



CONTRACTOR'S RESOURCE GUIDE

CCB CONTACT INFORMATION

Mailing Address

Construction Contractors Board
PO Box 14140
Salem, OR 97309-5052

Physical Address

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Salem, OR 97301

Telephone

503-378-4621
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TTY: 711

Customer service unit phones are closed from 12 to 1 pm Monday - Friday

Office Hours

Monday - Friday	8:00am - 5:00pm
except Tuesday	9:00am - 5:00pm

The material in this resource guide is not intended to be a complete analysis of the law and rules relating to construction contractors.

Current laws and statutes may change. For the most current information, always check with the CCB.

The statutes relating to the Construction Contractors Board are found in Oregon Revised Statutes Chapter 701 and the rules are found in Oregon Administrative Rules Chapter 812.

For information on specific circumstances, contact the agency involved or consult an attorney.

CCB - 503-378-4621
www.oregon.gov/ccbo

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QUICK REFERENCE



B

BONDS: A licensed contractor must provide and maintain a CCB surety bond in the full amount that is required for the license endorsement. A CCB surety bond is a promise by a bonding agency to provide limited restitution to a consumer if a contractor fails to pay a CCB order or arbitration award. A property owner can file a CCB complaint against a contractor for breach of contract (including failure to complete work) or for negligent or improper work. If the CCB orders a contractor to pay money to a person who filed a complaint against the contractor, the contractor must pay as ordered. If the contractor does not do so, the bonding company will pay the money owed up to the amount of the bond. The bonding company will then seek reimbursement from the contractor.

If the bonding agency cancels the surety bond and does not reinstate it, the contractor's license will automatically suspend 30 days from the date the cancellation is received by the CCB, unless a new bond replaces the cancelled bond.

If a contractor has selected both a residential endorsement and a large commercial endorsement, separate bonds in the appropriate amounts for each endorsement must be maintained.

BUYER'S RIGHT TO CANCEL: (See page 18)

THREE DAY RIGHT TO CANCEL – Oregon law allows a three day right of a buyer to cancel a home solicitation contract when the contract is solicited and accepted at any place other than the seller's permanent place of business. Contractors must give the customer notice of the right to cancel the contract.

ONE DAY RIGHT TO CANCEL – Oregon law permits a property owner to cancel any initial contract for construction, improvement, or repair of a residential structure by giving the contractor a written notice of cancellation prior to midnight of the next business day. Some exceptions apply such as work already substantially begun. Additional information is available on the CCB website.

C

CCB WEBSITE: Publications, forms, information about public contracting, board meetings, legislative bills, access to contractor records, and more is available by visiting the CCB website at www.oregon.gov/ccb.

CHANGES TO YOUR LICENSE: Notify the CCB if you are making any of the following changes to your license. Forms can be downloaded from our website or obtained by calling the CCB offices.

- **Entity change:** Changing your type of business entity to another type of business entity (for example sole proprietorship to an LLC) requires a new license. To make an entity change, fill out a new license application form.
- **Address change:** The law requires that you notify the CCB in writing of any address change within 10 days of moving. If the agency does not have your current address it cannot notify you if a complaint is filed against you or send your license renewal forms. You can make address, e-mail, and phone number changes online with CCB's "my License," you can download a Record Change - Address, ABN, or Entity Form, or you can call the CCB offices. There is no charge for making these changes.
- **Class of Independent Contractor change:** If you are licensed as exempt, and decide to change your status you must notify the CCB, supply the appropriate employer account numbers, and pay a \$20 license change fee, before you hire any employees. If you are changing from nonexempt to exempt, notify the CCB and pay the \$20 license

change fee. Use the “Record Change - Independent Contractor Status” form, available online or by calling the CCB.

- **License Endorsement change:** You may work only within the endorsement in which you are licensed. If you wish to work under a different endorsement, download the “Record Change - Endorsement” form from the CCB website or call the CCB offices. Pay the \$20 change fee, and provide any bond and insurance changes required.
- **Personnel or Responsible Managing Individual change:** If there is change of personnel or of the Responsible Managing Individual designated for your business, you must complete the “Record Change - Personnel or Responsible Managing Individual (RMI)” form. It can be downloaded from the CCB website, or obtained by calling the CCB. There is no fee for making this change.

CLASS OF INDEPENDENT CONTRACTOR: Contractors are either exempt or non-exempt. Exempt status means a contractor does not have employees. They may lease workers from a temporary or leasing employment service. See page 14 for more information.

CONSUMER PROTECTION NOTICE: Contractors must deliver this notice to all clients or customers at the time of contract when the contract exceeds \$2,000 on a residential project—see page 19. This form, and other required notices, are available on the CCB website or by calling 503-378-4621.

CONTRACTS: Oregon law requires a written contract on residential structures when the contract price is over \$2,000. The contract must include certain items in order to comply with Oregon law. CCB’s Sample Contract for Construction Work, Contract Addendum, and Residential Contract Checklist were created to help contractors identify and comply with the requirements of what must be included in a contract for residential construction work. They are available on the CCB website. To protect the contractor and the consumer, the CCB recommends that contractors always use a written contract, regardless of the contract price.

D

DISPLAY OF CCB LICENSE NUMBERS: Your CCB license is required on all of the following items: business cards, written bids, building-related contracts, business letterhead stationery, business signs at construction sites, written inspection reports, and advertising (this includes telephone book, newspaper display or space ads, radio, television, and internet ads). License numbers are required on vehicles displaying contractor information.

DISPUTES: Contractors may file a complaint with the CCB against other licensed contractors when they are having a dispute about negligent or improper work, or for breach of contract (such as non-payment). Forms are available on the CCB website.

E

ENDORSEMENTS: New and renewing licensees are required to choose from an endorsement system instead of a licensing category. The licensing endorsement system distinguishes between residential contractors and commercial contractors. Selecting an endorsement is related to the type of structure that a contractor intends to construct. The law defines 3 structure types: Residential, Small Commercial, and Large Commercial. Some

contractors may be required to have a dual endorsement. For complete information about the endorsement system and how to determine which endorsement is right for your business, visit the CCB website.

EXPIRED LICENSE: If a contractor's license has been expired or lapsed for two or more years, for any reason, the contractor is required to reapply for a license with the CCB. This will include: completing a new application, taking the required training, passing the required test, securing the required insurance and bond, and paying the application fee.

INACTIVE STATUS: Allows a contractor to voluntarily put a license "on hold." A contractor can make a license inactive only once during a two-year renewal period. While inactive, a contractor may not advertise, bid, obtain building permits, or perform any construction work for compensation. Bonding and general liability insurance is not required while a license is inactive.

INDEPENDENT CONTRACTOR LAW: Oregon law requires all licensed contractors to be "independent contractors" and not employees of a business. An independent contractor is an individual (sole proprietor) or business entity (partnership, joint venture, corporation, trust, LLC, LLP, LP) that contracts to perform a specified activity or project. The individual or entity classified as an independent contractor, determines how the specified work will be done to deliver satisfactory results, whereas an employee works under the direction and control of a supervisor or owner, for an hourly wage or by piecework. An independent contractor qualifies as an independently established business based on meeting at least three of the following criteria:

1. Is free from its client's direction and control over the means and manner of providing services
2. Is an independently established business that maintains a physical location different from jobsite locations
3. Is able to bear the risk of loss
4. Is able to provide contract services to two or more clients
5. Has the authority to hire others
6. Has a significant investment in the business operations

An independent contractor is also required to maintain a CCB license and any other license required for the services given. See page 14 for more information.

INFORMATION NOTICE TO OWNER ABOUT CONSTRUCTION LIENS: Contractors must give homeowners this notice any time the contract price is more than \$2,000. It is given at the time a written contract is signed or, if a verbal contract, within five working days. The notice explains the construction lien law. It includes steps homeowners can take to protect their property from a construction lien. The notice is available on the CCB website, or by calling the CCB.

LANDSCAPE CONTRACTING: General contractors under contract for the construction of a new residential dwelling—it cannot be a speculation home—may perform landscape contracting work if the total value of the landscaping is less than \$3,000. Landscape contracting is the planning or installation of lawns, shrubs, vines, trees, and other nursery stock including the preparation of property on which vegetation is installed. It includes the construction of ornamental water features and drainage or irrigation systems for lawns, shrubs, vines, trees, and other nursery stock. For more information, contact the Landscape Contractors Board (LCB) at 503-378-5909.

LARGE COMMERCIAL STRUCTURE: “Large commercial structure” means a structure that is not a residential structure or a small commercial structure. Some examples include apartment complexes or condominiums more than 4 stories, hospitals, parking garages, shopping malls, and manufacturing facilities.

LIABILITY INSURANCE: Licensed contractors must maintain general liability insurance with completed operations, which covers property damage and bodily injury losses caused by the contractor, that occur as a result of the contractor’s work. An example of this loss would be the contractor’s ladder falling and breaking a window. The Oregon Market Assistance Plan (MAP) is a voluntary list of insurance agents that offer liability insurance coverage for construction contractors who are having difficulty securing insurance. Contractors can access MAP through CCB’s My License on the CCB website: www.oregon.gov/ccb.

LICENSE NUMBERS NOT TRANSFERABLE: Contractors cannot loan their license number to any other contractor. In addition, CCB license numbers are not transferable to any other business entity. Each CCB licensed business has its own CCB license number.

M

MAINTENANCE SCHEDULES ON NEW RESIDENTIAL STRUCTURES: Contractors completing a new residential structure are required to provide the owner or first purchaser with a recommended maintenance schedule (ORS 701.335).

- With the help of contractors and industry representatives, the CCB developed a “Moisture Intrusion & Water Damage” information sheet, and a recommended “Maintenance Schedule” that contractors can use. They are available on the CCB website.
- Contractors developing their own maintenance schedule or contractors that already have a maintenance schedule, may use their own as long as it contains the information required by OAR 812-012-0120.

CCB’s “MY LICENSE”: This CCB web-based feature allows you to conduct certain business actions online, such as updating your address, email, and phone number. Included in My License is “E-Watch,” a service designed to automatically notify you in the event of a status change to the licenses of subcontractors—or your own license. To register and create your personalized E-Watch list, go to CCB’s website: www.oregon.gov/ccb, or call the CCB.

N

NEWSLETTER: The CCB publishes, up to 4 times a year, an e-newsletter that contains important information from the CCB on laws and issues affecting contractors. Contractors can sign up to automatically receive notification when the newsletter is published.

Contractors can also keep up to date through the CCBlog. News and information is posted to the blog as it becomes available.

NOTICE OF PROCEDURE: Contractors must deliver this notice to the homeowner at the time of contract, when the contract exceeds \$2,000 on a residential project. A copy of the notice is included in the Required Notices for Residential Construction Projects packet from CCB’s website or by calling the CCB.

NOTIFICATION REQUIREMENTS FOR COURT JUDGEMENTS: Contractors are required to send to the Construction Contractors Board (CCB) a copy of a final judgment that is issued in a court action or that confirms an arbitration award arising from breach of contract or from negligent or improper work, relating to the construction of a residential structure. See page 15 for more information.

P

PERMITS: If a construction permit is required, obtain it before construction begins. For the location of your local permit office, visit: www.permitsprotect.info.

PUBLIC RECORD: The CCB is required by the law governing public access to information, to provide specific information about licensed contractors. The agency displays information on CCB licensees on the CCB website. Information may also be provided by phone or by paper.

PUBLICATIONS and FORMS: The CCB publishes many publications and forms useful to contractors. Copies of Oregon construction contractors statutes and rules, information about Oregon's lien law, required notices, and official forms are available online or by mail.

R

RENEWAL NOTICE: License renewal is the contractor's responsibility. If you do not receive a renewal notice prior to the expiration date, contact the CCB at 503-378-4621.

RESIDENTIAL STRUCTURE: A residence, including a site-built home, a structure that contains one or more dwelling units and is four stories or less, a condominium or other residential unit, a modular home constructed off-site, a floating home, and a manufactured dwelling.

RESPONSIBLE MANAGING INDIVIDUAL (RMI): Oregon law requires construction businesses—except those licensed as developers—to submit the name of the person appointed as the RMI, to the CCB. The RMI must be an owner or employee that exercises management or supervisory authority over the construction activities of the business. The RMI must have completed the 16 hours training and passed the state test, unless they have the qualifying experience. Contact the CCB for information.

S

SMALL COMMERCIAL STRUCTURE: A nonresidential structure with a ground area of not more than 10,000 square feet that is not more than 20 feet tall. A small commercial structure also includes a nonresidential leasehold, rental, or other unit that is part of a larger structure with a ground area of not more than 12,000 square feet that is not more than 20 feet tall. A small commercial structure also includes a nonresidential structure of any size, if the contract price for all construction is not more than \$250,000.

W

WARRANTIES: Contractors who enter into a contract to build a new residential structure, must make a written offer to the owner or first purchaser of a warranty to provide against defects in materials and workmanship for the structure (ORS 701.320). For additional information, see page 20, visit the CCB website or call the CCB offices.

WORKERS COMPENSATION INSURANCE: Workers compensation insurance provides coverage for employees who are injured on the job. When employees are injured, workers compensation provides them with medical treatment, payment for lost time and disability, and re-employment assistance if needed. Non-exempt businesses—those with one or more employees—must have workers compensation insurance. Exempt businesses—those without employees—do not need to have workers compensation insurance. See page 14.

MAINTAINING YOUR CCB LICENCE



Renewing Your CCB License

Your active or inactive license renews every two years. Check your pocket or wall card for the expiration date of your license.

Approximately six weeks before your license is due to renew, the CCB will send you a Renewal Notice as a courtesy. For this reason, it is important to maintain your current address information with the CCB. It is your responsibility to make certain your license has been renewed, even if you did not receive the renewal form. You cannot legally work as a contractor with an expired license.

When you receive the Renewal Notice, complete it and send to the CCB. Keep the following things in mind:

- You must submit the required fee. The fee is the same for both an active and inactive license.
- You may renew in either an active or inactive status. If you are renewing in the inactive status, you do not need to maintain the bond or insurance.
- If your license is currently active or you want to reactivate an inactive license, you must have the following on file in order to renew:
 - A current bond in the proper amount. Your bond is good until it is cancelled. As long as you are paying premiums and your bond company has not cancelled your bond, it should still be valid. If you have purchased a new bond, you must immediately send the original bond to the CCB.
 - A current Certificate of Insurance in the proper amount. You must always send a new Certificate of Insurance at least a week prior to the expiration date of your insurance.
 - A person designated as the Responsible Managing Individual (RMI)
 - Current and valid employer account numbers
 - An active registration at the Oregon Corporation Division, if you are using an assumed business name, or are an LLC, corporation, or trust

Who must sign the Renewal Notice?

The renewal notice must be signed by the owner, partner, member, corporate officer, or trustee. The Renewal Notice will be returned as incomplete if not properly signed.

What happens if I do not renew my license by the expiration date?

You may not legally work with an expired license. If your license has been expired for two years or more, you will need to start over. A new application will be required and a new CCB license number will be assigned. You will need to meet all requirements including the education and test.

May I renew my license if it is suspended?

If the reasons causing the suspension have been taken care of (such as lack of bond or insurance), you may be able to renew the license. See License Suspensions on page 10.

Inactivate Your CCB License

What is an inactive license?

An inactive license is "on hold." While your license is inactive, you cannot work, advertise, bid, obtain permits, offer to perform, or perform as a contractor. You do not need to maintain a bond or general liability insurance while your license is inactive. You must continue to renew your license even if you wish to remain inactive. As long as you continue to renew your inactive license, you will receive newsletters, publications, and a renewal application when your license is due to renew.

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How do I make my license inactive?

The following steps are required:

At renewal time –

- Find the status of your license on your Renewal Notice, cross out the word “active,” and write in the word “inactive”
- Sign the Renewal Notice (the signature must be of an owner, partner, member, trustee, or corporate officer)
- Submit the Renewal Notice to the CCB with the required renewal fee

At any other time –

- Obtain a “Request for Inactive License Status” form by calling the CCB office at 503-378-4621 or download it from the CCB website at: www.oregon.gov/ccb
- Complete and sign the form (the signature must be of an owner, partner, member, trustee, or corporate officer)
- Submit the form with the \$20 record change fee

Do I have to renew an inactive license in order to maintain the license?

Yes. Every two years you will be sent a Renewal Notice to the last known address on your license record. It is important that you advise us of any change in address.

How many times can I continue to renew in the inactive status?

There is no limit to the number of times your contractor’s license can be renewed in an inactive status. However, you can change your license status to inactive only once during a two year license period.

Reactivate Your Inactive CCB License

If you want to resume contracting and your license is inactive, you must reactivate your license before you begin contracting.

How do I reactivate my inactive license?

At renewal time –

- Find the status of your license on your Renewal Notice, cross out the word “inactive,” and write in the word “active”
- Review all information on the renewal notice for accuracy, and correct any inaccurate information
- Sign the Renewal Notice (the signature must be of an owner, partner, member, trustee, or corporate officer)
- Submit the Renewal Notice to the CCB with the required renewal fee
- Submit the required amount of bond and general liability insurance
- Submit the name of the RMI (if changed) and proof that the RMI has taken the education and passed the exam

At any other time –

- Obtain a “Request for Active License Status” form by calling the CCB office at 503-378-4621 or download it from the CCB website at: www.oregon.gov/ccb
- Complete and sign the form (the signature must be of an owner, partner, member, trustee or corporate officer)
- Submit the form with the \$20 record change fee
- Submit the required amount of bond and general liability insurance

License Suspensions

The following situations will result in your license being placed in an immediate emergency suspension with no opportunity for a hearing prior to the suspension:

- Cancellation of your bond
- Cancellation or expiration of your general liability insurance
- Hiring employees while in an “exempt” employer status

The following situations may result in a proposed suspension and opportunity for hearing:

- Deletion of the RMI by disassociation or death. You will receive a notice of proposed suspension, giving you the opportunity for a hearing to contest the suspension.
- If the license or renewal fees are returned as “insufficient” or any other cause related to non-payment
- Maintaining a non-exempt status with no workers compensation
- Failure to maintain your corporate or LLC filing with the Oregon Corporation Division

Can a suspended license be reinstated?

Yes. Depending on the reason for suspension, it may simply require that you take care of the deficiency that caused the suspension.

Making Address Changes

A contractor must notify the CCB of any address change while licensed, and for one year following the license expiration or becoming inactive. The notification must be within ten days of the change (ORS 701.080). Contractors can use the “Record Change - Address, ABN, Entity” form, available on the CCB website or by calling the CCB. Address changes can also be made on CCB’s myLicense, an online service for contractors—see page 12.

Changing Official Personnel On Your CCB License

Certain personnel changes in Sole Proprietorships and Partnerships or Joint Ventures will require the creation of a new business entity:

Sole Proprietor

A sole proprietorship cannot be transferred to any other person, including to a spouse. If a business is purchased from a sole proprietor, the contractor’s license is not part of the purchase. Any transaction that transfers the ownership of a sole proprietorship requires a new CCB license.

Partner or Joint Venturer

If a partner or joint venturer leaves a partnership or joint venture, or if a new partner is added to a partnership or joint venture, the new partnership or joint venture must obtain a new license before continuing to conduct activities that require a CCB license.

Corporate Officer

If an individual who is a corporate officer of a corporation ceases to be a corporate officer, the business must notify the CCB immediately. Similarly, if the business adds a new corporate officer, the name and address of that person must be provided to the CCB. The underlying corporation does not cease, so there is no need to create a new business entity. To notify

the CCB, obtain a “Record Change - Personnel or Responsible Managing Individual (RMI)” form by contacting the CCB at 503-378-4621, or by downloading it at www.oregon.gov/ccb. There is no fee for this change.

Manager or Member of a Manager-Managed Limited Liability Company (LLC)

If an individual who is a manager or member of a manager-managed LLC ceases to be a manager or member of the LLC, the business must notify the CCB immediately. Similarly, if a new manager or member is added, the business must provide the name and address of that person. The underlying LLC does not cease, so there is no need to create a new business entity. To notify the CCB, obtain a “Record Change - Personnel or Responsible Managing Individual (RMI)” form by contacting the CCB at 503-378-4621, or by downloading it at www.oregon.gov/ccb. There is no fee for this change.

Member of a Member-Managed Limited Liability Company (LLC)

If an individual who is a member of a member-managed LLC ceases to be a member of the LLC, the business must notify the CCB immediately. Similarly, if a new member is added, the business must provide the name and address of that person. The underlying LLC does not cease so there is no need to create a new business entity. To notify the CCB, obtain a “Record Change - Personnel or Responsible Managing Individual (RMI)” form by contacting the CCB at 503-378-4621, or by downloading it at www.oregon.gov/ccb. There is no fee for this change.

Trustee

If an individual who is a trustee of a business trust ceases to be a trustee, the business must notify the CCB immediately. Similarly, if a new trustee is added, the name and address of that person must be provided. The underlying business trust does not cease, so there is no need to create a new business entity. To notify the CCB, obtain a “Record Change - Personnel or Responsible Managing Individual (RMI)” form by contacting the CCB at 503-378-4621 or by downloading it at www.oregon.gov/ccb. There is no fee for this change.

Responsible Managing Individual (RMI)

An RMI is an individual who:

1. Is an owner or employee of the business
 2. Exercises management or supervisory authority over the construction activities of the business
- and**
3. Has successfully completed the training and testing required by CCB, or is otherwise exempt from the training and testing requirement

In order to be exempt from the training and testing requirement:

- The RMI must have been listed on CCB’s records before July 1, 2000 as a sole proprietor, partner, joint venturer, member, corporate officer, trustee, or designated RMI of a business licensed before July 1, 2000
- and**
- The business has not lapsed or, if lapsed, has not lapsed for more than 24 months
 - The RMI must have been listed on CCB’s records before July 1, 2000 as a sole proprietor, partner, joint venturer, member, corporate officer, trustee, or designated RMI of a business within 24 months of the application

Business Entities That Are Owners, Partners, or Members of Another Business Entity

The requirement to notify the CCB of changes to official personnel also applies if one business entity is the owner, member, or partner of another business entity, and there are changes to the personnel in that first business entity. For further information regarding these changes, contact the CCB at 503-378-4621.

Request For A Duplicate License Card

An owner, partner, member, or officer must make a written request to the CCB for a replacement card. Include the license number, current address, and telephone number of the business. A \$10 fee is also required.

Liability Insurance and Bond

To maintain an active CCB license, you are required to have current liability insurance and bond on record at the CCB. You are ultimately responsible even if you have delegated the task to your agent or employee. Using the E-Watch feature of the CCB's my License can help you stay on top of changes to your license, as well as licenses of subcontractors.

CCB's "myLicense" and "E-Watch"

By registering for myLicense on the CCB website at www.oregon.gov/ccb, you can:

- Check the status of your CCB license
- Obtain help securing liability insurance through Contractor MAP
- Change your vital records information, including your phone numbers, your address, and e-mail information
- Monitor the license status of contractors working with you by using E-Watch

Public Works Project

Contractors can be added to the list of bidders for the State of Oregon by going on-line to register for the **Oregon Procurement Information Network (ORPIN)** at: www.oregon.gov/DAS/SSD/SPO/index.shtml or by calling 503-378-4642.

Contractors working on public works projects must comply with Oregon's prevailing wage laws. Contact the Bureau of Labor and Industries (BOLI) at 503-731-4074.

Public Works Bonds are required for all CCB licensed contractors working on qualifying public works projects with a contract price that exceeds \$100,000. The public works bond must have a corporate surety authorized to do business in Oregon for the amount of \$30,000 before starting work on a contract or subcontract for a public works project. This bond will be used solely in the event of a prevailing wage claim filed with BOLI. Contractors must file public works bonds with the CCB.

Public Works Bonds do not replace the CCB license bond. The Public Works Bond is a separate bond and is required in addition to any other bond a contractor or subcontractor is required to obtain. Contractors can get this bond from their insurance agent, current bonding company, or any other bonding company.

A contractor may be exempt from the Public Works Bond for any of the following:

- Contractors are exempt if they are not required to pay prevailing wages
- Contractors are exempt if the qualifying project is less than \$100,000
- The bond may be excused if there is a declaration of emergency in accordance with ORS 279A.065
- If the contractor is certified by the Office of Minority, Women, & Emerging Small Business (OMWESB), it may elect to be exempt from the Public Works Projects up to four years from initial certification. A Public Works Bond Exemption Form must be filed with the CCB.



STAYING LEGAL

Staying Legal for All Contractors

The following four topics discuss legal requirements for **all** contractors, both residential and commercial. Be sure to read the next two sections of this chapter for legal requirements that apply specifically to residential contractors, and specifically to commercial contractors.

Independent Contractor Law

Oregon law requires all licensed contractors to qualify as independent contractors in order to be licensed with the CCB. An independent contractor is an individual (sole proprietor) or business entity (partnership, joint venture, corporation, trust, LLC, LLP, LP) that demonstrates it is in business for itself and is not an employee. This means the individual or entity is free from direction and control over the means and manner of providing service and has the right to determine how the work will be done to deliver satisfactory results. In contrast, an employee works under the direction and control of a supervisor or owner, often for an hourly wage. An independent contractor qualifies as an independently established business based on meeting at least three of the following five criteria:

1. The business must maintain a physical location different from the client jobsites
2. The business must bear the risk of loss
3. The business provides contract services to two or more clients
4. The business has the authority to hire others
5. The business has a significant investment in its operations

An independent contractor is also required to maintain a CCB license and any other license required for the services given.

Classes of Independent Contractor: Exempt and Non-Exempt

There are two classes of independent contractor, exempt and nonexempt.

Nonexempt means the entity has employees. The business must carry workers compensation insurance at all times.

Exempt means the business does **not** have employees. The business could perform the work by itself, use workers leased from a leasing agency, or subcontract work to other independent contractors that are licensed businesses.

Making the determination whether to classify a person as an employee or an independent contractor may be confusing, but misclassification can be costly to a business. For example, Oregon law often requires a business that mischaracterizes its workers as independent contractors, to pay taxes, penalties, and interest on what the law considers “wages” instead of contract payments.

Workers Compensation Insurance

Every business that employs one or more workers must provide workers compensation insurance coverage*. Workers compensation is “no-fault” insurance, and covers an employee’s medical expenses for on-the-job injuries and disease. It also provides payments to employees while they are temporarily or permanently disabled by that injury. Workers comp provides death benefits to dependents if an employee dies as a result of occupational injury or disease. Workers comp protects employees if they are accidentally injured on the job, and it also protects employers from employee lawsuits resulting from injuries on the job.

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Workers compensation benefits to employees are for actual loss, not compensation for reasons like “pain and suffering.”

Workers compensation insurance is administered by the Workers Compensation Division (WCD). Find more information at: www.wcd.oregon.gov.

* Beginning July 1, 2010, all contractors licensed as commercial are required to carry workers compensation insurance. See page 24 for more information.

Notification Requirements for Court Judgments

Contractors are required to send a copy of a final judgment that is issued in a court action or that confirms an arbitration award, to the Construction Contractors Board (CCB). This requirement applies if the award is for breach of contract, or negligent or improper work relating to the construction of a residential structure.

- A contractor is not required to send a copy of the final judgment if the contractor has paid the judgment and any other amount payable under the judgment, within 30 days from the date in which the judgment was recorded, or if the contractor is appealing the judgment and has filed any undertaking for the appeal process.
- Contractors that have not met the two conditions above, must deliver a copy of the court judgment to the CCB within 45 days from the date the final judgment is recorded.
- The CCB may impose a civil penalty for failing to comply with the law as required.

Contractors must send the copy of the final judgment to:

**Construction Contractors Board
Attention: Licensing
PO Box 14140
Salem, OR 97309-5052**

Required Display of Contractor’s CCB License Number

According to Oregon law, “No person shall advertise or otherwise hold out to the public that person’s services as a contractor unless that person holds a current, valid CCB license, nor shall any person claim by advertising or by any other means to be licensed, bonded, or insured unless that person holds a current, valid CCB license.”

Contractors must also include their CCB license number in all advertising and contracts, including:

- Newsprint classified advertising
- Newsprint display advertising
- Radio and TV ads
- Website, online advertising or online listing

continued...

- Telephone directory space ads and display ads
- Vehicles that display contractor's name
- Business cards
- Business letterhead
- Business signs for construction sites
- Written bids
- Written inspection reports
- Building contracts

Contractors failing to include a CCB license number can be issued a civil penalty.

Using the CCB license number in advertising assures potential customers that the contractor is a licensed professional. Additional use of the words "licensed and bonded" is another way of assuring potential customers that they should consider that business for their project. Using the CCB license number in advertising can also differentiate contractors with similar business names.

STAYING LEGAL
All Contractors

Staying Legal for Residential Contractors

RESIDENTIAL CONTRACTS

Contractors performing work for an owner of a residential structure must have a written contract when the price exceeds \$2,000. This is true even if the contract starts out under \$2,000 but goes over that amount later. The CCB recommends always using a written contract to protect both the contractor and the customer.

Oregon law requires that specific elements be part of the written contract. This includes:

1. A statement that the contractor is licensed by the CCB
2. The name, license number, address, and telephone number of the contractor as shown on the CCB's records
3. The customer's name, address, and the address where the work is to be performed
4. A description of the work to be performed
5. The price and payment terms of the job
6. A list of the required consumer notices: Information Notice To Owner About Construction Liens, the Consumer Protection Notice, and the Notice of Procedure. Because contractors are required to provide these notices (see page 19), contractors may wish to make them part of the contract.
7. An explanation of the property owner's rights under the contract, including the ability to file a complaint with the CCB and the existence of any mediation or arbitration provision in the contract, which must be set forth in a conspicuous manner

In addition, the contract must be clear, use common words of understanding, be legible, and in dark ink.

The contract must not contain any provision that limits the right of a person to file a complaint with the CCB.

NEW RESIDENTIAL STRUCTURE CONTRACT

The following items must also be included if the contractor is building a new residential structure:

- a. A written offer of warranty and indication of acceptance or rejection of the warranty by the customer (See page 20)
- b. The customer's acknowledgment of the receipt of maintenance information and a maintenance schedule. Contractors can use the maintenance schedule developed by the CCB (See page 20), or may provide their own maintenance schedule as long as it contains the information required by law.

Visit the CCB website at www.oregon.gov/ccb for more information, document samples, and downloadable forms to help contractors comply with the requirements.

Buyer's Right to Cancel

Oregon has two laws that can be applied to the cancellation of a residential construction contract:

THREE DAY RIGHT TO CANCEL – Oregon law allows a three day right of a buyer to cancel a home solicitation contract when the contract is solicited and accepted at any place other than the seller's permanent place of business. The solicitor must give the property owner notice of the right to cancel the contract.

The content of the notice is specific and can be found in ORS 83.730.

Contractors can also find additional information in the Oregon Contractor's Reference Manual under "Contract Law."

ONE DAY RIGHT TO CANCEL – Oregon law permits a property owner to cancel any initial contract for construction, improvement, or repair of a residential structure by giving the contractor a written notice of cancellation prior to midnight of the next business day.

The contract may not be cancelled if:

1. A contractor has already substantially begun the construction or repair
2. Both parties agree that work is to begin before the cancellation period has expired
3. The original contract is being modified after the cancellation period

Note: The contractor does not have any cancellation notice requirements (ORS 701.310).

Continuing Education for Residential Contractors

Residentially endorsed contractors must begin meeting continuing education (CE) requirements with CCB license renewals on or after October 1, 2011.

The required continuing education during the two year license period consists of 16 hours as follows:

- Eight hours in mandatory subject areas (Core); and
- Eight hours are discretionary (Electives).

Core CE providers and classes are found on the CCB website.

Contractors can choose electives that are construction related, that the contractor determines is important for their business.

Contractors endorsed as a Residential Limited Contractor (RLC) are required to complete the Core hours only. They are not required to complete the elective hours

Contractors are required to provide certain notices to customers at specific times:

Required Notices to be Given to Residential Customers

AT THE TIME OF CONTRACT THAT IS OVER \$2,000

Information Notice To Owner About Construction Liens – This notice explains Oregon’s construction lien laws to customers and identifies the rights and responsibilities of property owners and contractors under the law (ORS 87.093).

Consumer Protection Notice – This notice explains to customers what actions they may take to protect themselves during a construction project (ORS 701.330(1)). The notice addresses contractor licensing, bond and insurance requirements, warranty requirements, and other information.

Notice of Procedure – This notice describes the procedures that customers must follow to notify contractors about defective work before starting an arbitration, beginning a court action against a contractor, or filing a CCB complaint against a contractor (ORS 701.330(2)).

Contractors are required to maintain proof of delivery for a period of two years after the contract was entered into.

Because a written contract is required for contracts over \$2,000, a contractor may incorporate the Information Notice To Owner About Construction Liens, the Consumer Protection Notice, and the Notice of Procedure into the written contract.

Homebuyer Protection Act Notice

Notice of Compliance with Homebuyer Protection Act (HPA) – This notice is required if a contractor sells a new home or a home that had at least \$50,000 of remodeling or improvement to the residential property completed within three months of the sale of the remodeled or improved property (ORS 87.007). The notice indicates the method selected by the contractor to protect the buyer against liens that may be filed.

The HPA notice must be provided no later than the date of sale of the residential property.

Recommended Maintenance Schedule

A contractor that enters into a written contract to construct a new residential structure or zero-lot-line dwelling, must offer to the first purchaser or owner, a recommended maintenance schedule. In addition, the schedule must include, but is not limited to, information on the following:

- Definitions and descriptions of moisture intrusion and water damage
- An explanation of how moisture intrusion and water damage can occur
- Advice on how to recognize the signs of water damage
- Appropriate steps to take when water damage is found

The CCB has developed a maintenance schedule that is available to contractors on the CCB website at www.oregon.gov/ccb, or by calling 503-378-4621.

Contractors may use their own maintenance schedule but should be certain that they contain the required information.

Residential Warranties: Contractor Obligations

A contractor that enters into a written contract to construct a new residential structure or zero-lot-line dwelling must offer to the first purchaser or owner, a warranty against defects in materials and workmanship.

A warranty is an obligation that the new home is free from defective materials and workmanship. It promises to replace or repair any defective items or faulty work, and typically covers:

- Structural Defects (like foundation, studs, beams, joists)
- Major Home Systems (plumbing, electrical, heating, air-conditioning systems failure, and may include failure of appliances and other systems)
- Workmanship (work performed, such as installation)

A contractor may supply the warranty offered directly, or may purchase the warranty through a company that sells warranties. Contractors who supply the warranty directly, may determine the length of coverage, the annual premium, and whether to charge a service fee or deductible when service is requested by the owner. Typical warranties provide protection for structural defects for 5 to 10 years, and protection for major home system failures for 1 to 2 years.

The contractor must include a statement in the written contract that a warranty was offered and must indicate if the first purchaser or owner accepted or rejected the offer. A warranty must be offered by the signing of the construction contract. The first purchaser or owner is not required to accept the warranty offered.

If a contractor makes a written offer to provide a warranty before the contractor and owner have signed a written contract, and the owner refuses the warranty, then the contractor may withdraw the offer to construct the residential structure or dwelling unit.

Staying Legal for Contractors With a Commercial Endorsement

Continuing Education Requirements (ORS 701.124)

1. TO RENEW A COMMERCIALY ENDORSED LICENSE

Beginning with a commercial contractor's next renewal application, commercially endorsed contractors will certify that they have completed continuing education (CE).

The CCB will not ask you to provide proof of continuing education at the time of renewal, but to certify that you completed the continuing education required for your business.

2. WHO TAKES THE TRAINING?

The CE must be taken by "key employees" of the business. A key employee is an owner or employee who is one of the following:

- Corporate officer
- Manager
- Superintendent
- Foreperson
- Lead person
- Any other person who exercises management or supervisory authority over the construction activities of the business

3. HOW MUCH CE IS REQUIRED?

CE may be obtained by one key employee or by multiple key employees. The total number of hours required depends on how many key employees the business has. The following CE hours are required for each **two-year** licensing period:

Commercial Endorsement	# of Key Employees	CE hrs in a 2-yr period
Commercial General Contractor Level 1 (CGC1) or Commercial Specialty Contractor Level 1 (CSC1)	5 or more	80
	4	64
	3	48
	2	32
	1	16
Commercial General Contractor Level 2 (CGC2) or Commercial Specialty Contractor Level 2 (CSC2)	Doesn't matter	32
Commercial Developer (CD)		None

4. TOPICS FOR COMMERCIAL CONTRACTOR TRAINING

Topics may include construction means, methods, and business practices. Construction means and methods include training on topics like:

- Installation methods
- Best practices
- Product training
- Construction science
- Or any other training that provides contractors with information on building better structures or operating a successful business

The approved sources for continuing education topics are:

- Community colleges, colleges, universities
- Trade schools
- Trade or business associations
- Professional societies
- Private companies
- Product manufacturer training
- In-house training

5. IS ANYONE EXEMPT FROM THE CE FOR COMMERICALLY ENDORSED CONTRACTORS?

The CE requirements do not apply to:

- Commercial developers
- Electrical contractors
- Plumbing contractors
- Boiler or pressure vessel contractors
- Elevator contractors
- Other contractors licensed under ORS 479.945, ORS 480.510 - 480.670, ORS 693

Commercial Warranties (ORS 701.340)

The law requires that a Commercial General Contractor, Level 1 or Level 2, that constructs a new, large commercial structure must provide the owner with a two-year warranty against defects in materials and workmanship of the building envelope and penetration components.

The warranty must provide that the contractor will inspect the building envelope and penetration components yearly, during the warranty period. The warranty does not need to cover conditions that result from the owner's improper maintenance.

The following questions highlight a contractor's obligations under the new law:

WHAT IS A WARRANTY?

A warranty is an obligation by the seller that the seller's product (here, a commercial building) is free from defective materials or workmanship, together with a promise to repair or replace the defective items and faulty work.

Repair or replacement is satisfied by meeting building industry standards. There does not need to be complete customer satisfaction.

Generally, a warranty does not cover items that arise from customer neglect.

WHAT IS A LARGE COMMERCIAL STRUCTURE?

A large commercial structure is not a residential structure and:

- If a stand-alone building, has a ground area of more than 10,000 square feet
- If a unit in a larger building, has a ground area of more than 12,000 square feet, or
- Is a building or unit more than 20 feet tall

WHAT IS A BUILDING ENVELOPE?

A building envelope consists of the roof, exterior walls, ground floor, windows, and doors of a building. It separates the inside from the outside. A building envelope must balance the need for ventilation and daylight while providing protection from heat, cold, and moisture.

WHAT ARE PENETRATION COMPONENTS?

"Penetration" means the act of entering into or through. "Component" means an individual part of something else. Using the ordinary meaning of the phrase "penetration component," it is possible to identify components in a building that may penetrate the building envelope. For example, window frames, roof vents or outdoor light receptacles may penetrate the building envelope.

WHAT PERIOD OF TIME MUST THE WARRANTY COVER?

The warranty is for two years. While not so stated, the warranty probably begins upon the completion of construction.

WHAT OTHER REQUIREMENTS MUST THE WARRANTY COVER?

The warranty must provide that the contractor **inspects** the building envelope and penetration components once a year, during the period of the warranty.

continued...

WHO DOES THE LAW APPLY TO?

The law applies to Commercial General Contractor, Level 1 or 2 when building new, large commercial structures.

The law does not apply to:

- Commercial General Contractors, Level 1 or 2, building **small** commercial structures
- Commercial Specialty Contractors, Level 1 or 2, building any commercial structure
- Residential contractors, any endorsement, building any structure, or

Commercial Contractors: Workers Compensation Insurance

Current law requires that every business that employs one or more workers must provide workers compensation insurance.

Commercial contractors who are “exempt” (do not have employees) must carry workers’ compensation insurance. A business that does not have employees may obtain a “personal election” policy that covers the business’ owners.

CCB ENFORCEMENT EFFORTS



CCB Enforcement Efforts

Unlicensed and illegal construction activity is bad for the construction industry, and victimizes consumers as well as the majority of contractors who operate legally and professionally.

CCB's Enforcement Section and Field Investigation Section investigate all allegations of unlicensed and illegal activity on construction sites throughout Oregon.

CCB's Special Investigations Unit (SIU) works with local law enforcement, district attorneys, and the Oregon Department of Justice, when illegal construction activity could result in civil or criminal prosecution.

Complaints and reports are received from consumers, contractors and others in the construction industry, regulatory agencies, and law enforcement.

One of the most common violations that contractors are penalized for is:

- **Working or offering to work without a CCB license** – This includes advertising for work or bidding for work. Acting as a contractor without a license violates criminal laws and is punishable as a Class A misdemeanor with a civil penalty of up to \$5,000. The CCB reports the identity of violators to the Oregon Department of Revenue, the Workers Compensation Division, and the Employment Department.

Contractors that work unlicensed, may lose the legal right to defend themselves or obtain payment for work performed. A contractor must be licensed with the CCB from the time of bid or when the contract was signed, and continuously through the time period in which the work was performed in order to:

- File a complaint with the CCB against a subcontractor
 - File a complaint with the CCB against a general contractor for failure to pay
 - File a construction lien against a property owner
 - File a lawsuit in Oregon for construction work or breach of contract
- **Other common violations include** – Fraudulent or dishonest business practices, failure to maintain required insurance and surety bonds, hiring unlicensed subcontractors, and failure to maintain workers compensation insurance for employees.

Depending on the violation, contractors can receive fines, have their CCB license revoked or suspended, and may even be prohibited from having a CCB license re-issued.

How to Report Unlicensed or Illegal Construction Activity

Contractors who choose to operate unlicensed and illegally, undermine the success of the construction industry. They put consumers at risk and take business away from legitimate contractors, who spend money and time to operate their businesses legally.

Contractors can help the CCB find unlicensed or illegal construction activity by reporting it. To report unlicensed or illegal activity, go to the CCB website at www.oregon.gov/ccb and click on "Report Illegal Activity." Fill out the online form and submit it by clicking the Submit button, or call the CCB at 503-378-4621.

ADDITIONAL INFORMATION



Other Agencies With Useful Information

- **Accidents and fatalities** in construction work must be reported to Occupational Safety & Health (OR-OSHA) at 503-378-3272. For workplace safety info: www.cbs.state.or.us/external/osha.
- **Americans with Disabilities Act** - For ADA specialist certification, call Northwest Region Disabilities at 1-800-949-4232.
- **Apprenticeships** - Call the Apprenticeship & Training Division at the Bureau of Labor and Industries, 503-731-4072. Some trade associations also have apprenticeship programs.
- **Asbestos abatement** - Call the Dept. of Environmental Quality (DEQ) at 503-667-8414 ext. 55018.
- **Blasting license or explosives permit** - Call the State Fire Marshal at 503-378-3473.
- **Boilermakers & steam fitters** - must be licensed by the Building Codes Division, 503-373-1268.
- **Business assistance useful to contractors** - A list of organizations and trade associations is available on the CCB website at www.oregon.gov/ccb.
- **Construction Industry Crime Prevention Program** - Call 503-618-8871.
- **Crane operators** must complete safety training and obtain a crane operator's card.
- **Cross connections inspection, installing, testing backflow prevention devices** - Contractors are certified through the Dept. of Human Services at 971-673-1220, and must be licensed with the CCB, 503-378-4621 or the LCB, 503-378-5909.
- **Decontamination contractors** cleaning up chemicals associated with illegal drug lab activities must be licensed with the Dept. of Human Services, 503-731-4000.
- **Disadvantaged, Minority, Women, & Emerging Small Businesses** - For certification of public contracting, contact Office of Minority, Women, and Emerging Small Businesses - 503-378-5651.
- **Docks, bridges, marinas or other structures** within state-owned waterways (tidal or navigable). Contractors need to call the Division of State Lands at 503-378-3805.
- **Environmental & Hazardous regulations** - Call Dept of Environmental Quality - 503-229-5696.
- **Excavators digging near utility lines** - Call the Oregon Utility Notification Center before digging at 1-800-332-2344.
- **Frequently asked questions** by contractors are listed on CCB's website - www.oregon.gov/ccb.
- **Grading or Excavation in coastal areas** - Contractors need to check with local planning officials to be sure the work is done in compliance with local land use plans and zoning ordinances.
- **Heating and air conditioning technicians** - must be licensed by the Building Codes Division. Call 503-373-1268.
- **Highway projects** - For information on obtaining state contracts - Call ODOT Construction Contracts Unit at 503-378-4642.
- **Hiring employees under 18** - Call Bureau of Labor and Industries Work Permit Unit, 971-673-0836, and the US Dept. of Labor, Wage and Hour Division at 503-326-3057.
- **Home inspectors** who perform two or more components of a home inspection must get certified with the CCB, 503-378-4621.
- **Landscape irrigation backflow assembly installation** requires a license from the Landscape Contractors Board (LCB), 503-378-5909.
- **Landscaping work** - CCB contractors must be licensed with the LCB or contract with a licensed landscaping business. Call the LCB at 503-378-5909.
- **Lead-based paint work** - Contractors must be certified with the Dept. of Human Services at 971-673-0440 and must also be licensed with the CCB.
- **Local city or county business license offices** - Call the city or county where you will be working to see if you need a local business license.
- **Local permits and building codes** - Call the local area building dept, or the Building Codes Div at 503-373-1268.
- **Manufactured home installers & skirting installers** must be licensed by the Building Codes Division, 503-373-1268.
- **Pesticide applicators** must be licensed by the Oregon Dept. of Agriculture, 503-986-4635.
- **Pipe fitters** - must be licensed by the Building Codes Division, 503-373-1268.
- **Plumbers and electricians** must be issued both a personal license and a business license by the Building Codes Division, 503-373-1268.
- **Sewage disposal installers and pumpers** must be licensed with the DEQ. Call 503-229-6402.
- **State scenic waterways or ocean beaches** - Building roads, buildings, structures, and improvements in these waterways or beaches requires permits and approvals. Call State Parks & Recreation at 503-986-0733.
- **Sustainability & Green Building** - Call the DEQ at 503-229-5696 or visit www.deq.state.or.us.
- **Tree services** - must be licensed with the LCB, 503-378-5909 and the CCB, 503-378-4621.
- **Underground storage tank installers** - Contact DEQ at 1-800-742-7878.
- **Water supply well construction and monitoring wells** - must be licensed with the Oregon Water Resources Dept. at 503-986-0900.
- **Wetlands, waterways, & state scenic waterways** - Contractors filling, removing fill, or altering the site, may need a permit. Call Div. of State Lands, 503-378-3805 and Army Corps of Engineers, 503-808-4373.

The Construction Contractors Board administers the Oregon Contractors Law that provides for licensing of residential and commercial construction contractors, subcontractors, and home inspectors; investigation and adjudication of complaints filed against licensees; and assessment of sanctions against unlawful contractors. The Board tests applicants on a 16-hour course in construction laws and business practices. The Board also engages in education activities aimed at preventing construction problems, resolving disputes, and promoting a competitive business environment.

Oregon Construction Contractors Board
700 Summer St. NE, Suite 300
PO Box 14140
Salem, OR 97309

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