

House Bill 3860

Sponsored by Representative SMITH G

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Tells a person that is a major house builder not to collect more than 50 percent of the contract price for a project until the project is finished if the project costs \$40,000 or more. Lets the person collect more if the home owner adds scope to the project. Requires a person that installs a fireproofing system to get a certificate from a state board. Takes effect 91 days after the session ends. (Flesch Readability Score: 63.1).

Prohibits a major residential contractor from collecting or retaining more than 50 percent of the original contract price before substantially completing a remodeling or repair of an owner-occupied one-family or two-family residential structure if the original contract price exceeds \$40,000. Permits a major residential contractor to collect not more than 50 percent of the increase in the contract price if the property owner agrees in writing to changes that increase the contract price by \$20,000 or more. Permits a major residential contractor to require a property owner to make progress payments solely to cover the costs of materials, supplies and payments to subcontractors. Specifies the required contents of a contract. Specifies exceptions to the requirements.

Prohibits a business from installing, applying, repairing or maintaining spray-on fireproofing material or a spray-on fireproofing system in an essential facility in this state unless the business has a certification from the Construction Contractors Board. Specifies requirements for certification. Allows a building official to require as a condition of issuing a permit that a business has the necessary certification.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

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

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

4 **SECTION 1. Sections 2 and 3 of this 2025 Act are added to and made a part of ORS**
5 **chapter 701.**

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

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

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

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

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

18 (3) **If a major residential contractor's costs of materials, supplies and payments to sub-**
19 **contractors at the commencement of the remodel or repair exceeds 50 percent of the total**
20 **contract price, the major residential contractor may require the property owner to make**
21 **progress payments solely to cover the costs of materials, supplies and payments to subcon-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 tractors. If the major residential contractor requires progress payments, the contract must
2 include:

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

4 (b) A schedule of progress payments due that is linked to specific items of work com-
5 pleted or a specific completed percentage of the total work specified in the contract; and

6 (c) A specification of the progress the major residential contractor must make on the
7 renovation or repair before each progress payment is due.

8 (4) This section does not prohibit a major residential contractor from retaining properly
9 collected amounts after a contract price decrease. Subject to subsection (5) of this section,
10 this section does not prevent a major residential contractor from obtaining payment for
11 completed construction work from a property owner that unreasonably withholds approval
12 and acceptance.

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

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

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

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

23 **SECTION 3.** (1) A business may not install, apply, repair or maintain, or offer to install,
24 apply, repair or maintain, spray-on fireproofing material or a spray-on fireproofing system
25 in an essential facility in this state unless the business has a current and valid certification
26 from the Construction Contractors Board as a spray-on fireproofing contractor.

27 (2) The board shall certify a business as a spray-on fireproofing contractor if the business
28 meets the requirements of this section and of any rule the board adopts under this section.
29 A certification as a spray-on fireproofing contractor expires three years after the date on
30 which the board issues the certification.

31 (3)(a) Except as provided in paragraph (c) of this subsection, the board shall require that
32 a business that applies for initial certification, or for renewal of a certification, as a spray-on
33 fireproofing contractor provide proof in the application that at least one individual who is
34 an owner, manager or employee of the business has obtained a certification from a program
35 that the board approves by rule. The program that the board approves must, at a minimum:

36 (A) Use a nationally recognized body of knowledge, techniques and best practices and
37 nationally recognized safety standards in the program's design, contents and instruction;

38 (B) Examine and score or otherwise assess the knowledge and competence of an applicant
39 for certification;

40 (C) Assess an applicant's knowledge of how to correctly install, apply, repair and main-
41 tain spray-on fireproofing material and spray-on fireproofing systems; and

42 (D) Provide information about methods of installation, application, repair and mainte-
43 nance that meet applicable occupational health and safety standards and environmental
44 standards and that otherwise minimize or eliminate adverse safety or environmental im-
45 pacts.

1 (b) The board by rule shall specify scores or demonstrations of knowledge and compe-
 2 tence required to obtain a certification as a spray-on fireproofing contractor under this
 3 section.

4 (c) The board may not require from a business that applies for certification, or for re-
 5 newal of a certification, assessments or practices that exceed or are inconsistent with as-
 6 sessments or practices required generally in the spray-on fireproofing industry.

7 (d) In lieu of obtaining a certification from a program the board approves under para-
 8 graph (a) of this subsection, the board may accept a certification from another state, or from
 9 a nationally recognized organization of spray-on fireproofing experts or practitioners, if the
 10 board is satisfied that the other certification meets standards and provides training and
 11 content that is substantially similar to a program that the board approves by rule.

12 (4) The board may adopt rules to govern the administration of the board's certification
 13 program under this section, including:

14 (a) Requiring an applicant to list the applicant's name and assumed business name, if
 15 any, physical address and telephone number, along with any available electronic contact in-
 16 formation, on the application for certification;

17 (b) Permitting a business to identify the individuals within the business who obtained a
 18 certification from a program the board approved under subsection (3)(a) of this section or
 19 who hold another certification described in subsection (3)(d) of this section and who have
 20 responsibility for the training, education and monitoring of the spray-on fireproofing prac-
 21 tices of the business;

22 (c) Identifying structures or infrastructure that constitutes an essential facility for the
 23 purposes of requiring certification under this section, except that an essential facility may
 24 not include a pipeline or compressor substation; and

25 (d) Establishing fees necessary to administer this section that do not exceed the following
 26 amounts:

27 (A) \$500 for an initial application for certification as a spray-on fireproofing contractor;
 28 and

29 (B) \$150 for renewal of a certification as a spray-on fireproofing contractor.

30 (5) The board shall maintain and make available and easily accessible on the board's
 31 website, or provide in response to a request, a list or searchable database of businesses that
 32 the board has certified under this section.

33 (6) A building official, as defined in ORS 455.715, may require as a condition of issuing a
 34 permit that a business that installs, applies, repairs or maintains spray-on fireproofing ma-
 35 terial or spray-on fireproofing systems provide the building official with a copy of a certi-
 36 fication the business obtained under this section.

37 **SECTION 4.** Section 2 of this 2025 Act applies to contracts into which a major residential
 38 contractor and a property owner enter on or after January 1, 2026.

39 **SECTION 5.** (1) Section 3 of this 2025 Act becomes operative on July 1, 2026.

40 (2) The Construction Contractors Board may adopt rules and take any other action be-
 41 fore the operative date specified in subsection (1) of this section that is necessary to enable
 42 the board, on and after the operative date specified in subsection (1) of this section, to
 43 undertake and exercise all of the duties, functions and powers conferred on the board by
 44 section 3 of this 2025 Act.

45 **SECTION 6.** Section 2 of this 2025 Act applies to contracts into which a major residential

1 contractor and a property owner enter on or after January 1, 2026.

2 SECTION 7. This 2025 Act takes effect on the 91st day after the date on which the 2025
3 regular session of the Eighty-third Legislative Assembly adjourns sine die.

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