A PEO may terminate its responsibility to provide coverage by giving written notice of the termination to:

(i) If the PEO is a carrier-insured employer, the client, the director and the insurer. The insurer shall file notice of termination with the director within 10 calendar days after the effective date of the termination or the date on which the insurer receives notice from the PEO, whichever is later.

(ii) If the PEO is a self-insured employer, the client and the director.

(B) Unless a later date is specified, the termination shall become effective at 12 midnight on the 30th day after the date on which the notice is received by:

(i) An authorized representative of the insurer; or

(ii) If the PEO is a self-insured employer, the director.

(6) When a PEO satisfies its responsibility to provide workers' compensation coverage to a client under subsection (2) of this section by obtaining a workers' compensation insurance policy, coverage of the client under the policy shall continue until:

(a) The PEO's coverage under the policy ends under ORS 656.419 (4); or

(b) The PEO's responsibility to provide workers' compensation coverage ends under subsection (5) of this section.

(7)(a) A PEO shall submit reports to the director that list:

(A) All clients with which the PEO has entered into a PEO relationship;

(B) Each client to which the PEO provides workers' compensation coverage; and

(C) The date on which the coverage begins.

(b) The director shall prescribe the interval and form of these reports by rule.

(8) The director may adopt any rules necessary for the implementation of this section, including but not limited to:

(a) Prescribing the form and content of notices required under this section, including requiring electronic transmission and filing; and

(b) Requiring insurers that provide coverage to PEOs to do so on a multiple coordinated policy or other basis.

(9)(a) Notice to the client under this section shall be given by mail, addressed to the client at the client's last-known address.

(b) If the client is a partnership, notice may be given to any of the partners.

(c) If the client is a corporation, notice may be given to any agent or officer of the corporation upon whom legal process may be served.

(d) If the client is a limited liability company, notice may be given to any manager.

(e) If the client is a member-managed limited liability company, notice may be given to any member.

SECTION 4. ORS 656.702 is amended to read:

656.702. (1)[(a)] The records of the State Accident Insurance Fund Corporation are subject to ORS 192.311 to 192.478.

[(b)] (2)(a) Notwithstanding ORS 192.355, the State Accident Insurance Fund Corporation shall make the accident experience records of the corporation available to a bona fide rating organization to assist in making workers' compensation rates. Costs involved in making the records available shall be borne by the rating organization.

(b) Accident experience records of carrier-insured employers shall also be available on the same terms to assist in making such rates.

[(2)] (3) Disclosure of workers' compensation claim records of the Department of Consumer and Business Services is governed by ORS 192.355 (20).

(4)(a) When records obtained by the Director of the Department of Consumer and Business Services indicate that a professional employer organization's responsibility to provide workers' compensation coverage to a client has been terminated under ORS 656.850 (5)(a)(A), the director may disclose the name of the client and the date of termination to the professional employer organization's insurer.

(b) Information disclosed to an insurer under this subsection may be used only to validate the accuracy of the insurer's coverage records and may not be disclosed to any other party.

SECTION 5. ORS 656.018 is amended to read:

656.018. (1)(a) **Except as specifically provided otherwise in this chapter**, the liability of every employer who satisfies the duty required [by] **under** ORS 656.017 (1) is exclusive and in place of all other liability arising out of injuries, diseases, symptom complexes or similar conditions arising out of and in the course of employment that are sustained by subject workers, the workers' beneficiaries and anyone otherwise entitled to recover damages from the employer on account of such conditions or claims resulting therefrom, specifically including claims for contribution or indemnity asserted

by third persons from whom damages are sought on account of such conditions[, *except as specifically provided otherwise in this chapter*].

(b) This subsection shall not apply to claims for indemnity or contribution asserted by a railroad, as defined in ORS 824.020, or by a corporation, individual or association of individuals which is subject to regulation [*pursuant to*] **under** ORS chapter 757 or 759.

(c) Except as provided in paragraph (b) of this subsection, all agreements or warranties contrary to the provisions of paragraph (a) of this subsection entered into after July 19, 1977, are void.

(2) The rights given to a subject worker and the beneficiaries of the subject worker under this chapter for injuries, diseases, symptom complexes or similar conditions arising out of and in the course of employment are in lieu of any remedies they might otherwise have for such injuries, diseases, symptom complexes or similar conditions against the worker's employer under ORS 654.305 to 654.336 or other laws, common law or statute, except to the extent the worker is expressly given the right under this chapter to bring suit against the employer of the worker for an injury, disease, symptom complex or similar condition.

(3)(a) The exemption from liability given an employer under this section is also extended to the employer's insurer, the self-insured employer's claims administrator, the Department of Consumer and Business Services, and to the contracted agents, employees, partners, limited liability company members, general partners, limited liability partners, limited partners, officers and directors of the employer, the employer's insurer, the self-insured employer's claims administrator and the department.[, *except that*]

(b) Notwithstanding paragraph (a) of this subsection, the exemption from liability shall not apply if:

[(a)] **(A)** [*If*] The willful and unprovoked aggression by a person otherwise exempt under this subsection is a substantial factor in causing the injury, disease, symptom complex or similar condition;

[(b)] **(B)** [*If*] The worker and the person otherwise exempt under this subsection are not engaged in the furtherance of a common enterprise or the accomplishment of the same or related objectives;

[(c)] **(C)** [*If*] The failure of the employer to comply with a notice posted pursuant to ORS 654.082 is a substantial factor in causing the injury, disease, symptom complex or similar condition; or

[(d)] **(D)** [*If*] The negligence of a person otherwise exempt under this subsection is a substantial factor in causing the injury, disease, symptom complex or similar condition and the negligence occurs outside of the capacity that qualifies the person for exemption under this section.

(4) The exemption from liability given an employer under this section applies to a [*worker leasing company and the client to whom workers are provided when the worker leasing company*] **professional employer organization and the client with which the professional employer organization has entered into a PEO relationship when the professional employer organization** and the client comply with ORS 656.850 [(3)] (2).

(5)(a) The exemption from liability given an employer under this section applies to a temporary service provider[, *as that term is used in ORS 656.850,*] and also extends to the client to whom workers are provided when the temporary service provider complies with ORS 656.017.

(b)(A) The exemption from liability given a client under paragraph (a) of this subsection is also extended to the client's insurer, the self-insured client's claims administrator, the department, and the contracted agents, employees, officers and directors of the client, the client's insurer, the self-insured client's claims administrator and the department.[, *except that*]

(B) Notwithstanding subparagraph (A) of this paragraph, the exemption from liability shall not apply if:

[(A)] (i) [*If*] The willful and unprovoked aggression by a person otherwise exempt under this subsection is a substantial factor in causing the injury, disease, symptom complex or similar condition;

[(B)] (ii) [*If*] The worker and the person otherwise exempt under this subsection are not engaged in the furtherance of a common enterprise or the accomplishment of the same or related objectives;

[(C)] (iii) [If] The failure of the client to comply with a notice posted pursuant to ORS 654.082 is a substantial factor in causing the injury, disease, symptom complex or similar condition; or

[(D)] (iv) [If] The negligence of a person otherwise exempt under this subsection is a substantial factor in causing the injury, disease, symptom complex or similar condition and the negligence occurs outside of the capacity that qualifies the person for exemption under this subsection.

(6) Nothing in this chapter shall prohibit payment, voluntarily or otherwise, to injured workers or their beneficiaries in excess of the compensation required to be paid under this chapter.

(7) The exclusive remedy provisions and limitation on liability provisions of this chapter apply to all injuries and to diseases, symptom complexes or similar conditions of subject workers arising out of and in the course of employment whether or not they are determined to be compensable under this chapter.

SECTION 6. ORS 656.403 is amended to read:

656.403. (1) A self-insured employer directly assumes the responsibility for providing compensation due subject workers and their beneficiaries under this chapter.

(2) The claims of subject workers and their beneficiaries resulting from injuries while employed by a self-insured employer shall be handled in the manner provided by this chapter. A self-insured employer is subject to the rules of the Director of the Department of Consumer and Business Services with respect to such claims.

(3) Security deposited by a self-insured employer shall not relieve any such employer from full and primary responsibility for claims administration and payment of compensation under this chapter. This subsection applies to a self-insured employer even though the self-insured employer insures or reinsures all or any portion of risks under this chapter with an insurance company authorized to do business in this state or with any other insurer with whom insurance can be placed or secured pursuant to ORS 744.305 to 744.405 (1985 Replacement Part).

(4) When a self-insured employer is a [worker leasing company] **professional employer organization** required to be licensed [pursuant to] by ORS 656.850 and 656.855, the [company also shall] **professional employer organization shall also** comply with the [worker leasing company] regulatory provisions of ORS chapters 656 and 737 **pertaining to professional employer organizations** and with such rules as may be adopted pursuant to ORS 656.726 and 731.244 for the supervision and regulation of [worker leasing companies] **professional employer organizations**.

SECTION 7. ORS 656.855 is amended to read:

656.855. (1) In accordance with any applicable provision of ORS chapter 183, the Director of the Department of Consumer and Business Services, by rule, shall establish a licensing system for [worker leasing companies] **professional employer organizations**.

(2) [Such system] **The system established by the director** shall include, but not be limited to:

(a) Prescribing the form and content of and the times and procedures for submitting applications for license issuance or renewal.

(b) Prescribing the term of the license and the fee for original issuance and renewal of the license. The fees shall be set in an amount necessary to support the administration of this section and ORS 656.850.

(c) Prescribing those violations of this section or of ORS 656.850 for which the director may refuse to issue or renew or may suspend or revoke a license.

(d) Prescribing the form and contents of records a licensee is required to maintain and specifying the times, places and manner of audit by the director of those records.

[(2)] (3) All moneys received by the director pursuant to this section shall be credited to the Consumer and Business Services Fund and are appropriated continuously to the director to carry out the provisions of this section and ORS 656.850.

SECTION 8. ORS 737.270 is amended to read:

737.270. (1) When a [worker leasing company] **professional employer organization** required to be licensed by ORS 656.850 [provides workers to work for] **enters into a PEO relationship with a client** and also provides the workers' compensation coverage for [those workers] **the client**, the in-

surance premium for the client's exposure shall be based on the client's own experience rating, in the same manner as required for employers insuring directly employed workers.

(2) An insurer that provides workers' compensation to a [worker leasing company] **professional employer organization** shall maintain and report to the licensed workers' compensation rating organization of which the insurer is a member separate statistical experience for each client of the [worker leasing company] **professional employer organization** according to the uniform statistical plan prescribed by the Director of the Department of Consumer and Business Services according to ORS 737.225 (4).

(3) To reimburse expenses incurred by the insurer in segregating client experience, the insurer shall be permitted to charge the [worker leasing company] **professional employer organization** a reasonable fee as determined by the director.

(4) The [worker leasing company] **professional employer organization** shall earn a separate experience rating for any administrative personnel the [company] **professional employer organization** directly employs.

SECTION 9. ORS 743.521 is amended to read:

743.521. (1)(a) A [leasing company] **professional employer organization** may offer group health insurance to its [leased workers] **clients' covered employees**.

(b) If the [leasing company] **professional employer organization** does not offer group health insurance to its [leased workers] **clients' covered employees**, the client employer may offer group health insurance to the [leased workers] **covered employees**.

(2) If a [leasing company] **professional employer organization** offers group health insurance to [its leased workers] **any of its clients' covered employees**, the [leasing company] **professional employer organization** shall offer group health insurance to all its [leased workers] **clients' covered employees** in the same manner.

SECTION 10. ORS 743.522 is amended to read:

743.522. (1) As used in this section and ORS 743.521:

(a) "Client employer" means an employer [to whom workers are provided under contract and for a fee on a leased basis by a worker leasing company] **with which a professional employer organization required to be licensed under ORS 656.850 has a PEO relationship**.

(b) "Covered employee" **has the meaning given that term in section 2 of this 2025 Act.**

[(b)] (c) "Employee" may include a retired employee.

[(c)] "Leased worker" means a worker provided by a worker leasing company licensed under ORS 656.850.]

(d) "PEO relationship" **has the meaning given that term in section 2 of this 2025 Act.**

(e) "Professional employer organization" **has the meaning given that term in section 2 of this 2025 Act.**

(2) Group health insurance may be offered to a resident of this state under a group health insurance policy issued to a group other than one of the groups described in ORS 731.098 if:

(a) The Director of the Department of Consumer and Business Services finds that:

(A) The issuance of the policy is in the best interest of the public;

(B) The issuance of the policy would result in economies of acquisition or administration; and

(C) The benefits are reasonable in relation to the premiums charged; and

(b) The premium for the policy is paid either from funds of a policyholder, from funds contributed by a covered person or from both.

SECTION 11. ORS 653.412 is amended to read:

653.412. As used in ORS 653.412 to 653.485, unless the context requires otherwise:

(1) "Chain" means an establishment that is part of an affiliation of two or more establishments within the United States, each of which is owned by the same person or entity and operate under identical or substantially similar trade names or service marks, both as defined in ORS 647.005.

(2)(a) "Employee" means an employee, as defined in ORS 652.310, who is employed in a retail establishment, a hospitality establishment or a food services establishment and is engaged in providing services relating to:

(A) Retail trade, as that term is used in the 2012 North American Industry Classification System under code 44-45;

(B) Hotels and motels, as those terms are used in the 2012 North American Industry Classification System under code 721110, or casino hotels, as that term is used in the 2012 North American Industry Classification System under code 721120; or

(C) Food services, as that term is used in the 2012 North American Industry Classification System under code 722.

(b) "Employee" does not include:

(A) A salaried employee described in ORS 653.020 (3);

(B) A *[worker supplied to an employer by a worker leasing company,]* **covered employee**, as defined in *[ORS 656.850]* **section 2 of this 2025 Act**; or

(C) An employee of a business that provides services to or on behalf of an employer.

(3) "Employer" means an employer, or a successor to an employer, described in ORS 653.422 (1).

(4) "Food services establishment" means the fixed point of sale location for establishments defined in the 2012 North American Industry Classification System under code 722 as food services and drinking places.

(5) "Hospitality establishment" has the meaning provided in the 2012 North American Industry Classification System under code 721110 for hotels and motels and code 721120 for casino hotels.

(6) "On-call shift" means any time that an employer requires an employee to be available to work or to contact the employer or wait to be contacted by the employer for the purpose of determining whether the employee must report to work. During the shift, on-call status applies regardless of whether the employee is located on or off the employer's premises.

(7) "Regular rate of pay" means the regular hourly rate or hourly equivalent that an employer must pay an employee for each hour the employee works during a given work shift, including any shift differential pay. "Regular rate of pay" does not include:

(a) Tips;

(b) Bonuses or other incentive payments;

(c) Overtime, holiday pay or other premium rate; or

(d) Any additional compensation an employer is required to pay an employee under ORS 653.442 or 653.455.

(8) "Retail establishment" means the fixed point of sale location for an establishment defined in the 2012 North American Industry Classification System under codes 441110 to 453998 as a retail trade establishment.

(9) "Shift differential pay" means a pay differential meant to compensate an employee for work performed under differing conditions, such as for working at night. "Shift differential pay" does not include any additional compensation an employer is required to pay an employee under ORS 653.442 or 653.455.

(10) "Successor" means a business or enterprise that is substantially the same entity as the predecessor employer according to criteria adopted by the Bureau of Labor and Industries by rule and consistent with federal law.

(11) "Time of hire" means the period after an offer of employment and acceptance of the offer of employment and on or before the commencement of employment.

(12) "Work schedule" means the hours, days and times, including regular work shifts and on-call shifts, when an employee is required by an employer to perform duties of employment for which the employee will receive compensation.

(13) "Work shift" means the specific and consecutive hours the employer requires the employee to work.

(14) "Workweek" means a fixed period of time established by an employer that reflects a regularly recurring period of 168 hours or seven consecutive 24-hour periods. A workweek may begin on any day of the week and any hour of the day and need not coincide with a calendar week. The beginning of a workweek may be changed if the change is intended to be permanent.

(15) “Writing” or “written” means a printed or printable communication in physical or electronic format including a communication that is transmitted through electronic mail, text message or a computer system or is otherwise sent and stored electronically.

(16) “Year” means any fixed, consecutive 12-month period of time.

SECTION 12. ORS 671.525 is amended to read:

671.525. (1) An applicant for a landscape contracting business license must qualify as an independent contractor, under ORS 670.600, to be licensed with the State Landscape Contractors Board.

(2) The board shall establish two classes of independent contractor licensees:

(a) The nonexempt class is composed of the following entities:

(A) Sole proprietorships, partnerships, corporations and limited liability companies with one or more employees; and

(B) Partnerships, corporations and limited liability companies with more than two partners, corporate officers or members if any of the partners, officers or members are not part of the same family and related as parents, spouses, siblings, children, grandchildren, sons-in-law or daughters-in-law.

(b) The exempt class is composed of all sole proprietorships, partnerships, corporations and limited liability companies:

(A) That do not qualify as nonexempt[.]; or

(B) Whose workers are covered employees for whom a professional employer organization is responsible for providing workers’ compensation coverage under ORS 656.850.

(3) All partnerships, corporations and limited liability companies applying for a landscape contracting business license must have a federal tax identification number.

(4) If a licensee who qualifies under subsection (2)(b) of this section hires one or more employees, or falls into any of the categories set out in subsection (2)(a)(B) of this section, the licensee is subject to penalties under ORS 671.997 and must submit proof that the licensee qualifies under subsection (2)(a) of this section.

(5) The decision of the board that a licensee is an independent contractor applies only when the licensee is performing work of the nature described in ORS 671.520 and 671.530.

SECTION 13. ORS 671.527 is amended to read:

671.527. (1) An applicant for a landscape contracting business license that qualifies under ORS 671.525 to be classified as a nonexempt independent contractor must provide workers’ compensation insurance coverage for all employees of the landscape contracting business.

(2)(a) An applicant for a landscape contracting business license that qualifies under ORS 671.525 to be classified as an exempt independent contractor, and that [has entered into a contract with a worker leasing company or temporary service provider for the supplying of workers to the landscaping business, must verify that all leasing company or service provider employees supplied for use by the business are covered by workers’ compensation insurance.] is the client of a professional employer organization or has contracted with a temporary service provider to supply workers to the landscaping business, must verify that the professional employer organization or temporary service provider maintains workers’ compensation insurance coverage.

(b) As used in this subsection, [“worker leasing company”] “professional employer organization” and “temporary service provider” have the meanings given those terms [under ORS 656.850] in section 2 of this 2025 Act.

SECTION 14. ORS 671.540 is amended to read:

671.540. (1) Except as provided in subsection (2) of this section, ORS 671.510 to 671.760 and 671.990 (2) do not apply to:

(a) Any federal or state agency or any political subdivision performing landscaping work on public property.

(b) Any landscape architect registered under ORS 671.310 to 671.459 and practicing as provided under ORS 671.310 to 671.459.

(c) Landscaping work performed by a landscape maintenance business if:

(A) The landscaping work is performed for a customer that in a calendar year receives primarily landscape maintenance services from the business;

(B) The value of all labor, materials or other items supplied for landscaping work at a job site does not exceed \$500 in a calendar year; and

(C) The landscaping work is of a casual, minor or inconsequential nature, as those terms are defined by the State Landscape Contractors Board by rule.

(d) Installation of fences, decks, arbors, driveways, walkways or retaining walls if performed by a person or business licensed with the Construction Contractors Board.

(e) Rough grading of plots and areas of land performed in conjunction with new or remodeling construction if performed by a person or business licensed with the Construction Contractors Board.

(f) Any owner of property, or employee of an owner of property, who contracts for landscaping work on the property to be performed by a person licensed under ORS 671.560. The exception provided by this paragraph does not apply to a person who, in pursuit of an independent business, performs or contracts for the performance of landscaping work with the intent of offering for sale before, upon or after completion of the landscaping work the property upon which the landscaping work is performed.

(g) Any landscaping work performed by a person on property that the person owns or in which the person has a legal interest. The exception provided by this paragraph does not apply to a person who, in pursuit of an independent business, performs or contracts for the performance of landscaping work with the intent of offering for sale before, upon or after completion of the landscaping work the property on which the landscaping work is performed.

(h) A residential general contractor licensed under ORS chapter 701 who performs landscaping work if the total value of the landscaping is less than \$2,500 per residential dwelling and the landscaping work is performed on residential property for which the contractor is under contract for the construction of a new dwelling. The exception provided by this paragraph does not apply to the performance of irrigation work by a residential general contractor. The State Landscape Contractors Board shall revise the amount specified in this paragraph every five years, beginning in 2003, based on changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.

(i) A residential general contractor licensed under ORS chapter 701 who performs landscaping work on residential property that is directly related to local building code requirements or occupancy ordinances including, but not limited to, the placement of street trees. The exception provided by this paragraph does not apply to the performance of irrigation work by a residential general contractor.

(j) A person engaged in making plans or drawings for the selection, placement or use of plants or other site features, unless the plans or drawings are for the purpose of providing construction details and specifications.

(k) Use by a person other than a landscape construction professional of the title "landscape designer" when engaged in making plans or drawings described in paragraph (j) of this subsection.

(L) A person providing recommendations or written specifications for soil amendments or planting media if the recommendations or specifications are solely for the purpose of plant installation.

(m) A plumbing contractor licensed under ORS 447.010 to 447.156 when engaged in superintending installation work on piping for an irrigation system designed by a landscape contracting business or by a person registered under ORS 671.310 to 671.459.

(n) A plumbing contractor licensed under ORS 447.010 to 447.156 when engaged in superintending repair or maintenance work on piping for an irrigation system.

(o) A journeyman plumber licensed under ORS chapter 693 when performing an installation for a plumbing contractor described in paragraph (m) of this subsection or performing repair or maintenance work on piping for an irrigation system.

(p) An employee, as defined in ORS 657.015, of a residential general contractor licensed under ORS chapter 701 when performing work that the contractor may perform under paragraph (h) or (i) of this subsection.

(q) An employee of a licensed landscape contracting business when performing work for the business under the direct supervision of a licensed landscape construction professional.

(r) *[An employee of a worker leasing company]* **A covered employee of the client of a professional employer organization or an employee of a temporary service provider, *[both]* as defined in *[ORS 656.850]* section 2 of this 2025 Act**, when performing work for a licensed landscape contracting business under the direct supervision of a licensed landscape construction professional.

(2) ORS 671.530 (2), (4) and (5) apply to a person described under subsection (1) of this section.

SECTION 15. ORS 671.562 is amended to read:

671.562. (1) A landscape contracting business that qualifies under ORS 671.525 to be classified as a nonexempt independent contractor must maintain workers' compensation insurance coverage in effect for all employees of the landscape contracting business.

(2)(a) A landscape contracting business licensee that qualifies under ORS 671.525 to be classified as an exempt independent contractor, and that *[has entered into a contract with a worker leasing company or temporary service provider for the supplying of workers to the landscaping business, must verify that workers' compensation insurance coverage is maintained in effect for all leasing company or service provider employees supplied for use by the business.]* **is the client of a professional employer organization or has contracted with a temporary service provider to supply workers to the landscaping business, must verify that the professional employer organization or temporary service provider maintains workers' compensation insurance coverage.**

(b) As used in this subsection, *["worker leasing company"]* **"professional employer organization"** and **"temporary service provider"** have the meanings given those terms *[under ORS 656.850]* **in section 2 of this 2025 Act.**

SECTION 16. ORS 671.565 is amended to read:

671.565. (1) Each person applying for a landscape contracting business license must:

(a) Pay to the State Landscape Contractors Board the applicable landscape contracting business license fee established by the board under ORS 671.650.

(b) Have a landscape construction professional license or employ at least one person with a landscape construction professional license to supervise the landscaping operation of the business.

(c) Submit the names of all employees who are licensed landscape construction professionals.

(d) File with the board a form of security acceptable under ORS 671.690.

(e) File with the board a certificate of public liability, personal injury and property damage insurance covering the work of the landscape contracting business that is subject to ORS 671.510 to 671.760 for an amount not less than \$500,000.

(f) Indicate, as set forth in ORS 670.600, the basis under which the applicant qualifies as an independent contractor and the class of independent contractor described in ORS 671.525 for which the applicant qualifies.

(2)(a) If an applicant for licensing under this section qualifies to be classified as a nonexempt independent contractor, the applicant shall provide the employer identification number of the applicant and evidence satisfactory to the board that the applicant provides workers' compensation insurance coverage for all employees of the landscape contracting business.

(b) If an applicant for licensing under this section qualifies to be classified as an exempt independent contractor and *[has entered into a contract with a worker leasing company or temporary service provider for the supplying of]* **is the client of a professional employer organization or has contracted with a temporary service provider to supply workers to the landscape contracting business, the applicant shall provide evidence satisfactory to the board that the applicant has verified the maintenance of workers' compensation insurance coverage for *[all leasing company or service provider employees supplied for use by the business]* the professional employer organization or temporary service provider.**

(c) As used in this [paragraph] subsection, [*worker leasing company*] “**professional employer organization**” and “temporary service provider” have the meanings given those terms in [ORS 656.850] **section 2 of this 2025 Act**.

(3) At the time of application for a license, for renewal of a license in active status or for return of a license to active status, the applicant shall provide evidence satisfactory to the board that the public liability, personal injury and property damage insurance required by this section and any workers’ compensation required of the applicant under ORS 671.527 or 671.562 is in effect. During a license period, the licensee shall provide, to the extent required by the board, satisfactory evidence of continued public liability, personal injury and property damage insurance coverage and, if required under ORS 671.562, workers’ compensation insurance coverage.

SECTION 17. ORS 701.005 is amended to read:

701.005. As used in this chapter:

(1) “Board” means the Construction Contractors Board.

(2) “Commercial contractor” means a licensed contractor that holds an endorsement as a:

(a) Commercial general contractor level 1;

(b) Commercial specialty contractor level 1;

(c) Commercial general contractor level 2;

(d) Commercial specialty contractor level 2; or

(e) Commercial developer.

(3) “Commercial developer” means a developer of property that is zoned for or intended for use compatible with a small commercial or large commercial structure.

(4) “Construction debt” means an amount owed:

(a) Under an order or arbitration award issued by the board that has become final by operation of law;

(b) Under a judgment, arbitration award or civil penalty that has become final by operation of law arising from construction activities within the United States;

(c) Under a judgment or civil penalty that has become final by operation of law arising from a failure to comply with ORS 656.017; or

(d) To employees of a construction contracting business for unpaid wages.

(5) “Contractor” means any of the following:

(a) A person that, for compensation or with the intent to sell, arranges or undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect, move, wreck or demolish, for another, a building, highway, road, railroad, excavation or other structure, project, development or improvement attached to real estate, or to do any part thereof.

(b) A person that purchases or owns property and constructs or for compensation arranges for the construction of one or more residential structures or small commercial structures with the intent of selling the structures.

(c) A school district, as defined in ORS 332.002, that permits students to construct a residential structure or small commercial structure as an educational experience to learn building techniques and sells the completed structure.

(d) A community college district, as defined in ORS 341.005, that permits students to construct a residential structure or small commercial structure as an educational experience to learn building techniques and sells the completed structure.

(e) A person except a landscape contracting business, nurseryman, gardener or person engaged in the commercial harvest of forest products, that is engaged as an independent contractor to remove trees, prune trees, remove tree limbs or stumps or to engage in tree or limb guying.

(f) A business that supplies the services of a home inspector certified under ORS 701.445 or a cross-connection inspector and backflow assembly tester certified under ORS 448.279.

(g) A person that for compensation arranges, undertakes, offers to undertake or submits a bid to clean or service chimneys.

(h) A person that arranges for, undertakes, offers to undertake or submits a bid for the performance of restoration work as defined in ORS 701.540.

(6) “Developer” means a contractor that owns property or an interest in property and engages in the business of arranging for construction work or performing other activities associated with the improvement of real property, with the intent to sell the property.

(7)(a) “General contractor” means a contractor whose business operations require the use of more than two unrelated building trades or crafts that the contractor supervises or performs in whole or part, whenever the sum of all contracts on any single property, including materials and labor, exceeds an amount established by rule by the board.

(b) “General contractor” does not mean a specialty contractor or a residential limited contractor.

(8)(a) “Home improvement” means a renovation, remodel, repair or alteration by a residential contractor to an existing owner-occupied:

(A) Residence that is a site-built home;

(B) Condominium, rental residential unit or other residential dwelling unit that is part of a larger structure, if the property interest in the unit is separate from the property interest in the larger structure;

(C) Modular home constructed off-site;

(D) Manufactured dwelling; or

(E) Floating home, as defined in ORS 830.700.

(b) “Home improvement” does not include a renovation, remodel, repair or alteration by a residential contractor:

(A) To a structure that contains one or more dwelling units and is four stories or less above grade; or

(B) That the residential contractor performed in the course of constructing a new residential structure.

(9)(a) “Home inspector” means a person who, for a fee, inspects and provides written reports on the overall physical condition of a residential structure.

(b) “Home inspector” does not include persons certified under ORS chapter 455 to inspect new, repaired or altered structures for compliance with the state building code.

(10) “Key employee” means an employee or owner of a contractor who is a corporate officer, manager, superintendent, foreperson or lead person or any other employee the board identifies by rule.

(11) “Large commercial structure” means a structure that is not a residential structure or small commercial structure.

(12) “Officer” means any of the following persons:

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

(b) A general partner in a limited partnership.

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

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

(e) A trustee.

(f) A person the board defines by rule as an officer. The definition of officer adopted by board rule may include persons not listed in this subsection who may exercise substantial control over a business.

(13) “PEO relationship” has the meaning given that term in section 2 of this 2025 Act.

(14) “Professional employer organization” has the meaning given that term in section 2 of this 2025 Act.

[(13)] **(15) “Residential contractor” means a licensed contractor that holds an endorsement as a:**

(a) Residential general contractor;

(b) Residential specialty contractor;

(c) Residential limited contractor;

(d) Residential developer;

(e) Residential locksmith services contractor;

- (f) Residential restoration contractor;
- (g) Home inspector services contractor;
- (h) Home services contractor; or
- (i) Home energy performance score contractor.

[(14)] **(16)** “Residential developer” means a developer of property that is zoned for or intended for use compatible with a residential or small commercial structure.

[(15)(a)] **(17)(a)** “Residential structure” means:

- (A) A residence that is a site-built home;
- (B) A structure that contains one or more dwelling units and is four stories or less above grade;
- (C) A condominium, rental residential unit or other residential dwelling unit that is part of a larger structure, if the property interest in the unit is separate from the property interest in the larger structure;
- (D) A modular home constructed off-site;
- (E) A manufactured dwelling;
- (F) A floating home as defined in ORS 830.700; or
- (G) An appurtenance to a home, structure, unit or dwelling described in subparagraphs (A) to (F) of this paragraph.

(b) “Residential structure” does not mean:

- (A) Subject to paragraph (a)(C) of this subsection, a structure that contains both residential and nonresidential units;
- (B) Transient lodging;
- (C) A residential school or residence hall;
- (D) A state or local correctional facility;
- (E) A youth correction facility as defined in ORS 420.005;
- (F) A youth care center operated by a county juvenile department under administrative control of a juvenile court pursuant to ORS 420.855 to 420.885;
- (G) A detention facility as defined in ORS 419A.004;
- (H) A nursing home;
- (I) A hospital; or
- (J) A place constructed primarily for recreational activities.

[(16)] **(18)** “Responsible managing individual” means an individual who:

- (a) Is an owner described in ORS 701.094 or an employee of the business;
- (b) Exercises management or supervisory authority, as defined by the board by rule, over the construction activities of the business; and
- (c)(A) Successfully completed the training and testing required for licensing under ORS 701.122 within a period the board identifies by rule;
- (B) Demonstrated experience the board requires by rule; or
- (C) Complied with the licensing requirements of ORS 446.395.

[(17)] **(19)** “Small commercial structure” means:

- (a) A nonresidential structure that has a ground area of 10,000 square feet or less, including exterior walls, and a height of not more than 20 feet from the top surface of the lowest flooring to the highest interior overhead finish of the structure;
- (b) A nonresidential leasehold, rental unit or other unit that is part of a larger structure, if the unit has a ground area of 12,000 square feet or less, excluding exterior walls, and a height of not more than 20 feet from the top surface of the lowest flooring to the highest interior overhead finish of the unit;
- (c) A nonresidential structure of any size for which the contract price of all construction contractor work to be performed on the structure as part of a construction project does not total more than \$250,000; or
- (d) An appurtenance to a structure or unit described in paragraphs (a) to (c) of this subsection.

[(18)] **(20)** “Specialty contractor” means a contractor who performs work on a structure, project, development or improvement and whose operations as such do not fall within the definition of

“general contractor.” “Specialty contractor” includes a person who performs work regulated under ORS 446.395.

[(19) “Worker leasing company” means a person licensed under ORS 656.850 (2) to perform the service of providing nontemporary workers by contract and for a fee to work for a client.]

[(20)] (21) “Zero-lot-line dwelling” means a single-family dwelling unit constructed in a group of attached units in which:

(a) Each attached unit extends from foundation to roof with open space on two sides; and

(b) Each dwelling unit is separated by a property line.

SECTION 18. ORS 701.010 is amended to read:

701.010. The Construction Contractors Board may adopt rules to make licensure optional for persons who offer, bid or undertake to perform work peripheral to construction, as defined by administrative rule of the board. The following persons are exempt from licensure under this chapter:

(1) A person who is constructing, altering, improving or repairing personal property.

(2) A person who is constructing, altering, improving or repairing a structure located within the boundaries of any site or reservation under the jurisdiction of the federal government.

(3) A person who furnishes materials, supplies, equipment or finished product and does not fabricate them into, or consume them, in the performance of the work of a contractor.

(4) A person working on one structure or project, under one or more contracts, when the aggregate price of all of that person’s contracts for labor, materials and all other items is less than \$1,000 and such work is of a casual, minor or inconsequential nature. This subsection does not apply to a person who advertises or puts out any sign or card or other device that might indicate to the public that the person is a contractor.

(5) An owner who contracts for work to be performed by a licensed contractor. This subsection does not apply to a person who, in the pursuit of an independent business, constructs, remodels, repairs or for compensation and with the intent to sell the structure, arranges to have constructed, remodeled or repaired a structure with the intent of offering the structure for sale before, upon or after completion. It is prima facie evidence that there was an intent of offering the structure for sale if the person who constructed, remodeled or repaired the structure or arranged to have the structure constructed, remodeled or repaired does not occupy the structure after its completion.

(6) An owner who contracts for one or more licensed contractors to perform work wholly or partially within the same calendar year on not more than three existing residential structures of the owner. This subsection does not apply to an owner contracting for work that requires a building permit unless the work that requires a permit is performed by, or under the direction of, a residential general contractor.

(7) A person performing work on a property that person owns or performing work as the owner’s employee, whether the property is occupied by the owner or not, or a person performing work on that person’s residence, whether or not that person owns the residence. This subsection does not apply to a person performing work on a structure owned by that person or the owner’s employee, if the work is performed in the pursuit of an independent business with the intent of offering the structure for sale before, upon or after completion.

(8) A person licensed or registered in one of the following trades or professions when operating within the scope of that license or registration:

(a) An architect registered by the State Board of Architect Examiners.

(b) A professional engineer registered by the State Board of Examiners for Engineering and Land Surveying.

(c) A water well contractor licensed by the Water Resources Department.

(d) A sewage disposal system installer licensed by the Department of Environmental Quality.

(e) A landscape contracting business licensed under ORS 671.510 to 671.760.

(f) A pesticide operator licensed under ORS 634.116 who does not conduct inspections for wood destroying organisms for the transfer of real estate.

(g) An appraiser certified or licensed under ORS chapter 674 or an appraiser assistant registered under ORS chapter 674 by the Appraiser Certification and Licensure Board.

(9) A landscape contracting business operating within the scope of a license issued under ORS 671.510 to 671.760 that:

(a) Constructs fences, decks, arbors, patios, landscape edging, driveways, walkways or retaining walls and meets the applicable bonding requirements under ORS 671.690; or

(b) Subcontracts to a licensed plumbing contractor, or otherwise arranges for a licensed plumbing contractor to perform, the installation of an irrigation system described in ORS 671.540 (1)(m) or the repair or maintenance of an irrigation system.

(10) A person who performs work subject to this chapter as an employee of a contractor.

(11) A manufacturer of a manufactured home constructed under standards established by the federal government.

(12) A person involved in the movement of:

(a) Modular buildings or structures other than manufactured structures not in excess of 14 feet in width.

(b) Structures not in excess of 16 feet in width when the structures are being moved by their owner if the owner is not a contractor required to be licensed under this chapter.

(13) A surety company, commercial lending institution, holding company for a commercial lending institution, subsidiary of a commercial lending institution or subsidiary of a holding company for a commercial lending institution that arranges for completion, repair or remodeling by one or more licensed contractors of a structure in which the company, institution, holding company or subsidiary holds a legal or security interest. As used in this subsection, "commercial lending institution" means any bank, mortgage banking company, trust company, savings bank, savings and loan association, credit union, national banking association, federal savings and loan association, insurance company or federal credit union maintaining an office in this state.

(14) A real estate licensee who engages in the management of rental real estate as defined in ORS 696.010 or the employee of that licensee when performing work on a structure that the real estate licensee manages under a contract.

(15) Units of government other than those specified in ORS 701.005 (5)(c) and (d).

(16) A qualified intermediary in a property exchange that qualifies under section 1031 of the Internal Revenue Code as amended and in effect on January 1, 2004, if the qualified intermediary is not performing construction activities.

(17) A *[worker leasing company]* **professional employer organization** or temporary service provider, *[both as defined in ORS 656.850,]* **as defined in section 2 of this 2025 Act**, that supplies personnel to a licensed contractor for the performance of work under the direction and supervision of the contractor **or that has entered into a PEO relationship with the contractor.**

(18) City or county inspectors acting under ORS 701.225 or inspectors described in ORS 455.715.

(19) A person performing work for purposes of agricultural drainage, agricultural trenching or agricultural irrigation or involving the construction of agricultural fences to control livestock.

(20) A person performing work that is subject to ORS 527.610 to 527.770 on forestlands for which notice of operation has been filed under ORS 527.670.

SECTION 19. ORS 701.035 is amended to read:

701.035. (1) An applicant must qualify as an independent contractor under ORS 670.600 to be eligible for a license with the Construction Contractors Board.

(2) The board shall establish two classes of independent contractor:

(a) The nonexempt class is composed of the following entities:

(A) Sole proprietorships, partnerships, corporations and limited liability companies:

(i) With one or more employees; or

(ii) That *[utilize one or more workers supplied by a worker leasing company]* **have a PEO relationship.**

(B) Partnerships, corporations and limited liability companies with more than two partners, corporate officers or members, if any of the partners, corporate officers or members are not part of the same family and related as parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law or grandchildren.

(b) The exempt class is composed of all sole proprietorships, partnerships, corporations and limited liability companies that do not qualify as nonexempt.

(3)(a) If a person who is licensed as exempt under subsection (2)(b) of this section hires one or more employees, *[utilizes one or more workers supplied by a worker leasing company]* **enters into a PEO relationship** or falls into any of the categories set out in subsection (2)(a)(B) of this section, the person is subject to penalties under ORS 701.992 for improper licensing.

(b) If a person who is licensed as exempt under subsection (2)(b) of this section hires one or more employees, or *[utilizes one or more workers supplied by a worker leasing company]* **enters into a PEO relationship**, the person is also subject to licensing sanctions under ORS 701.098.

(c) *[The]* A person **described in this subsection** must reapply to the board in the correct class.

(4) The decision of the board that a person is an independent contractor applies only when the person is performing work of the nature described in ORS 701.021.

(5) A person that is within the exempt class described in subsection (2)(b) of this section and is licensed as a commercial contractor shall procure and maintain workers' compensation insurance as authorized by ORS 656.128.

SECTION 20. ORS 701.098 is amended to read:

701.098. (1) The Construction Contractors Board may revoke, suspend, condition or refuse to issue or reissue a license and may assess a civil penalty as provided in ORS 701.992 if the board determines after notice and opportunity for hearing that a licensee or applicant:

(a) Violated a provision of this chapter.

(b) Violated a rule or order of the board.

(c) Entered into a settlement agreement with another person under ORS 701.145 but failed to comply with the terms of the settlement agreement.

(d) Is a business entity or is the owner, director, officer or partner of a business entity or of a reorganized business entity, as defined in ORS 305.330, that was subject to a revocation or suspension of a license, or subject to a civil or criminal penalty, imposed under this chapter or ORS chapter 447, 455, 460 or 693, or under the laws of another state, and the revocation, suspension or civil or criminal penalty was related to the licensee's or applicant's engaging in construction.

(e) Submitted an application to the board that, at the time the board issued or renewed the license or denied the application, was incomplete in any material respect or included a statement that was incorrect or misleading in light of the circumstances in which the licensee or applicant made the statement.

(f) Knowingly assisted an unlicensed person to act in violation of this chapter.

(g) Knowingly assisted a licensed contractor to perform work for which the contractor is not properly endorsed.

(h) Wrongfully failed to perform a contractual duty to pay money to a person and the failure caused the person to file a lien on a structure under ORS 87.001 to 87.093.

(i) Knowingly provided false information to the board.

(j) Worked without a construction permit where a permit is required and the work resulted in a complaint being filed with the board under ORS 701.139. For purposes of this paragraph, "construction permit" includes a building permit, electrical permit, mechanical permit or plumbing permit.

(k) Worked together with another contractor on the same task on the same job site, where one of the contractors was classed as exempt under ORS 701.035 (2)(b) and the number of contractors working together exceeded the following:

(A) Two sole proprietors;

(B) One partnership;

(C) One corporation; or

(D) One limited liability company.

(L) Was convicted, or an owner, director, officer or partner of the licensee or applicant was convicted, consistent with ORS 670.280, of one of the following crimes in this state or an equivalent crime in another state:

- (A) Murder;
- (B) Assault in the first degree;
- (C) Kidnapping;
- (D) Rape, sodomy or unlawful sexual penetration;
- (E) Sexual abuse;
- (F) Arson in the first degree;
- (G) Robbery in the first degree;
- (H) Theft in the first degree; or
- (I) Extortion.

(m) Did not pay another person for supplying labor or materials contracted for under a public improvement contract, plus the amount of interest due, within 90 days after receiving payment from a contracting agency or, if the licensee or applicant was a subcontractor, from a contractor.

(n) Repeatedly reported bad faith or false complaints of nonpayment against contractors or subcontractors.

(o) Engaged in conduct as a contractor that was dishonest or fraudulent and that the board finds injurious to the welfare of the public.

(p) Hired employees while licensed as exempt under ORS 701.035.

(q) [*Used one or more workers supplied by a worker leasing company*] **Entered into a PEO relationship** while licensed as exempt under ORS 701.035.

(2) The board may revoke, suspend, condition or refuse to issue or reissue a license if the board determines after notice and opportunity for hearing that a licensee or applicant is unfit for licensure based upon information submitted to the board under ORS 701.046, submitted in a registration of securities described in ORS 701.046 (2) or discovered by a board investigation under ORS 701.225.

(3) The board may assess a civil penalty against any person as provided in ORS 701.992 if the board determines after notice and opportunity for hearing that the person violated ORS 701.021.

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

- (A) Lack of a surety bond required by ORS 701.068;
- (B) Lack of liability insurance required by ORS 701.073;
- (C) Hiring employees while classed as exempt under ORS 701.035;

(D) [*Using one or more workers supplied by a worker leasing company*] **Entering into a PEO relationship** while classed as exempt under ORS 701.035;

- (E) Conduct as a construction contractor that is dishonest or fraudulent;
- (F) Failure to pay a construction debt; or

(G) Entering into a settlement agreement under ORS 701.145 and failing to comply with the terms of the settlement agreement.

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

(5)(a) In addition to all other remedies, if the board has reason to believe that a person is engaging in an act, practice or transaction that violates this chapter or a board rule, the board may issue an order directing the person to cease the act or to take corrective action.

(b) The board shall mail a copy of an order issued under this subsection to the person by first class mail with certificate of mailing. The board shall include with the order a notice informing the person of the right to request a hearing concerning the order. The notice shall inform the person

that any hearing request must be received by the board no later than 21 days after the date the order was mailed by the board.

(c) If the board receives a timely request for a hearing concerning an order issued under this subsection, the board shall schedule the hearing no later than 30 days after receiving the request. The board shall mail written notice of the hearing to the person by first class mail with certificate of mailing no later than seven days before the scheduled hearing date.

(d) An order described in this subsection becomes final if the person does not file a timely request for a hearing concerning the order or fails to appear at the requested hearing as scheduled.

(e) The issuance of a board order under this subsection is subject to ORS 183.413 to 183.497.

(6) In addition to all other remedies, if the board determines that a person has engaged in, or is engaging in, any act, practice or transaction that violates the provisions of this chapter, the board may direct the Attorney General or the district attorney of the county in which the act, practice or transaction occurs, to apply to the court for an injunction restraining the person from violating the provisions of this chapter. An injunction may not issue for failure to maintain the list provided for in ORS 701.345, unless the court determines that the failure is intentional.

(7) A certified copy of the record of conviction is conclusive evidence of a conviction under subsection (1)(L) of this section.

(8) If the board suspends or revokes the license of an individual contractor or contractor business for a violation of subsection (1)(k) of this section, the board may not restore or reissue the license unless the individual contractor or a responsible managing individual for the contractor business has successfully completed the training and testing described in ORS 701.122.

SECTION 21. 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]* **enters into a PEO relationship with respect to**, 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 \$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 22. ORS 656.005, as amended by section 110, chapter 73, Oregon Laws 2024, is amended to read:

656.005. (1) "Average weekly wage" means the Oregon average weekly wage in covered employment, as determined by the Employment Department, for the last quarter of the calendar year preceding the fiscal year in which the injury occurred.

(2)(a) "Beneficiary" means an injured worker, and the spouse in a marriage, child or dependent of a worker, who is entitled to receive payments under this chapter.

(b) "Beneficiary" does not include a person who intentionally causes the compensable injury to or death of an injured worker.

(3) "Board" means the Workers' Compensation Board.

(4) "Carrier-insured employer" means an employer who provides workers' compensation coverage with the State Accident Insurance Fund Corporation or an insurer authorized under ORS chapter 731 to transact workers' compensation insurance in this state.

(5) "Child" means a child of an injured worker, including:

(a) A posthumous child;

(b) A child legally adopted before the injury;

(c) A child toward whom the worker stands in loco parentis;

(d) A child born out of wedlock;

(e) A stepchild, if the stepchild was, at the time of the injury, a member of the worker's family and substantially dependent upon the worker for support; and

(f) A child of any age who was incapacitated at the time of the accident and thereafter remains incapacitated and substantially dependent on the worker for support.

(6) "Claim" means a written request for compensation from a subject worker or someone on the worker's behalf, or any compensable injury of which a subject employer has notice or knowledge.

(7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appliances, arising out of and in the course of employment requiring medical services or resulting in disability or death. An injury is accidental if the result is an accident, whether or not due to accidental means, if it is established by medical evidence supported by objective findings, subject to the following limitations:

(A) An injury or disease is not compensable as a consequence of a compensable injury unless the compensable injury is the major contributing cause of the consequential condition.

(B) If an otherwise compensable injury combines at any time with a preexisting condition to cause or prolong disability or a need for treatment, the combined condition is compensable only if, so long as and to the extent that the otherwise compensable injury is the major contributing cause of the disability of the combined condition or the major contributing cause of the need for treatment of the combined condition.

(b) "Compensable injury" does not include:

(A) Injury to any active participant in assaults or combats that are not connected to the job assignment and that amount to a deviation from customary duties;

(B) Injury incurred while engaging in or performing, or as the result of engaging in or performing, any recreational or social activities primarily for the worker's personal pleasure; or

(C) Injury the major contributing cause of which is demonstrated to be by a preponderance of the evidence the injured worker's consumption of alcoholic beverages or cannabis or the unlawful consumption of any controlled substance, unless the employer permitted, encouraged or had actual knowledge of such consumption.

(c) A "disabling compensable injury" is an injury that entitles the worker to compensation for disability or death. An injury is not disabling if no temporary benefits are due and payable, unless there is a reasonable expectation that permanent disability will result from the injury.

(d) A "nondisabling compensable injury" is any injury that requires medical services only.

(8) "Compensation" includes all benefits, including medical services, provided for a compensable injury to a subject worker or the worker's beneficiaries by an insurer or self-insured employer pursuant to this chapter.

(9) "Department" means the Department of Consumer and Business Services.

(10) "Dependent" means any of the following individuals who, at the time of an accident, depended in whole or in part for the individual's support on the earnings of a worker who dies as a result of an injury:

(a) A parent of a worker or the parent's spouse or domestic partner;

(b) A grandparent of a worker or the grandparent's spouse or domestic partner;

(c) A grandchild of a worker or the grandchild's spouse or domestic partner;

(d) A sibling or stepsibling of a worker or the sibling's or stepsibling's spouse or domestic partner; and

(e) Any individual related by blood or affinity whose close association with a worker is the equivalent of a family relationship.

(11) "Director" means the Director of the Department of Consumer and Business Services.

(12)(a) "Doctor" or "physician" means a person duly licensed to practice one or more of the healing arts in any country or in any state, territory or possession of the United States within the limits of the license of the licensee.

(b) Except as otherwise provided for workers subject to a managed care contract, "attending physician" means a doctor, physician or physician associate who is primarily responsible for the treatment of a worker's compensable injury and who is:

(A) A physician licensed under ORS 677.100 to 677.228 by the Oregon Medical Board, or a podiatric physician and surgeon licensed under ORS 677.805 to 677.840 by the Oregon Medical Board, an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state, territory or possession of the United States;

(B) For a cumulative total of 60 days from the first visit on the initial claim or for a cumulative total of 18 visits, whichever occurs first, to any of the medical service providers listed in this subparagraph, a:

(i) Doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon under ORS chapter 684 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States; or

(ii) Doctor of naturopathy or naturopathic physician licensed by the Oregon Board of Naturopathic Medicine under ORS chapter 685 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States; or

(C) For a cumulative total of 180 days from the first visit on the initial claim, a physician associate licensed by the Oregon Medical Board in accordance with ORS 677.505 to 677.525 or a similarly licensed physician associate in any country or in any state, territory or possession of the United States.

(c) Except as otherwise provided for workers subject to a managed care contract, "attending physician" does not include a physician who provides care in a hospital emergency room and refers the injured worker to a primary care physician for follow-up care and treatment.

(d) "Consulting physician" means a doctor or physician who examines a worker or the worker's medical record to advise the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 regarding treatment of a worker's compensable injury.

(13)(a) "Employer" means any person, including receiver, administrator, executor or trustee, and the state, state agencies, counties, municipal corporations, school districts and other public corporations or political subdivisions, that contracts to pay a remuneration for the services of any worker.

(b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of a temporary service provider is not the employer of temporary workers provided by the temporary service provider.

(c) As used in paragraph (b) of this subsection, “temporary service provider” has the meaning given that term in [ORS 656.850] **section 2 of this 2025 Act**.

(d) For the purposes of this chapter, “subject employer” means an employer that is subject to this chapter as provided in ORS 656.023.

(14) “Insurer” means the State Accident Insurance Fund Corporation or an insurer authorized under ORS chapter 731 to transact workers’ compensation insurance in this state or an assigned claims agent selected by the director under ORS 656.054.

(15) “Consumer and Business Services Fund” means the fund created by ORS 705.145.

(16) “Incapacitated” means an individual is physically or mentally unable to earn a livelihood.

(17) “Medically stationary” means that no further material improvement would reasonably be expected from medical treatment or the passage of time.

(18) “Noncomplying employer” means a subject employer that has failed to comply with ORS 656.017.

(19) “Objective findings” in support of medical evidence are verifiable indications of injury or disease that may include, but are not limited to, range of motion, atrophy, muscle strength and palpable muscle spasm. “Objective findings” does not include physical findings or subjective responses to physical examinations that are not reproducible, measurable or observable.

(20) “Palliative care” means medical service rendered to reduce or moderate temporarily the intensity of an otherwise stable medical condition, but does not include those medical services rendered to diagnose, heal or permanently alleviate or eliminate a medical condition.

(21) “Party” means a claimant for compensation, the employer of the injured worker at the time of injury and the insurer, if any, of the employer.

(22) “Payroll” means a record of wages payable to workers for their services and includes commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or similar advantage received from the employer. However, “payroll” does not include overtime pay, vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments to reward workers for safe working practices. Bonus pay is limited to payments that are not anticipated under the contract of employment and that are paid at the sole discretion of the employer. The exclusion from payroll of bonus payments to reward workers for safe working practices is only for the purpose of calculations based on payroll to determine premium for workers’ compensation insurance, and does not affect any other calculation or determination based on payroll for the purposes of this chapter.

(23) “Person” includes a partnership, joint venture, association, limited liability company and corporation.

(24)(a) “Preexisting condition” means, for all industrial injury claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment, provided that:

(A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the worker has been diagnosed with the condition, or has obtained medical services for the symptoms of the condition regardless of diagnosis; and

(B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes the initial injury;

(ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the new medical condition; or

(iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment precedes the onset of the worsened condition.

(b) “Preexisting condition” means, for all occupational disease claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim for worsening in such claims pursuant to ORS 656.273 or 656.278.

(c) For the purposes of industrial injury claims, a condition does not contribute to disability or need for treatment if the condition merely renders the worker more susceptible to the injury.

(25) "Self-insured employer" means an employer or group of employers certified under ORS 656.430 as meeting the qualifications set out by ORS 656.407.

(26) "State Accident Insurance Fund Corporation" and "corporation" mean the State Accident Insurance Fund Corporation created under ORS 656.752.

(27) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, including reasonable value of board, rent, housing, lodging or similar advantage received from the employer, and includes the amount of tips required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips reported, whichever amount is greater. The State Accident Insurance Fund Corporation may establish assumed minimum and maximum wages, in conformity with recognized insurance principles, at which any worker shall be carried upon the payroll of the employer for the purpose of determining the premium of the employer.

(28)(a) "Worker" means any person, other than an independent contractor, who engages to furnish services for a remuneration, including a minor whether lawfully or unlawfully employed and salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts and other public corporations, but does not include any person whose services are performed as an adult in custody or ward of a state institution or as part of the eligibility requirements for a general or public assistance grant.

(b) For the purpose of determining entitlement to temporary disability benefits or permanent total disability benefits under this chapter, "worker" does not include a person who has withdrawn from the workforce during the period for which such benefits are sought.

(c) For the purposes of this chapter, "subject worker" means a worker who is subject to this chapter as provided in ORS 656.027.

(29) "Independent contractor" has the meaning given that term in ORS 670.600.

SECTION 23. (1) Section 2 of this 2025 Act and the amendments to ORS 653.412, 656.005, 656.018, 656.403, 656.702, 656.850, 656.855, 671.525, 671.527, 671.540, 671.562, 671.565, 701.005, 701.010, 701.035, 701.098, 701.470, 737.270, 743.521 and 743.522 by sections 3 to 22 of this 2025 Act become operative on July 1, 2027.

(2) The Director of the Department of Consumer and Business Services may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the director to implement, on and after the operative date specified in subsection (1) of this section, the provisions of section 2 of this 2025 Act and the amendments to ORS 653.412, 656.005, 656.018, 656.403, 656.702, 656.850, 656.855, 671.525, 671.527, 671.540, 671.562, 671.565, 701.005, 701.010, 701.035, 701.098, 701.470, 737.270, 743.521 and 743.522 by sections 3 to 22 of this 2025 Act.

SECTION 24. This 2025 Act takes effect on the 91st day after the date on which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.

Passed by House April 10, 2025

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Julie Fahey, Speaker of House

Passed by Senate May 7, 2025

.....
Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

.....
Tobias Read, Secretary of State