

Senate Bill 1200

Sponsored by Senator THATCHER

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: Gives the CCB the power to oversee people who get workers for companies that do construction work. (Flesch Readability Score: 60.1).

Transfers regulatory authority over construction labor contractors from the Bureau of Labor and Industries to the Construction Contractors Board.

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

A BILL FOR AN ACT

Relating to construction labor contractors; creating new provisions; amending ORS 227.320, 658.405, 658.410, 658.415, 658.440, 658.511, 701.005, 701.010, 701.021, 701.026, 701.031, 701.035, 701.046, 701.056, 701.060, 701.068, 701.098, 701.110 and 701.470; and prescribing an effective date.

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

SECTION 1. ORS 227.320 is amended to read:

227.320. (1) Subject to the provisions of this section, a city of this state may establish by ordinance or otherwise a program for the demolition of residences or residential buildings. A program established under this subsection:

(a) Must require a person performing a demolition to acquire a permit from the city authorizing the person to perform the demolition;

(b) If a person performing a demolition is a contractor, as defined in ORS 701.005 [(5)(a)] **(6)(a)**, and if a residence or residential building to be demolished was built before January 1, 1978, must require the person, as a condition of receiving a permit under this subsection, to submit proof verifying that the person has been certified to engage in lead-based paint activities in accordance with rules adopted by the Oregon Health Authority;

(c) If a residence or residential building to be demolished was built before January 1, 1978, must require the person performing the demolition to comport with some or all of a list of best practices developed and periodically updated by the authority, in consultation with the Department of Environmental Quality, the Construction Contractors Board and other interested stakeholders, for the purpose of containing lead particles that otherwise would be released into the air during a demolition;

(d) May require a person performing a demolition to provide a copy of the asbestos survey required under ORS 468A.757 and notice of intent to perform activities related to asbestos abatement to an agency of the city before performing the demolition; and

(e) May provide for the dissemination to the public of a document, developed in coordination with the authority and the department, listing answers to frequently asked questions about:

(A) Best practices for containing lead particles that otherwise would be released into the air during a demolition;

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.

(B) The asbestos survey required under ORS 468A.757; and

(C) Asbestos abatement activities that must be conducted before a demolition.

(2) Subsection (1)(b) and (c) of this section does not apply to the demolition of a residence or residential building built before January 1, 1978, if a person certified to inspect or assess structures for the presence of lead-based paint in accordance with rules adopted by the authority has determined that the residence or residential building does not contain lead-based paint.

(3)(a) Except as provided in paragraph (b) of this subsection, this section does not prevent a city from adopting ordinances or otherwise providing for the further regulation of demolitions of residences and residential buildings.

(b) After any best practices are developed as described in subsection (1)(c) of this section, a city may not adopt ordinances regarding, or otherwise provide for, best practices for the purpose of containing lead particles that otherwise would be released into the air during a demolition that are in addition to any best practices developed and updated as described in subsection (1)(c) of this section.

SECTION 2. ORS 658.405 is amended to read:

658.405. As used in ORS 658.405 to 658.511 and 658.991 (2) and (3), unless the context requires otherwise:

(1) "Agricultural association" means a nonprofit or cooperative association of farmers, growers or ranchers that is incorporated under applicable state law and that acts as a farm labor contractor solely on behalf of members of the association.

[(2)(a) "Construction labor contractor" includes any person that:]

[(A) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers to perform labor for another in construction;]

[(B) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers on behalf of an employer engaged in construction; or]

[(C) Enters into a subcontract with another for any of the activities described in subparagraph (A) or (B) of this paragraph.]

[(b) "Construction labor contractor" does not include:]

[(A) A person that has a construction contract with an owner of real property where the construction work is performed;]

[(B) A person that has obtained building permits to perform construction work;]

[(C) A person that supplies building materials or machinery, other than manual tools or hand-operated power tools, for a construction project;]

[(D) An owner of real property engaged in the solicitation or recruitment of persons to perform construction work on the owner's property;]

[(E) The Employment Department;]

[(F) A crew leader;]

[(G) Individuals who perform labor pursuant to an agreement for exchanging their own labor or services with each other, provided the work is performed on land owned or leased by the individuals;]

[(H) An educational institution that is recognized as such by the Department of Education;]

[(I) A labor union;]

[(J) A local joint apprenticeship committee formed under ORS 660.135; or]

[(K) A staffing agency whose primary purpose is to provide workers to the client employers of the agency under the terms of a client agreement, if the agency provides workers' compensation coverage

1 *for all employees as required by ORS chapter 656 and pays employment and income taxes in accord-*
 2 *ance with applicable law.]*

3 [(3)] (2) “Crew leader” means the member of a group of workers who acts as spokesman for the
 4 group, travels with the group from another state into Oregon and performs the same work along
 5 with other group members. A crew leader may transport workers from their local place of residence
 6 to their place of employment so long as the crew leader does not perform this service for a profit.

7 [(4)(a)] (3)(a) “Farm labor contractor” includes any person that:

8 (A) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers
 9 to perform labor for another person to work in forestation or reforestation of lands, including but
 10 not limited to the planting, transplanting, tubing, precommercial thinning and thinning of trees and
 11 seedlings, the clearing, piling and disposal of brush and slash and other related activities;

12 (B) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers
 13 to perform labor for another person in the production or harvesting of farm products;

14 (C) Recruits, solicits, supplies or employs workers to gather evergreen boughs, yew bark, bear
 15 grass, salal or ferns from public lands for sale or market prior to processing or manufacture;

16 (D) Recruits, solicits, supplies or employs workers on behalf of an employer engaged in these
 17 activities;

18 (E) In connection with the recruitment or employment of workers to work in these activities,
 19 furnishes board or lodging for such workers;

20 (F) Bids or submits prices on contract offers for those activities; or

21 (G) Enters into a subcontract with another for any of those activities.

22 (b) “Farm labor contractor” does not include:

23 (A) Farmers, including owners or lessees of land intended to be used for the production of tim-
 24 ber, their permanent employees, advertising media, platoon leaders or individuals engaged in the
 25 solicitation or recruitment of persons for dayhaul work in connection with the growing, production
 26 or harvesting of farm products;

27 (B) The Employment Department;

28 (C) A crew leader;

29 (D) An individual who performs work, other than recruiting, supplying, soliciting or employing
 30 workers to perform labor for another, alone or only with the assistance of the individual’s spouse,
 31 son, daughter, brother, sister, mother or father;

32 (E) Individuals who perform labor pursuant to an agreement for exchanging their own labor or
 33 services with each other, provided the work is performed on land owned or leased by the individuals;

34 (F) An educational institution that is recognized as such by the Department of Education;

35 (G) A farmer who operates a farmworker camp, regulated under ORS 658.750, who recruits,
 36 supplies, solicits or employs workers only for the farmer’s own operations, and has farmworkers
 37 living in the camp who are employed by another on no more than an incidental basis, and the farmer
 38 receives no remuneration by virtue of such incidental employment; or

39 (H) A labor union.

40 [(5)] (4) “Labor contractor” means [*a construction labor contractor,*] a farm labor contractor or
 41 a property services contractor.

42 [(6)(a)] (5)(a) “Property services contractor” includes any person that:

43 (A) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers
 44 to perform labor for another person to provide services that include janitorial services;

45 (B) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers

on behalf of an employer to provide services that include janitorial services; or

(C) Enters into a subcontract with another for any of the activities described in subparagraph

(A) or (B) of this paragraph.

(b) "Property services contractor" does not include:

(A) The Employment Department;

(B) Employees of a property services contractor who is licensed under ORS 658.405 to 658.511;

(C) Individuals who perform labor pursuant to an agreement for exchanging their own labor or services with each other, provided the work is performed on land owned or leased by the individuals;

(D) An educational institution that is recognized as such by the Department of Education; or

(E) A labor union.

SECTION 3. ORS 658.410 is amended to read:

658.410. (1) Except as provided by ORS 658.425 and subsection (3) of this section, a person may not act as a labor contractor without a valid license in the person's possession issued to the person by the Commissioner of the Bureau of Labor and Industries. Except as provided in subsection (3) of this section, a person may not act as a farm labor contractor with regard to the forestation or reforestation of lands unless the person possesses a valid farm labor contractor's license with the indorsement required by ORS 658.417 (1). The Bureau of Labor and Industries shall make rules for the issuance of duplicate licenses in the event of the loss or destruction of original licenses.

(2) Labor contractor licenses may be issued by the commissioner only as follows:

(a) To a natural person operating as a sole proprietor under the person's own name or under an assumed business name registered with the Office of Secretary of State.

(b) To two or more natural persons operating as a partnership or as a limited liability partnership under their own names or under an assumed business name registered with the Office of Secretary of State.

(c) Except as provided in subsection (3) of this section, to the majority shareholder or majority shareholders of a corporation or a limited liability company that is licensed to operate as a labor contractor.

(d) Except as provided in subsection (3) of this section, to a corporation or a limited liability company whose majority shareholder or majority shareholders are also licensed to operate as a labor contractor and that is authorized to do business in Oregon by the Office of Secretary of State.

(e) To a cooperative corporation authorized to do business in Oregon by the Office of Secretary of State.

(f) To a private nonprofit corporation authorized to do business in Oregon by the Office of Secretary of State and designated by the Internal Revenue Service as exempt under section 501(c)(3) of the Internal Revenue Code, provided:

(A)(i) The purpose of the corporation is to provide education or training; and

(ii) Workers recruited, solicited, supplied or employed by the corporation are recruited, solicited, supplied or employed only for the purpose of educating or training the workers [*in construction*,] in the forestation or reforestation of lands or in the production or harvesting of farm products; or

(B) For at least five years before the corporation files an application for a labor contractor license, the corporation has been:

(i) Authorized to do business in Oregon by the Office of Secretary of State;

(ii) Primarily engaged in recruiting, soliciting, supplying or employing workers; and

(iii) Designated by the Internal Revenue Service as exempt under section 501(c)(3) of the Internal Revenue Code.

(g) For a farm labor contractor license only, to an agricultural association that is authorized to do business in Oregon by the Office of Secretary of State.

(h) For a property services contractor license only:

(A) To any of the business entities described in paragraphs (b) to (f) of this subsection, provided that each entity includes with the application for a license under ORS 658.415 the names and addresses of one or more individuals who are responsible, financially and otherwise, for fulfilling the entity's obligations consistent with the provisions of ORS 658.405 to 658.511.

(B) To a private nonprofit corporation authorized to do business in Oregon by the Office of Secretary of State and designated by the Internal Revenue Service as exempt under section 501(c)(3) of the Internal Revenue Code provided that the corporation is primarily engaged in recruiting, soliciting, supplying or employing workers.

(3) The majority shareholder or majority shareholders of a corporation or limited liability company are not required to be licensed under this section if the corporation or limited liability company:

(a)(A) Publicly trades its shares of stock on a stock exchange regulated by the United States Securities and Exchange Commission; or

(B) Has 10 or more shareholders and demonstrates to the satisfaction of the commissioner that the corporation or limited liability company is adequately capitalized; and

(b) Is authorized to do business in Oregon by the Office of Secretary of State.

SECTION 4. ORS 658.415 is amended to read:

658.415. (1) A person may not act as a labor contractor unless the person has first been licensed by the Commissioner of the Bureau of Labor and Industries under ORS 658.405 to 658.511. Any person may file an application for a license to act as a labor contractor at any office of the Bureau of Labor and Industries. The application shall be sworn to by the applicant and shall be written on a form prescribed by the commissioner. The form shall include, but not be limited to, questions asking:

(a) The applicant's name, Oregon address and all other temporary and permanent addresses the applicant uses or knows will be used in the future.

(b) Information on all motor vehicles to be used by the applicant in operations as a labor contractor including license number and state of licensure, vehicle number and the name and address of vehicle owner for all vehicles used.

(c) Whether or not the applicant was ever denied a license under ORS 658.405 to 658.511 within the preceding three years, or in this or any other jurisdiction had a labor contract license denied, revoked or suspended within the preceding three years.

(d) The names and addresses of all persons financially interested, whether as partners, shareholders, associates or profit-sharers, in the applicant's proposed operations as a labor contractor, together with the amount of their respective interests, and whether or not, to the best of the applicant's knowledge, any of these persons was ever denied a license under ORS 658.405 to 658.511 within the preceding three years, or had a labor contractor license denied, revoked or suspended within the preceding three years in this or any other jurisdiction.

(2) Each applicant shall furnish satisfactory proof with the application of the existence of:

(a) A policy of insurance in an amount adequate under rules issued by the commissioner for vehicles to be used to transport workers. Satisfactory proof of adequate insurance includes:

(A) The certificate of an insurance producer licensed in Oregon.

(B) For property services contractors only, documentation that provides the insurance policy

1 number, the amount of coverage under the policy and the name of the insurance producer.

2 (b) Workers' compensation insurance as provided in ORS 658.440 (1)(j). The commissioner may
3 adopt rules concerning satisfactory proof of adequate workers' compensation insurance.

4 (3) Except as provided in subsection (6) of this section, each applicant shall submit with the
5 application and shall continually maintain thereafter, until excused, proof of financial ability to
6 promptly pay the wages of employees and other obligations specified in this section. The proof re-
7 quired in this subsection shall be in the form of a corporate surety bond of a company licensed to
8 do such business in Oregon, a cash deposit or a deposit the equivalent of cash. For the purposes of
9 this subsection, it shall be deemed sufficient compliance if the labor contractor procures a savings
10 account at a bank or savings and loan institution in the name of the commissioner as trustee for the
11 employees of the labor contractor and others as their interests may appear and delivers proof of the
12 account and the ability to withdraw the funds to the commissioner under the terms of a bond ap-
13 proved by the commissioner. The amount of the bond and the security behind the bond, or the cash
14 deposit, shall be based on the maximum number of employees the labor contractor employs at any
15 time during the year. The bond or cash deposit shall be:

16 (a) \$10,000 if the labor contractor employs no more than 20 employees; or

17 (b) \$30,000, or such lesser sum as may be authorized by the commissioner under ORS 658.416,
18 if the labor contractor employs 21 or more employees.

19 (4) In the event that a single business entity licensed as a labor contractor has more than one
20 natural person who, as an owner or employee of the business entity, engages in activities that re-
21 quire the persons to be licensed individually as labor contractors, and each person engages in those
22 activities solely for that business entity, the commissioner may provide by rule for lower aggregate
23 bonding requirements for the business entity and its owners and employees. If there is an unsatisfied
24 judgment of a court or final decision of an administrative agency against a license applicant, the
25 subject of which is any matter that would be covered by the bond or deposit referred to in sub-
26 section (3) of this section, the commissioner may not issue a license to the applicant until the
27 judgment or decision is satisfied. As a condition of licensing any such applicant, the commissioner
28 may require the applicant to submit proof of financial ability required by subsection (3) of this sec-
29 tion in an amount up to three times that ordinarily required of a license applicant.

30 (5) All corporate surety bonds filed under this section or ORS 658.419 shall be executed to cover
31 liability for the period for which the license is issued. During the period for which it is executed,
32 the bond may not be canceled or otherwise terminated.

33 (6) A property services contractor is not required to file proof of financial ability under sub-
34 section (3) of this section if:

35 (a) The property services contractor provides proof of general liability insurance coverage in
36 an amount that the commissioner determines by rule is adequate; and

37 (b) The commissioner finds that the property services contractor, within the preceding two
38 years, has not:

39 (A) Violated ORS chapter 652 or 653; or

40 (B) Committed an unlawful employment practice under ORS chapter 659A.

41 (7) Each application must be accompanied by the fee established under ORS 658.413.

42 (8) Any person who uses the services of a labor contractor who has failed to comply with any
43 of the provisions of this section or ORS 658.419 shall:

44 (a) Be personally and jointly and severally liable to any employee as far as the employee has
45 not been paid wages in full for the work done for that person.

1 (b) Be personally liable for all penalty wages that have occurred under ORS 652.150 for the
2 wages due under this section.

3 (9) Any person who suffers any loss of wages from the employer of the person or any other loss
4 specified in subsection (17) of this section shall have a right of action in the name of the person
5 against the surety upon the bond or against the deposit with the commissioner. The right of action:

6 (a) Is assignable and must be included with an assignment of a wage claim, of any other appro-
7 priate claim or of a judgment thereon.

8 (b) May not be included in any action against the labor contractor but must be exercised inde-
9 pendently after first procuring a judgment or other form of adequate proof of liability established
10 by rule and procedure under subsection (15) of this section establishing the labor contractor's li-
11 ability for the claim.

12 (10)(a) The surety company or the commissioner shall make prompt and periodic payments on
13 the labor contractor's liability up to the extent of the total sum of the bond or deposit.

14 (b) Payment shall be made based upon priority of wage claims over advances made by [*the con-*
15 *struction property owner,*] the grower or producer of agricultural commodities or the owner or lessee
16 of land intended to be used for the production of timber, for advances made to or on behalf of the
17 labor contractor.

18 (c) Payment shall be made in full of all sums due to each person who presents adequate proof
19 of the claim.

20 (d) Payment shall be made in part if there are insufficient funds to pay in full the person next
21 entitled to payment in full.

22 (11) A person may not bring any action against the surety company or the commissioner on the
23 bond or against the commissioner as the trustee for the beneficiaries of the labor contractor under
24 any deposit made pursuant to this section or ORS 658.419 unless the person has first exhausted the
25 procedures contained in subsections (9) and (13) of this section or in ORS 658.419 and contends that
26 the surety company or the commissioner still has funds that are applicable to the person's judgment
27 or acknowledgment.

28 (12) The commissioner may not be prevented from accepting assignments of wage claims and
29 enforcing liability against the surety on the bond or from applying the deposit to just wage claims
30 filed with the commissioner.

31 (13) All claims against the bond or deposit shall be unenforceable unless request for payment
32 of a judgment or other form of adequate proof of liability or a notice of the claim has been made
33 by certified mail to the surety or the commissioner within six months from the end of the period for
34 which the bond or deposit was executed and made.

35 (14) If the commissioner has received no notice as provided in subsection (13) of this section
36 within six months after a labor contractor is no longer required to provide and maintain a surety
37 bond or deposit, the commissioner shall terminate and surrender any bond or any deposit under the
38 control of the commissioner to the person who is entitled thereto upon receiving appropriate proof
39 of such entitlement.

40 (15) The commissioner shall adopt rules reasonably necessary for administration and enforce-
41 ment of the provisions of this section and ORS 658.419.

42 (16) Every labor contractor required by this section or ORS 658.419 to furnish a surety bond or
43 make a deposit in lieu of a surety bond shall keep conspicuously posted upon the premises where
44 employees working under the contractor are employed a notice, in both English and any other lan-
45 guage used by the labor contractor to communicate with workers, specifying the contractor's com-

1 pliance with the requirements of this section and ORS 658.419 and specifying the name and Oregon
 2 address of the surety on the bond or a notice that a deposit in lieu of the bond has been made with
 3 the commissioner together with the address of the commissioner.

4 (17) The bond or deposit referred to in subsection (3) of this section shall be payable to the
 5 commissioner and shall be conditioned upon:

6 (a) Payment in full of all sums due on wage claims of employees.

7 (b) Payment by the labor contractor of all sums due to [*the construction property owner,*] the
 8 grower or producer of agricultural commodities or the owner or lessee of land intended to be used
 9 for the production of timber for advances made to or on behalf of the labor contractor.

10 (18) The commissioner may not issue a license until the applicant executes a written statement
 11 that shall be subscribed and sworn to and that shall contain the following declaration:

12
 13
 14 With regards to any action filed against me concerning my activities as a labor contractor, I
 15 appoint the Commissioner of the Bureau of Labor and Industries as my lawful agent to accept ser-
 16 vice of summons when I am not present in the jurisdiction in which such action is commenced or
 17 have in any other way become unavailable to accept service.

18
 19
 20 (19) A person who cosigns with a labor contractor for a bond required by subsection (3) of this
 21 section or by ORS 658.419 is not personally or jointly and severally liable for unpaid wages above
 22 the amount of the bond solely because the person cosigned for the bond.

23 (20) The court may award reasonable attorney fees to the prevailing party in any action to en-
 24 force the provisions of this section or ORS 658.419.

25 **SECTION 5.** ORS 658.440 is amended to read:

26 658.440. (1) Each person acting as a labor contractor shall:

27 (a) Carry a labor contractor's license at all times and exhibit it upon request to any person with
 28 whom the labor contractor intends to deal in the capacity of a labor contractor.

29 (b) File immediately at the United States post office serving the labor contractor's address, as
 30 noted on the face of the license, a correct change of address if the labor contractor permanently
 31 changes address, and notify the Commissioner of the Bureau of Labor and Industries each time an
 32 address change is made.

33 (c) Pay or distribute promptly, when due, to the individuals entitled thereto all money or other
 34 things of value entrusted to the labor contractor by any person for that purpose.

35 (d) Comply with the terms and provisions of all legal and valid agreements or contracts entered
 36 into in the labor contractor's capacity as a labor contractor.

37 (e) File with the Bureau of Labor and Industries, as required by rule, information relating to
 38 work agreements between the labor contractor and [*construction property owners or*] farmers and
 39 between the labor contractor and workers or information concerning changes in the circumstances
 40 under which the license was issued.

41 (f) Furnish to each worker, at the time of hiring, recruiting, soliciting or supplying, whichever
 42 occurs first, a written statement in the English language and any other language used by the labor
 43 contractor to communicate with the workers that contains a description of:

44 (A) The method of computing the rate of compensation.

45 (B) The terms and conditions of any bonus offered, including the manner of determining when

1 the bonus is earned.

2 (C) The terms and conditions of any loan made to the worker.

3 (D) The conditions of any housing, health and child care services to be provided.

4 (E) The terms and conditions of employment, including the approximate length of season or pe-
5 riod of employment and the approximate starting and ending dates thereof.

6 (F) The terms and conditions under which the worker is furnished clothing or equipment.

7 (G) The name and address of the owner of all operations where the worker will be working as
8 a result of being recruited, solicited, supplied or employed by the labor contractor.

9 (H) The existence of a labor dispute at the worksite.

10 (I) The worker's rights and remedies under ORS chapters 654 and 656, ORS 658.405 to 658.511,
11 the Service Contract Act (41 U.S.C. 351-401) and any other such law specified by the Commissioner
12 of the Bureau of Labor and Industries, in plain and simple language in a form specified by the
13 commissioner.

14 (g) At the time of hiring and prior to the worker performing any work for the labor contractor,
15 execute a written agreement between the worker and the labor contractor containing the terms and
16 conditions described in paragraph (f)(A) to (I) of this subsection. The written agreement shall be in
17 the English language and any other language used by the labor contractor to communicate with the
18 workers.

19 (h) Furnish to the worker, each time the worker receives a compensation payment from the la-
20 bor contractor, a written statement itemizing the total payment and amount and purpose of each
21 deduction therefrom, hours worked and rate of pay or rate of pay and pieces done if the work is
22 done on a piece rate basis, and if the work is done under the Service Contract Act (41 U.S.C.
23 351-401) or related federal or state law, a written statement of any applicable prevailing wage.

24 (i) Except for a person acting as a property services contractor, provide to the commissioner a
25 certified true copy of all payroll records for work done as a labor contractor when the contractor
26 pays employees directly. The records shall be submitted in such form and at such times and shall
27 contain such information as the commissioner, by rule, may prescribe.

28 (j)(A) If the person is a farm labor contractor engaged in the forestation or reforestation of
29 lands, provide workers' compensation insurance for each individual who performs manual labor in
30 forestation or reforestation activities regardless of the business form of the contractor and regard-
31 less of any contractual relationship that may be alleged to exist between the contractor and the
32 workers notwithstanding ORS 656.027, unless workers' compensation insurance is otherwise pro-
33 vided; or

34 (B) If the person is a farm labor contractor but is not engaged in the forestation or reforestation
35 of lands, provide workers' compensation insurance to the extent required under ORS chapter 656,
36 unless workers' compensation insurance is otherwise provided.

37 (k) If the person is a property services contractor, provide time and pay records, as defined in
38 ORS 652.750, to the commissioner or an employee of the property services contractor who requests
39 the records, no later than 45 days after receipt of the request. A property services contractor that
40 fails to comply with the requirements of this paragraph is subject to civil penalty under ORS
41 652.900.

42 (2) If the labor contractor:

43 (a) Employs workers, the labor contractor shall substantially comply with the provisions of ORS
44 654.174 relating to field sanitation, and its implementing rules as adopted by the Department of
45 Consumer and Business Services.

(b) Owns or controls housing furnished to workers in connection with the recruitment or employment of workers, the labor contractor shall ensure that the housing substantially complies with any applicable law relating to the health, safety or habitability of the housing.

(c) Recruits or solicits any worker to travel from one place to another for the purpose of working at a time prior to the availability of the employment, the labor contractor shall furnish to the worker, at no charge, lodging and an adequate supply of food until employment begins, in compliance with rules adopted by the Bureau of Labor and Industries. If employment does not begin within 30 days from the date the labor contractor represented employment would become available, the labor contractor shall refund to the worker all sums paid by the worker to the labor contractor and provide the worker, in cash or other form of payment authorized by ORS 652.110, the costs of transportation, including meals and lodging in transit, to return the worker to the place from which the worker was induced to travel or the costs of transportation, including meals and lodging in transit, to another worksite selected by the worker, whichever is less. For the purposes of this paragraph, "recruits or solicits" does not include the mere provision of housing or employment to persons who have not otherwise been recruited or solicited by the labor contractor or an agent of the labor contractor prior to their arrival at the place of housing or employment. Workers who arrive at the place of employment prior to the date they were instructed by the labor contractor to arrive are not entitled to the benefits of this subsection until the date they were instructed to arrive.

(3) A person acting as a labor contractor, or applying for a license to act as a labor contractor, may not:

(a) Make any misrepresentation, false statement or willful concealment in the application for a license.

(b) Willfully make or cause to be made to any person any false, fraudulent or misleading representation, or publish or circulate any false, fraudulent or misleading information concerning the terms, condition or existence of employment at any place or by any person.

(c) Solicit or induce, or cause to be solicited or induced, the violation of an existing contract of employment.

(d) Knowingly employ a noncitizen not legally present or legally employable in the United States.

(e) Assist an unlicensed person to act in violation of ORS 658.405 to 658.511.

(f) By force, intimidation or threat of procuring dismissal or deportation or by any other manner whatsoever, induce any worker employed or in a subcontracting relationship to the labor contractor to give up any part of the compensation to which the worker is entitled under the contract of employment or under federal or state wage laws.

(g) Solicit or induce, or cause to be solicited or induced, the travel of a worker from one place to another by representing to a worker that employment for the worker is available at the destination when employment for the worker is not available within 30 days after the date the work was represented as being available.

SECTION 6. ORS 658.511 is amended to read:

658.511. Nothing in ORS 658.405 to 658.511 affects whether a person is an employee of a property services contractor[, of a construction labor contractor] or of a user of services provided by a property services contractor [or a construction labor contractor] for purposes of a wage claim under ORS chapters 652 and 653 or ORS 658.415.

SECTION 7. 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)(a) “Construction labor contractor” means a person that:

(A) Receives an agreed remuneration or rate of pay for recruiting, soliciting, supplying or employing workers on behalf of an employer engaged in construction or for the purpose of performing labor related to construction for another person; or

(B) Enters into a subcontract with another person for a purpose described in subparagraph (A) of this paragraph.

(b) “Construction labor contractor” does not include:

(A) A person that has a construction contract with an owner of real property where the construction work is performed;

(B) A person that has obtained building permits to perform construction work;

(C) A person that supplies building materials or machinery, other than manual tools or hand-operated power tools, for a construction project;

(D) An owner of real property that is engaged in soliciting or recruiting persons to perform construction work on the owner’s property;

(E) The Employment Department;

(F) A crew leader;

(G) Individuals who perform labor under an agreement in which an individual exchanges the individual’s own labor or services with another individual, if the individuals perform the work on land that the individuals own or lease;

(H) An educational institution that the Department of Education recognizes as an educational institution;

(I) A labor union;

(J) A local joint apprenticeship committee formed under ORS 660.135; or

(K) A staffing agency the primary purpose of which is to provide workers to client employers of the agency under the terms of a client agreement, if the agency provides workers’ compensation coverage for all employees as required under ORS chapter 656 and pays employment and income taxes in accordance with applicable law.

1 [(5)] **(6)** “Contractor” means any of the following:

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

6 (b) A person that purchases or owns property and constructs or for compensation arranges for
7 the construction of one or more residential structures or small commercial structures with the in-
8 tent of selling the structures.

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

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

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

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

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

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

24 [(6)] **(7)** “Developer” means a contractor that owns property or an interest in property and en-
25 gages in the business of arranging for construction work or performing other activities associated
26 with the improvement of real property, with the intent to sell the property.

27 [(7)(a)] **(8)(a)** “General contractor” means a contractor whose business operations require the
28 use of more than two unrelated building trades or crafts that the contractor supervises or performs
29 in whole or part, whenever the sum of all contracts on any single property, including materials and
30 labor, exceeds an amount established by rule by the board.

31 (b) “General contractor” does not mean a specialty contractor or a residential limited contrac-
32 tor.

33 [(8)(a)] **(9)(a)** “Home improvement” means a renovation, remodel, repair or alteration by a resi-
34 dential contractor to an existing owner-occupied:

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

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

39 (C) Modular home constructed off-site;

40 (D) Manufactured dwelling; or

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

42 (b) “Home improvement” does not include a renovation, remodel, repair or alteration by a resi-
43 dential contractor:

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

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

[(9)(a)] (10)(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)] (11) "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)] (12) "Large commercial structure" means a structure that is not a residential structure or small commercial structure.

[(12)] (13) "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)] (14) "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)] (15) "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)] (16)(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)] (17) "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)] (18) "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)] (19) "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) "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 8. 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, **other than con-**

1 **struction labor contractors**, as defined by administrative rule of the board. The following persons
2 are exempt from licensure under this chapter:

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

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

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

8 (4) A person working on one structure or project, under one or more contracts, when the ag-
9 gregate price of all of that person's contracts for labor, materials and all other items is less than
10 \$1,000 and such work is of a casual, minor or inconsequential nature. This subsection does not apply
11 to a person who advertises or puts out any sign or card or other device that might indicate to the
12 public that the person is a contractor.

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

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

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

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

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

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

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

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

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

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

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

43 (9) A landscape contracting business operating within the scope of a license issued under ORS
44 671.510 to 671.760 that:

45 (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)] (6)(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 or temporary service provider, both as defined in ORS 656.850, that supplies personnel to a licensed contractor for the performance of work under the direction and supervision of the contractor.]

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

[(19)] (18) 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)] (19) 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 9. ORS 701.021 is amended to read:

701.021. (1) Except as provided in ORS 701.010, a person or joint venture that undertakes, offers to undertake or submits a bid to do work as a contractor **or construction labor contractor** must have a current license issued by the Construction Contractors Board and possess an appropriate endorsement as provided in this section. For purposes of offering to undertake or submitting a bid to do work, a partnership or joint venture is licensed and endorsed if any partner or joint venturer whose name appears in the business name of the partnership or joint venture has a current license issued by the board and possesses an appropriate endorsement.

(2) A person or joint venture that undertakes, offers to undertake or submits a bid to do work as a contractor in preparation for or in connection with a residential structure must have one of the following endorsements:

- (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.
- (i) Home energy performance score contractor.

(3) A person or joint venture that undertakes, offers to undertake or submits a bid to do work as a contractor in preparation for or in connection with a small commercial structure must have one of the following endorsements:

- (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) Commercial general contractor level 1.
- (h) Commercial specialty contractor level 1.
- (i) Commercial general contractor level 2.
- (j) Commercial specialty contractor level 2.
- (k) Commercial developer.

(4) A person or joint venture that undertakes, offers to undertake or submits a bid to do work as a contractor in preparation for or in connection with a large commercial structure must have one of the following endorsements:

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

(5) A person that operates as a construction labor contractor must have an endorsement as a construction labor contractor.

SECTION 10. ORS 701.026 is amended to read:

701.026. (1) A contractor may not hire a contractor **or construction labor contractor** to perform work unless the contractor is licensed under this chapter and properly endorsed for the work to be performed or is exempt from licensure under ORS 701.010.

(2) Except as provided in ORS 671.540, a contractor that is not licensed under ORS 671.560 shall hire a person licensed under ORS 671.560 to perform landscaping work.

SECTION 11. ORS 701.031 is amended to read:

701.031. (1) It is prima facie evidence that a person is doing business as a contractor if:

- (a) The person for that person's own use performs, employs others to perform, or for compen-

sation and with the intent to sell the structure arranged to have performed, work described in ORS 701.005 [(5)] (6); and

(b) Within any 36-month period the person offers for sale two or more newly built structures on which work described in paragraph (a) of this subsection was performed.

(2) Licensure under this chapter is prima facie evidence that the licensee conducts a separate, independent business.

SECTION 12. 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*] **construction labor contractor**.

(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) 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*] **construction labor contractor** 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. 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*] **construction labor contractor**, the person is also subject to licensing sanctions under ORS 701.098. The person 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 13. ORS 701.046 is amended to read:

701.046. (1) Except as provided in subsection (2) of this section, an applicant for a construction contractor license **or license as a construction labor contractor** must submit the application on a form prescribed by the Construction Contractors Board. The application must include, but is not limited to, the following information:

(a) The endorsement being sought.

(b) A list of [*construction*] debts involving the applicant, or an owner or officer of the applicant, if the order, award, penalty or judgment that establishes the debt was issued within the preceding five years.

(c) For each person described in paragraphs (h), (i) and (j) of this subsection, a Social Security number.

(d) The applicant's workers' compensation insurance account number, if the applicant is required to have workers' compensation insurance.

(e) The applicant's unemployment insurance account number, if the applicant is required to have unemployment insurance.

(f) The applicant's state withholding tax account number, if the applicant is required to withhold state income tax.

(g) The applicant's federal employer identification number, if the applicant is required to have a federal employer identification number.

(h) The name and address of:

(A) Each of the applicant's partners, if the applicant is a partnership, limited liability partnership or foreign limited liability partnership.

(B) The applicant's general partner, if the applicant is a limited partnership.

(C) Each joint venturer, if the applicant is a joint venture.

(D) The applicant's owner, if the applicant is a sole proprietorship.

(E) The applicant's officers, if the applicant is a corporation.

(F) The applicant's manager and each member, if the applicant is a manager-managed limited liability company.

(G) Each of the applicant's members, if the applicant is a member-managed limited liability company.

(H) The responsible managing individual designated by the applicant.

(I) Each of the applicant's trustees, if the applicant is a trust.

(i) The name and address of the following if the applicant is a partnership, limited liability partnership, foreign limited liability partnership, joint venture, manager-managed limited liability company or member-managed limited liability company:

(A) Each partner in a partnership, limited liability partnership or foreign limited liability partnership that is a partner, joint venturer or member of the applicant.

(B) Each general partner in a limited partnership that is a partner, joint venturer or member of the applicant.

(C) Each joint venturer in a joint venture that is a partner, joint venturer or member of the applicant.

(D) The manager and each member of a manager-managed limited liability company that is a partner, joint venturer or member of the applicant.

(E) Each member of a member-managed limited liability company that is a partner, joint venturer or member of the applicant.

(F) Each officer of a corporation that is a partner, joint venturer or member of the applicant.

(G) Each individual who has a controlling ownership interest in, or management authority over, the applicant and who meets criteria adopted by the board by rule.

(j) The name and address of the following if the applicant is a limited partnership:

(A) Each partner of any partnership, limited liability partnership or foreign limited liability partnership that is the general partner of the applicant.

(B) Each general partner of any limited partnership that is the general partner of the applicant.

(C) Each joint venturer in any joint venture that is the general partner of the applicant.

(D) The manager and each member of any manager-managed limited liability company that is the general partner of the applicant.

(E) Each member of any member-managed limited liability company that is the general partner

of the applicant.

(F) Each officer of any corporation that is the general partner of the applicant.

(k) For each person described in paragraphs (h), (i) and (j) of this subsection, information as required by board rule regarding the following *[if related to construction activities]*:

(A) A final judgment against the person by a court in any state entered within five years preceding the application date that requires the person to pay money to another person or to a public body if the judgment remains unsatisfied on the application date.

(B) A final order against the person by an administrative agency in any state issued within five years preceding the application date that requires the person to pay money to another person or to a public body if the order remains unsatisfied on the application date.

(C) A court action against the person in any state pending on the application date that alleges the person owes money to another person or to a public body.

(D) An action by an administrative agency in any state pending on the application date that seeks an order that the person pay money to another person or to a public body.

(E) A conviction for a crime listed in ORS 701.098 (1)(L) entered within five years preceding the application date.

(F) An indictment for a crime listed in ORS 701.098 (1)(L) filed within five years preceding the application date.

(L) The basis on which the applicant meets the standards for independent contractor status under ORS 670.600.

(2) Subsection (1)(h), (i) and (j) of this section does not apply if the applicant is a company that offers securities registered with the United States Securities and Exchange Commission for sale to the general public.

(3) The application described in subsection (1) of this section must be accompanied by proof satisfactory to the board that the applicant:

(a) Is in compliance with ORS 701.091.

(b) Has the legal capacity to enter into contracts.

(4) Subsection (3)(a) of this section does not apply to an applicant for licensing with endorsement solely as a residential or commercial developer.

(5) An applicant shall conform to the information provided by the applicant on the application and to the terms of the application.

SECTION 14. ORS 701.056 is amended to read:

701.056. Each applicant shall pay to the Construction Contractors Board:

(1) For an application for the issuance or renewal of a contractor license **or construction labor contractor license**, an application fee as determined by the board under ORS 701.238.

(2) For an application for changes to a contractor license **or construction labor contractor license**, other than changes due to clerical errors by the board, an application fee established by board rule.

SECTION 15. ORS 701.060 is amended to read:

701.060. Any contractor licensed under this chapter, **other than a construction labor contractor**, may at any time apply for an additional or different endorsement. The Construction Contractors Board may charge a fee not to exceed \$20 for each application. **The board by rule may prescribe when a construction labor contractor may apply for an additional or different endorsement and which endorsements for which the construction labor contractor may apply.**

1 **SECTION 16.** ORS 701.068 is amended to read:

2 701.068. (1)(a) An applicant for issuance or renewal of a contractor license shall file with the
3 Construction Contractors Board a surety bond with one or more corporate sureties authorized to
4 do business in this state in the amount set forth in ORS 701.081 or 701.084.

5 **(b) An applicant for an issuance or renewal of a license as a construction labor contrac-**
6 **tor shall file with the board a surety bond with one or more corporate sureties authorized**
7 **to do business in this state in the amount set forth in section 18 of this 2025 Act.**

8 (2) If an applicant for issuance, renewal or an additional endorsement of a license will hold
9 endorsements as both a residential contractor and a commercial contractor, the applicant shall file
10 with the board a surety bond for each endorsement in the amount set forth in ORS 701.081 or
11 701.084.

12 (3)(a) The surety bond for a residential contractor must provide that the applicant, with regard
13 to work subject to this chapter, will pay amounts determined by the board as provided under ORS
14 701.145. The surety bond for a commercial contractor must provide that the applicant, with regard
15 to work subject to this chapter, will pay amounts determined by the board as provided under ORS
16 701.146. Bonds filed under this section shall remain in effect for at least one year or until depleted
17 by payments under ORS 701.150, 701.153 and 701.157, unless the surety sooner cancels the bond. At
18 the discretion of the surety the bond may be continued for an additional period by continuation
19 certificate. Except as provided in subsection (4) of this section, the aggregate liability of the surety
20 under the bond for complaints against the contractor may not exceed the penal sum of the bond no
21 matter how many years the bond is in force. Except as provided in subsection (4) of this section,
22 an extension by continuation certificate, reinstatement, reissue or renewal of the bond may not in-
23 crease the liability of the surety.

24 **(b) The bond required of a construction labor contractor under subsection (1)(b) of this**
25 **section must constitute proof of the construction labor contractor's ability to promptly pay**
26 **the wages of employees and other obligations of the construction labor contractor.**

27 (4) The board, by rule, may require a licensee to obtain a new surety bond if, pursuant to a
28 board determination issued under ORS 701.145 or 701.146, the surety pays an amount out of the bond
29 of the licensee. The new surety bond must be in the applicable amount set forth in ORS 701.081 or
30 701.084 **or section 18 of this 2025 Act, as appropriate**, unless a higher amount is required by a
31 board condition or rule described in subsection (5) or (6) of this section. The board may allow a
32 licensee to obtain, instead of a new bond, a certification that the surety remains liable for the full
33 penal sum of the bond, notwithstanding payment by the surety on the complaint.

34 (5) If the amount the licensee must pay against the bond under subsection (3) of this section
35 exceeds the amount of the bond, the board shall suspend the contractor's **or construction labor**
36 **contractor's** license until the amount owed is paid. The board, as a condition of ending the sus-
37 pension, may require a contractor **or construction labor contractor** requesting reinstatement of
38 a license to file a bond of an amount up to five times as much as the amount required ordinarily
39 of a licensee under ORS 701.081 or 701.084 **or section 18 of this 2025 Act, as appropriate.**

40 (6) The board by rule may establish conditions for applicants or persons licensed under this
41 chapter under which the applicant or licensee must file a bond of an amount up to five times as
42 much as the amount required ordinarily of an applicant or licensee under ORS 701.081 or 701.084
43 **or section 18 of this 2025 Act.** The board may reduce the amount of bond [it] **the board** would
44 otherwise require if the contractor **or construction labor contractor** demonstrates satisfactory
45 completion of approved elective classes on dispute resolution and prevention, basic accounting and

record keeping or such other classes as the board may prescribe.

(7) The bond required under this section is for the exclusive purpose of payment of amounts for which the board has determined the surety to have responsibility.

(8) Upon issuance of a determination under ORS 701.145 or 701.146 for a complaint against a contractor who holds a bond required under this section, the board shall notify the surety on the bond of the determination in a manner determined by the board by rule. The notification shall include a list of all board determinations for payment by the surety from the bond.

(9) A court action may not be commenced against a surety on a bond required under this section until 30 days after the date that the surety is notified by the board under ORS 701.150 that payment is due on the determination.

(10) In any action against a surety on a bond under this section that is based on the failure of the surety to pay an amount determined by the board, the court may award:

(a) Costs;

(b) Reasonable attorney fees to the prevailing party as part of the costs; and

(c) Twice the amount that the board determined the surety must pay on the complaint, if the surety arbitrarily and capriciously refused to pay.

SECTION 17. Section 18 of this 2025 Act is added to and made a part of ORS chapter 701.

SECTION 18. (1) A construction labor contractor shall obtain a surety bond under ORS 701.068 in the following amounts, as applicable:

(a) \$10,000 if the construction labor contractor employs not more than 20 employees; or

(b) \$30,000, or a lesser amount if the Construction Contractors Board authorizes a lesser amount, if the construction labor contractor employs 21 or more employees.

(2) A surety bond that a construction labor contractor files under ORS 701.068 must be executed to cover liability for the period for which the construction labor contractor's license is valid. During the period for which the bond is executed, the bond may not be canceled or otherwise terminated.

(3) A person who suffers a loss of wages from the person's employer or of an amount due from the construction labor contractor to the construction property owner has a right of action in the person's name against the surety upon the bond. The right of action:

(a) Is assignable and must be included with an assignment of a wage claim, of any other appropriate claim or of a judgment on the claim.

(b) May not be included in an action against the construction labor contractor but must be exercised independently after first procuring a judgment or other form of adequate proof of the construction labor contractor's liability.

(4) Payment from the bond must be made on the basis of a priority of wage claims over advances the construction property owner made to or on behalf of the construction labor contractor and must be made in full to each person who presents adequate proof of the person's claim. If insufficient funds are available to pay in full the person next entitled to payment in full, payment may be made in part.

(5) All claims against the bond are unenforceable unless a claimant requests payment on the basis of a judgment or other form of adequate proof of liability or sends notice of the claim by certified mail to the surety or the board within six months after the end of the period for which the bond was filed.

(6) Every construction labor contractor required to file a surety bond under ORS 701.068 shall keep conspicuously posted upon the premises where employees working under the con-

struction labor contractor are employed a notice, in both English and any other language the construction labor contractor uses to communicate with workers, stating that the construction labor contractor is in compliance with the requirements of this section and listing the name and Oregon address of the surety on the bond.

(7) The bond described in subsection (1) of this section must be payable to the board and be conditioned upon:

(a) Payment in full of all sums due on wage claims of employees.

(b) The construction labor contractor's payment of all sums due to the construction property owner for advances the construction property owner made to or on behalf of the construction labor contractor.

SECTION 19. 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 **or recruiting, soliciting, supplying or employing workers on behalf of an employer engaged in construction or for the purpose of performing labor related to construction for another person.**

(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]* **construction labor contractor** while licensed as exempt under ORS 701.035.

(r) Willfully made or caused to be made to any person a false, fraudulent or misleading representation, or published or circulated false, fraudulent or misleading information, concerning the terms, conditions or existence of employment at any location or by any person if the licensee or applicant has or is seeking a license as a construction labor contractor.

(s) Solicited or induced, or caused to be solicited or induced, a violation of an existing employment contract between a worker and a construction labor contractor.

(t) Knowingly employed a noncitizen not legally present or legally employable in the United States.

(u) Induced a worker that a construction labor contractor employs, or who has an employment contract with the construction labor contractor, to give up any part of the compensation to which the worker is entitled under the employment contract or under federal or state wage laws, whether by force, intimidation, the threat of procuring dismissal or deportation or any other manner.

(v) Solicited or induced a worker as a construction labor contractor, whether directly or indirectly, to travel to a destination by representing to the worker that employment was available at the destination if employment was not available within 30 days after the date the construction labor contractor represented that employment would be available.

(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]* **construction labor contractor** 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 20. ORS 701.110 is amended to read:

701.110. Upon receipt of the notification provided by the Commissioner of the Bureau of Labor and Industries under ORS 652.333 stating that a contractor, [or] a business **or a construction labor contractor** has failed to pay the amounts due as ordered in a final determination order within 60 days of the issuance of the order, the Construction Contractors Board shall, after notice and opportunity for a hearing under ORS chapter 183, suspend the license of the contractor, [or] the business **or the construction labor contractor, as appropriate.**

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] **construction labor contractor**, 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 indi-

vidual regarding business practices and laws affecting construction contractors.

SECTION 22. Section 18 of this 2025 Act and the amendments to ORS 227.320, 658.405, 658.410, 658.415, 658.440, 658.511, 701.005, 701.010, 701.021, 701.026, 701.031, 701.035, 701.046, 701.056, 701.060, 701.068, 701.098, 701.110 and 701.470 by sections 1 to 16 and 19 to 21 of this 2025 Act apply to contracts that construction labor contractors enter into on and after the operative date specified in section 23 of this 2025 Act.

SECTION 23. (1) Section 18 of this 2025 Act and the amendments to ORS 227.320, 658.405, 658.410, 658.415, 658.440, 658.511, 701.005, 701.010, 701.021, 701.026, 701.031, 701.035, 701.046, 701.056, 701.060, 701.068, 701.098, 701.110 and 701.470 by sections 1 to 16 and 19 to 21 of this 2025 Act become operative on January 1, 2026.

(2) The Construction Contractors Board may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the board, on and after the operative date specified in subsection (1) of this section, to undertake and exercise all of the duties, functions and powers conferred on the board by section 18 of this 2025 Act and the amendments to ORS 227.320, 658.405, 658.410, 658.415, 658.440, 658.511, 701.005, 701.010, 701.021, 701.026, 701.031, 701.035, 701.046, 701.056, 701.060, 701.068, 701.098, 701.110 and 701.470 by sections 1 to 16 and 19 to 21 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.