

# HELP!

**I've got this  
problem  
with a  
contractor...**

Construction Contractors Board  
State of Oregon



Construction Contractors Board  
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Salem, OR 97309-5052

The Construction Contractors Board, an agency of State government, registers construction contractors who perform work in Oregon. It consists of nine appointed members and an office staff directed by an administrator.

To be registered, a contractor must file an application, provide evidence of completion of up to 16 hours of education relative to business practices and laws that affect contractors, pay a fee, provide proof of liability insurance coverage, and post a surety bond of up to \$10,000.

The cost of operating the Construction Contractors Board is paid from the registration fees received from contractors—no tax dollars are used.

If you have problems with a contractor, you may benefit from the services available from the Construction Contractors Board. That's what

*The material contained in this pamphlet is not intended to be a complete analysis of the laws and rules relating to the Construction Contractors Board. The laws relating to the Construction Contractors Board are found in ORS Chapter 701. The rules relating to the Construction Contractors Board are found in OAR Chapter 812. Copies of the law and rules are available upon written request to the Construction Contractors Board.*

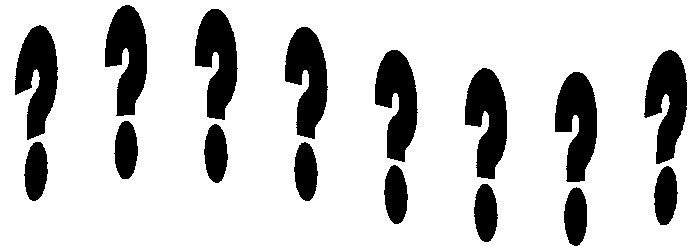
*In this pamphlet, "contractor" refers to any individual, partnership, or corporation that performs work on any structure in Oregon, including painters, plumbers, roofers, etc., as well as general contractors.*

3. Put any and all agreements between you and the contractor in writing. Write down every detail. Should you decide to make changes in your original plans, write down each change, no matter how minor, and have your contractor sign or initial the change.
4. Be sure either you or your contractor contacts the local building department before construction begins and obtains a building permit.
5. Before accepting the job as complete, walk through it with the contractor, listing any defects needing correction.
6. Whenever you are unsure about what action to take, seek assistance. Some sources for help may be your lender, your local building department, the Better Business Bureau, the Consumer Protection Agency, the Construction Contractors Board, or your attorney.
7. If problems do develop and you cannot resolve them by discussing them with your contractor, contact the Construction Contractors Board.
8. For more detailed suggestions for preventing problems, request a copy of "Avoiding Remodeling, Repair, Construction and Landscaping Problems" by calling the Construction Contractors Board at (503) 378-4621 ext. 4974.

The Construction Contractors Board wants to help you by clearly explaining what its role is and telling you what it can and cannot do for you in helping resolve your problem.

The Board resolves claims against registered contractors involving property owners, other contractors, material suppliers, employees, and others. Although this booklet is written primarily for homeowners and other owner-claimants, the Board's procedures are similar for all types of claims.

Let's consider some of the questions we receive from owners who are involved in disputes with contractors.



**MY CONTRACTOR JUST WON'T COMPLETE THE WORK CORRECTLY. WHAT SHOULD I DO?**

First, make sure you have made your complaint known to the contractor. Talk about the problem together—try to reach an agreement.

If talking about it doesn't help, write a list of your complaints and deliver it to the contractor, suggesting a reasonable time for response.

**I'VE TRIED THAT, BUT I'M GETTING NOWHERE. I WANT HELP FROM THE CONSTRUCTION CONTRACTORS BOARD. WHAT CAN I DO?**

If your problem involves any of the following, we may be able to assist you:

- A. Any size residential structure of up to four units; or
- B. A non-residential structure with a ground area of 4,000 square feet or less and not more than 20 feet in height from the top surface of the lowest flooring to the highest interior overhead finish of the building; or
- C. If you are the owner of a non-residential structure and the contract is \$25,000 or less.

To obtain our assistance in resolving your problem, you will need to complete a Statement of Claim and return it to us. Your Statement of Claim form must be received by us within one year of the date the work was done or we will not be able to assist you. Please pay careful attention to the Instructions for Completion of the Claim Form. We can assist you better and more quickly if your form is completed correctly. You should also send us a copy of your contract and anything you have relative to the contract.

If your problem involves non-residential construction (commercial, industrial, or public works projects) that does not fit the description of non-residential structures in the previous section, you must first file an action in civil court and then submit a copy of the

**CAN I GET A COPY OF THE LAWS AND RULES GOVERNING CONSTRUCTION CONTRACTORS BOARD REGISTRATION AND CLAIMS?**

Yes, copies of ORS Chapters 701 and 87, plus OAR Chapter 812 are available from the Construction Contractors Board, (503) 378-4621 ext. 4974.



**HOW CAN I PREVENT PROBLEMS FROM HAPPENING IN THE FIRST PLACE?**

We've been considering in the pamphlet some of the alternatives open to persons *after* problems have arisen with contractors. Here are some tips that may be helpful in *PREVENTING* problems another time:

1. Make sure your contractor and/or subcontractors are registered with the Construction Contractors Board. You can check this by looking at the expiration date on the contractor's or subcontractor's registration card. Then call the Construction Contractors Board at (503) 378-4621, ext. 4900.
2. Before hiring a contractor or subcontractor, check with previous customers. Find out if they were satisfied with the contractor's work and whether or not the contractor responded to complaints. If possible, personally inspect work previously performed by the contractor. If you have any doubts as to the contractor's financial stability, check financial references.

**AND IF THE CONTRACTOR DOESN'T PAY?**

Your claim will be submitted to the contractor's bonding company for payment. However, if claims are filed by others against the same contractor prior to your claim or within 90 days of it, yours cannot be referred to the bonding company until all have reached this same final stage. You may have to share the bond with other claimants, or it may be entirely depleted by other claims.

**WHAT GOOD IS A FINAL ORDER TO ME IF THE BOND HAS ALREADY BEEN EXHAUSTED?**

Even if the bond is used by claims filed prior to your claim, you may file the Final Order with the county clerk. After the order has been filed with the county clerk, it is equivalent to a judgment and is controlled by and subject to statutes relating to judgments.

**WHAT IF I'M NOT AN OWNER? DOES THE CONSTRUCTION CONTRACTORS BOARD TAKE OTHER TYPES OF CLAIMS?**

Yes, the Construction Contractors Board also processes claims filed against registered contractors by employees, material suppliers, and other contractors. The requirements and procedures are similar to owner claims, except that an on-site investigation is usually not necessary. Non-owner claimants are limited to \$2,000 of any bond. Other restrictions may apply.

court action to both the Construction Contractors Board and the contractor's bonding company by certified mail return receipt requested. The court action and the certified copy must be filed with the court and the Construction Contractors Board within one year of when the work was done. We will not take action on the claim until the court has made its judgment. Once the court issues its judgment, you have 30 days to deliver a certified copy of it to both the Construction Contractors Board and the contractor's bonding company. We will not take action on the claim until the court issues its judgment. Our action will be based on the judgment of the court.

The Construction Contractors Board also has the authority to resolve claims through binding arbitration. The difference between the normal claims process and the binding arbitration process is that arbitration is binding upon both parties and the decision of the arbitrator is usually final. Appeals to arbitration awards are very limited. For the Construction Contractors Board to provide arbitration services to disputants, both parties to the dispute must sign an agreement to arbitrate. If you are interested in more information about the Construction Contractors Board's arbitration option, you may call us at (503) 378-4621 ext. 4910.

**WHAT KIND OF CLAIMS WILL THE CONSTRUCTION CONTRACTORS BOARD CONSIDER?**

The Construction Contractors Board may be able to help you in situations where the contractor has not done what was agreed upon or has done it wrong, or if something has failed because of improper work. We may also be able to help you if you have paid your contractor, but your contractor failed to pay the subcontractors or material suppliers, causing construction liens to be filed against your property.

**WHAT IF THE CONTRACTOR WAS NOT REGISTERED WITH THE CONSTRUCTION CONTRACTORS BOARD WHEN THE WORK WAS DONE?**

If the contractor wasn't registered, we cannot process a claim against that contractor, and it is almost impossible for us to help you. This is one reason why it's important for you to be sure a contractor is registered before signing a contract.

**ARE THERE OTHER REASONS WHY THE CONSTRUCTION CONTRACTORS BOARD MAY NOT ACCEPT MY CLAIM?**

Yes, other reasons could be, if the work was done more than a year ago or if the dispute has already been submitted to some other entity, (like the courts, arbitration, or a homeowners warranty program) for resolution.

**WHAT IF I DON'T LIKE THE PROPOSED ORDER?**

You and the contractor each may contest the Proposed Order by filing written exceptions within 21 days. You may also give oral arguments to the Construction Contractors Board Claims Appeal Committee. New evidence will not be accepted or considered by the Committee. They will consider only the evidence that was entered into the record prior to or during the hearing.

**DOES THAT START THE WHOLE PROCESS OVER?**

No. If exceptions are received, the claim and the record of the hearing will be reviewed by the members of the Construction Contractors Board Claims Appeal Committee. They will also consider the exceptions filed and any oral arguments offered. They will make a decision and a Final Order will be issued.

**DOES THE CLAIMS APPEAL COMMITTEE OF THE BOARD REVIEW EVERY CASE?**

No, only if exceptions to the Proposed Order are received. Otherwise, a Final Order will be issued as proposed.

**AT LAST! A FINAL ORDER! DO I GET MY MONEY NOW?**

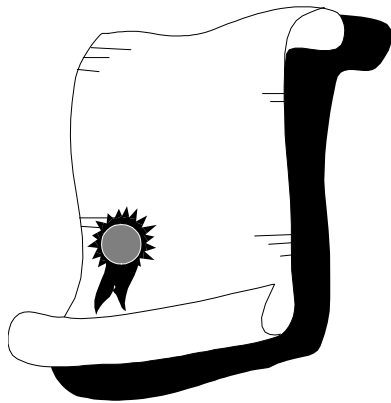
There is a 60-day appeal period during which you or the contractor may challenge the Final Order by requesting judicial review by the Court of Appeals. After the appeal period has ended, the Final Order is due and payable.

**It is extremely important after you file a claim with the Construction Contractors Board that you pick up your certified mail.** That is how you will receive the most important documents involved in processing your claim.

Much of the information you will receive from the Construction Contractors Board will specify a time limit for you to respond or take an action. For this reason, it is very important for you to make arrangements for someone else to pick up your certified mail for you and get the information to you if you are unable to pick it up.

### **WHAT HAPPENS AFTER THE HEARING?**

The Administrative Law Judge will write Findings of Fact and issue a Proposed Order. The Proposed Order may dismiss the claim, award the full amount sought by the claimant, award some lesser amount, or require some action on the part of the contractor.



### **WILL THE CONSTRUCTION CONTRACTORS BOARD TAKE MY SIDE AGAINST A CONTRACTOR?**

No, we don't take either side. If you believe you need this kind of help, you should consider consulting an attorney.

### **IF THE CONSTRUCTION CONTRACTORS BOARD WON'T TAKE SIDES WHAT WILL IT DO?**

We will consider your claim. If you have filed it within the allowed time and if it is the kind of claim that we can handle, we'll make an investigation. Usually that means an on-site investigation of the job by our investigator with you and the contractor present. We'll look at the problem and recommend a settlement that is consistent with the terms of your contract, generally accepted standards of workmanship and customary trade practices. We'll encourage you and the contractor to accept our recommendations for settlement.

### **THE CONTRACTOR AND I HAVE TRIED TO AGREE, BUT WE CAN'T. WHY DO YOU THINK THE BOARD'S REPRESENTATIVE CAN WORK OUT A SETTLEMENT?**

Often a neutral third party can help two other people settle their differences. You'll both have to be reasonable, and there may be some "give and take" involved. It can certainly be to everyone's advantage to resolve a dispute early on, without the need for long-term, legal processes. More than half

of all disputes are settled at our investigations.

**BUT WHAT IF THE BOARD'S REPRESENTATIVE AGREES WITH MY CLAIM?**

Then the contractor will be asked to sign an agreement to complete recommended corrections by a specific date.

**COULD THE BOARD SAY MY CLAIM IS INVALID?**

Yes. There are times when we find the items of complaint to be within accepted construction standards, and no correction is recommended.

**HEY! MY NEW ROOF IS LEAKING AND MY CARPETS WILL BE RUINED. WHAT SHOULD I DO?**

In problems requiring quick action, you have the responsibility to prevent additional loss, even if the cause of the problem is the fault of the contractor. If in doing so the evidence will be destroyed, you should first record the problem using photographs, expert witnesses, etc. You will also want to keep a record of your costs incurred, such as receipts and canceled checks for the work performed to make the repairs.

You may also hire a registered contractor to inspect the structure before repairs are done to give you a report detailing the problem(s). This report could be used to help you prove your claim.

This is a tricky area with certain risks, no matter

**OK. THEN HOW WOULD I PREPARE FOR A HEARING?**

Consider that the administrative law judge will reach conclusions solely on the basis of what is seen and heard at the hearing. You will need to prove your claim by showing that damages have occurred, that the damages are the fault of the contractor, and the dollar value of the damages. You must meet this burden of proof. Photographs, building inspection reports, and expert witnesses all help. You and the contractor will each have the opportunity to cross-examine one another. The Administrative Law Judge may also ask questions.

In preparing evidence to submit in support of your claim, you should consider that it is not the volume or amount of evidence you submit, but how persuasive the evidence is that will convince the administrative law judge to rule in your favor.

**WHAT IF I DON'T COME TO THE HEARING?**

Your claim will be dismissed. As the person initiating the complaint, you must also pursue it; if you do not, your claim will be closed.

**WHAT IF THE CONTRACTOR DOESN'T COME TO THE HEARING?**

You will still be expected to prove your case to the Administrative Law Judge.

**SUPPOSE I WANT A HEARING. WHAT DO I HAVE TO DO?**

You must tell us the amount of money you are claiming. This amount is usually based on the estimate of another registered contractor for the cost of correction. You must provide a separate amount claimed for each item which is to be considered at the hearing. You cannot claim money for attorney fees, mental anguish, or other such items—only for actual correction or completion of work. After you have told us the amount you are claiming, a hearing date will be set.

**I'M STILL NOT SURE I UNDERSTAND WHAT THE ADMINISTRATIVE HEARING IS ALL ABOUT...**

Two things: (1) To determine if your claim is valid, and (2) if so, its dollar value.

**IF YOUR REPRESENTATIVE RECOMMENDS CORRECTION BY THE CONTRACTOR, DOESN'T THE INVESTIGATION REPORT PROVE THAT MY CLAIM IS VALID?**

Not in itself. The report is only a part of the information that will be considered at the hearing. The Administrative Law Judge will determine the case based on the entire record of the claim, including the evidence received by both parties. The investigation report may be disregarded if persuasive evidence is offered disproving it.

which way you go. If you have questions, we suggest you contact an attorney.

**OK. LET'S GET BACK TO THE ON-SITE INVESTIGATION. WHAT IF I CHOOSE NOT TO ALLOW THE CONTRACTOR BACK ON MY PROPERTY?**

We may dismiss your claim if you won't let the contractor come to the investigation. We also may dismiss your claim if you won't let the contractor do the work we recommend, unless we decide that the contractor is unable to do the correction.

**SUPPOSE THERE IS CORRECTION TO BE DONE, AND I AGREE TO ALLOW THE CONTRACTOR TO DO IT, BUT THE CONTRACTOR WON'T DO IT? WHAT THEN?**

You may seek monetary damages from the contractor through your claim with the Board.

**LET'S BACK UP. I FILED A CLAIM AND YOUR REPRESENTATIVE SAID NOTHING IS WRONG WITH THE WORK. MUST I ACCEPT THAT?**

No. Neither you nor the contractor is "forced" to accept the recommendations for settlement made by our representative. You may contest the recommendations at an administrative hearing in Salem.

**ADMINISTRATIVE HEARING? WHAT'S THAT?**

A proceeding before a "hearings officer" to decide if your claim is valid and, if so, the dollar value of the

**WOW! THAT SOUNDS A LOT LIKE COURT.**

You're right--except a little less formal. You and the contractor each have the opportunity to prove your respective case. The evidence received at the hearing is considered and conclusions are reached.



**DO YOU MEAN TO SAY THAT I AM ON MY OWN AT THE HEARING?**

Yes. We provide the room, the furniture, and the Administrative Law Judge. It's up to you and the contractor to present testimony, evidence, and witnesses to prove your claim. The side with the most persuasive evidence will win. The other side will lose. Maybe both sides will lose. This is why it is better to resolve your differences directly with the

**THIS SOUNDS COMPLICATED. DO I NEED AN ATTORNEY?**

Some claimants appear at hearings with attorneys; some do not. You are only required to be represented by an attorney if you are a corporation and not registered or required to be registered with the Construction Contractors Board. Whether you need an attorney to assist you with your case is a decision you will need to make yourself.

**WOULD I BE BETTER OFF TO GO TO COURT?**

Sometimes. This is a decision you should make after talking with your attorney. But you should know that if a court case is pending involving the same contract, we will not continue to process your claim. And, if we decide that a claim is better suited for court because of its nature or complexity, we will stop processing it.

If you decide the claims process is not the answer for resolving your problem, you may wish to consider arbitration through the Construction Contractors Board or a private arbitration service as an alternative.