

## **MINUTES OF THE FEBRUARY 28, 2012 CONSTRUCTION CONTRACTORS BOARD MEETING**

The Construction Contractors Board (CCB) met on Tuesday, February 28, 2012, in the Oregon Room, West Salem Roth's IGA, 425 Glen Creek Rd. NW, Salem, Oregon.

### **Attendees:**

**Board Members:** Board Chair, Rob Yorke, and Board Members: Andrew Colas, Richard DeWolf, Jon Mangis, Roger Nyquist, Melvin Oden-Orr, Tom Skaar and Sandy Trainor. Board Member Kathryn Merritt was excused from the meeting.

**Staff:** Craig P. Smith, CCB Administrator; Richard Blank, Enforcement Manager; Gina Fox, Education Manager; and Catherine Dixon, Board Secretary. Assistant Attorney General Susan Bischoff was also present.

**Guests:** Bonnie Sullivan, and Phil Peach.

### **A. PROCEDURAL**

#### **1. Call to Order:**

Chair Rob Yorke called the meeting to order at 8:30 a.m.

#### **2. Approval of Agenda and Order of Business:**

The agenda for the February 28, 2012, meeting was approved.

**MOTION:** Richard DeWolf moved to approve the February 28, 2012, Board meeting draft agenda.

**VOTE:** 8-0, Ayes— Colas, DeWolf, Mangis, Nyquist, Oden-Orr, Skaar, Trainor and Yorke.

#### **3. Approval of Minutes, December 6, 2011, Board Meeting:**

The Board made the following motion:

**MOTION:** Richard DeWolf moved to approve the December 6, 2011, Board meeting draft minutes.

**VOTE:** 8-0, Ayes— Colas, DeWolf, Mangis, Nyquist, Oden-Orr, Skaar, Trainor and Yorke.

#### **4. Board Member Reports:**

Board members reported on current CCB related events in the geographic region, in which they live and work. Construction is growing at a slow rate in most regions and members are cautiously optimistic.

#### **5. Agency Report:**

a. The Number of New Licensees and Rate of Renewals is down.

**b. Number of New Licenses Processed Per Month:**

Administrator Smith reported that the number of new licenses processed January 2012.

- The agency processed 184 new CCB license during the month of January.
- The average for the period January 2011 through January 2012 was 201.
- The 2011-13 budget is based on an average of 270 new licenses per month.

**b. Rate of Renewals:**

Administrator Smith reported that the renewal rate for January 2012 was 62.3 percent compared to the 75 percent projection for the 11/13 biennium.

- The agency processed 1,211 renewals during the month of January.
- The average renewal rate for the period July 2011 through January 2012 was 74.3 percent, which is 99 percent of the projection in the budget for 2011/13 LAB.
- The 2011/13 budget is based on 75 percent renewal rate.

Board member Nyquist expressed concern that the continuing education requirements and hard economic times may be causing licensees to leave the industry.

Administrator Smith reported that due to staff illnesses and the flooding, the Licensing staff were behind in January and the actual number of renewals the agency received is higher than what is reflected in the statistics. The Licensing staff worked some overtime and were able to get more current on renewals.

**c. Licensing Statistics:**

Administrator Smith reported that total number of licensees is 37,264.

**d. Workload Charts:**

- Administrator Smith discussed the workload charts. The total number of licenses, including both active and inactive in January 2012, is 37,264. The number of licensees continues to decline; down approximately eleven percent from 24 months ago.
- Enforcement actions have increased.
- The amount of Dispute Resolution Services (DRS) complaints is less than expected.

**e. Summary of Revenue Analysis:**

Administrator Smith discussed the revenue analysis report with Board members. Staff are trying to keep costs down by holding some staff positions vacant longer than originally planned. We are projecting \$2 million in the bank at the end of the biennium; the agency's BAM analyst recommends three to six months of operating expenses in reserves. Administrator Smith will continue to monitor revenue and expenditures.

The CCB civil penalty collections through January 2012 will add \$243,597.24 to the General Fund. CCB has collected \$27,015 in lead-based paint civil penalties through January 2012.

**f. New Travel Forms Requirements and Forms:**

Administrator Smith and Board Secretary Dixon discussed the new travel form requirements with Board members.

Effective January 2, 2012 all travel expense forms must be accompanied by another new form entitled "Authorization to Use Private Vehicle". The new form is in addition to the Travel Expense Form that each Board member signs. Board members must sign this new form as well.

At issue is the new "Authorization to Use Private Vehicle" form requires that the form be signed by the employee's supervisor, which is the Board Chair. The current practice is that Ms. Dixon signs the Board member travel expense forms. CCB staff suggested that the Board Chair delegate the signing of the new "Authorization to Use Private Vehicle" forms for Board members to the Board Secretary as well to save the Chair from having to sign each form at each Board meeting.

**MOTION:** Tom Skaar moved to delegate the signing of the "Authorization to Use Private Vehicle" form to the Board Secretary as the Board member employee's supervisor on the form as well as the other travel expense forms.

**VOTE:** 8-0, Ayes— Colas, DeWolf, Mangis, Nyquist, Oden-Orr, Skaar, Trainor and Yorke.

**g. Board Member Training Available:**

Administrator Smith reported that at the December 6, 2011, Board meeting Board members asked what training was available for new Board members and asked that staff do some research.

Staff conducted some researched and found that the Governor's Office, Executive Appointments no longer conducts any training for new Board members.

Staff found that the Oregon Department of Justice is offering a workshop entitled: "Core Public Law for Board and Commission Members" on June 12, 2012, from 9:00-12:00 at the Oregon Department of Veterans' Affairs Auditorium. The cost of the workshop is \$80. The workshop covers an introduction to policies and laws that apply to every state agency, board and commission; an agency's authority to act, tort claims, contested cases, rulemaking, public contracting and finance issues, public official ethics, and public meetings and records.

Assistant Attorney General Susan Bischoff reported that she and Kelly Gabliks are putting together the workshop materials and will conduct the class. She encourages all Board members to attend this workshop. If Board members would like a training session designed specifically for CCB, Ms. Bischoff and Ms. Gabliks could develop a special training workshop for them.

Board members asked that the information be emailed to them and they will respond back whether they want to attend the workshop.

**(Staff Action item 2.28.A.5.g.1)**

*[Note: In response to this item, staff sent an email to Board members on March 2 and March 16, 2012. Board members Oden-Orr and Nyquist, and Administrator Smith, are signed up to attend the training scheduled for June 12, 2012.]*

Board members Melvin Oden-Orr and Roger Nyquist stated that they would like to attend the workshop.

AAG Bischoff suggested that Board members may wish to go to the Oregon Government Ethics Commission's website and read the "Guide for Public Officials".

Administrator Smith reported that staff will work on ethics training and public meeting rules for Board members.

**(Staff Action item 2.28.A.5.g.2)**

*[Note: In response to this item, staff sent an email to Board members on March 16, 2012 with a copy of the Guide for Public Officials.]*

**h. Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure 2012 and Oregon Attorney General's Public Records and Meetings Manual**

Administrator Smith reported that he has given the Board Chair a copy of both of the manuals for use at Board meetings.

Board members Oden-Orr and Nyquist requested a copy of the AAG Model Rules Manual. Board member Oden-Orr expressed interest in obtaining a copy of the Public Records and Meeting Manual as well.

**(Staff Action item 2.28.A.5.h.1)**

*[Note: In response to this item, staff have mailed a copy of the AG Model Rules to the Board members that requested a copy.]*

Assistant Attorney General Susan Bischoff reported that there are some errors in the Model Rules manual and that she will forward a copy of the letter outlining the error to Cathy Dixon so she can forward the information to Board members.

**(Staff Action item 2.28.A.5.h.2)**

*[Note: In response to this item, staff sent an email to Board members on April 9, 2012.]*

**B. ONGOING ISSUES:**

**1. 2012 Legislation:**

Administrator Smith discussed the 2012 Legislation with Board members.

- **HB 4034** changes the applicable interest rate for a contractor's failure to make a timely payment in accordance with a public improvement contract to nine percent per annum. Requires that a public improvement contract obligate a contractor to provide a first-tier subcontractor with a standard payment claim form and that the contractor use the same form and regular administrative procedures to process payments during the entire term of a public improvement contract. Permits a contractor to change the form or administrative procedure if the subcontractor is notified of the new or changed form or procedure and includes in the notice the new or changed form or a description of new or changed procedure. The bill establishes

operative date 91 days after measure's effective date and declares emergency, effective on passage.'

- **HB 4015** requires Oregon Health Authority to develop and maintain lead poisoning prevention clearinghouse on its website for K – 12 students. The bill specifies information that must be included in lead poisoning prevention clearinghouse.
- 2. HB 3242 (2007) Commercial Contractor Licensing Act and 3. Commercial Exempt Contractor Workers Compensation Issues – Status of HB 4094 (2012):**  
Administrator Smith reported that HB 4094 did not pass. The bill would have permitted exempt commercial contractors to provide proof of personal health and disability insurance in lieu of personal election workers' compensation insurance. The bill would have made it a crime for contractors to knowingly make a false statement. The bill would have required approximately 2,000 commercial contractors to make an initial form filing with CCB by July 1, 2012; which would have required having the form notarized.

Board members discussed the requirement that commercial contractors have workers compensation coverage.

## C. ADMINISTRATIVE RULES

### 1. Review of Rules Up for Hearing February 28, 2012:

Administrator Smith discussed the proposed rule amendments with Board members. The proposed rule amendments topics are:

- Housekeeping, emergency suspension authority, petition to reduce larger bond requirement, & LBPR emergency renovation operations
  - Residential Continuing Education – Housekeeping, increase work experience of providers, active/inactive status
- 2. February 28, 2012 CCB Rulemaking Hearing:**  
Chair Yorke opened the administrative rulemaking hearing at 11:00 a.m.

#### Public Comment:

No one came forward to give public comment on the rules.

After discussion of the proposed rules, the Board made the following motions:

**MOTION:** Richard DeWolf moved to approve the proposed rules recommended by staff (pages 87-102 of Board packet) and to approve the changes to OAR 812-005-0250 with the following changes:

- Subsection (3), the second sentence to read "The agency will grant the petition for return to a normal bond if within the three-year period in which the increased bond was in effect, applicant or licensee satisfies all of the following requirements."
- Subsection (3)(b) to read: "The applicant or licensee paid unpaid construction related court judgments issued against the applicant or licensee."
- Subsection (3)(d) to read: "There were no criminal convictions for any of the crimes set forth in ORS 701.098(i) entered against the applicant or licensee, its owners or officers."

And moved to approve changes to OAR 812-021-0040 with the following:

- Subsection (5) will read: “Notwithstanding (4) of this rule, if an active contractor renews to an inactive status and seeks to change to active during the two-year license renewal period, the contractor must complete the continuing education requirements in OAR 812-021-0015 in order to change to active status. Continuing education hours earned during the prior two-year license period and the period of inactivity may be included for determining compliance. Notwithstanding OAR 812-021-0015, hours completed during this same period and credited towards renewal to active may not be included for the contractor’s next renewal.”

**VOTE:** 8-0, Ayes— Colas, DeWolf, Mangis, Nyquist, Oden-Orr, Skaar, Trainor and Yorke.

(Note: See Attachment A for the language of the adopted rules.)

**3. Temporary Rules Filed:**

Administrator Smith discussed the permanent rules that were filed since the last Board meeting, with Board members.

**4. Permanent Rules Filed:**

Administrator Smith discussed the permanent rules filed on December 13, 2011, that became effective January 1, 2012, with Board members.

**PUBLIC COMMENT**

**Bonnie Sullivan:** “In regards to the legislation, it was interesting to be with Craig at the hearing. I contacted a bunch of insurance agents in town. The disability insurance would be virtually null to be found by any contractor. The workers comp. issue for some contractors for commercial stuff is still really, in my estimation, is ludicrous. We had to give up our commercial endorsement because of it, because we cannot afford the workers compensation insurance; which is really our money maker as it is for many floor-covering people. I am hoping that the new session will diligently look at all of the ramifications that have come from that 2007 legislation. It was appalling to me also at the hearing to hear one of the representatives from AGC to say that limiting entry or leveling the playing field, they thought that it was really working. Well, the economy took a real dip when CCB was obligated to start implementing the legislation. If you are in an area where you only use dial-up internet, which that is where I am at, you cannot take the education classes, it won’t work. Also, if the CCB has to have a password with a capitol and letter in it, so I tried to change my password to that and it messed up everything. Thank goodness for Nick at CCB, he went in and fixed the problem, because it charged my credit card six times. It also happened with Homebuilders’ courses also. I thought I was savvy about computer stuff, but I found out that it was not that easy to find what you need to do and what areas to log into. Has concern that young people won’t enter the industry, they are not qualified to do the work and there is too much regulations and costs for them to enter. The small business guys have so many regulations on them that there is going to be a lot of people out of compliance. They feel catch me if you can and is worst now because of the economy. Small contractors are underrepresented. A lot of small businesses have become family corporations, but BOLI thinks members of a family corporation are employees.”

**D. NEW BUSINESS:****1. First Look at Proposed Draft Rules for April Rulemaking Hearing:**

Administrator Smith discussed the first look draft proposed rules with Board members.

**2. NASCLA Mid-Year Meeting:**

Administrator Smith discussed his memo with Board members regarding his plans to attend the April 23 Mid-Year Conference without the use of state CCB funds for travel. The agency will not be authorizing any funds for out of state travel during the course of the 2012 calendar year. The agency shall pay the conference fee of \$225.

Administrator Smith indicated that as NASCLA President he will preside over many of the meetings scheduled over the four-day conference, April 24-27; and will provide a report at the next CCB Board meeting regarding the important activity being performed by NASCLA that may benefit the State of Oregon, which include:

- Public service media spots
- Continuing education solutions
- Elder abuse (tool kits)
- State disaster (tool kits)
- Model legislation
- Disciplinary database of repeat offenders (\$20,000 improvements)
- Investigator certification/training

It is hoped that state revenues and the Oregon economy will improve sufficiently in 2013 to allow for funding for NASCLA's two main conferences in spring and fall 2013.

Board member consensus was to approve the Administrator's attendance at the conference in order to conduct NASCLA business, and confirmed that the use of state funds for the Mid-Year Meeting registration fee. Administrator Smith reported that NASCLA's policy is to pay travel expenses for individuals who serve on NASCLA's Leadership Executive Committee, if funds were otherwise unavailable from the state.

**E. CCB PROGRAM ISSUES:****1. Business Services:**

Administrator Smith asked if the Board had any questions regarding the Business Services reports.

**2. Education:****a. Quarterly Report:**

Administrator Smith and Education Manager Fox discussed the education plan with Board members.

**b. Education Strategic Plan for 2012:**

Gina Fox, Education Manager, discussed the 2012 Education Strategic Plan with Board members.

**c. Live CCB Laws, Regulations and Business Practices Stats:**

Gina Fox, Education Manager, reported that the January 10, 2012, CCB Laws, Regulations and Business Practices live class had over 100 attendees. CCB had to set up an overflow room and stream the course to the overflow room. The plan is to

conduct one live class per quarter at CCB offices. The plan calls for the following live classes:

- Grants Pass on 3/14/12
- Portland on 4/12/12
- Portland (ORA) 4/19/12
- Central Oregon, date to be determined
- Astoria, date to be determined

Board member Colas suggested having the course streamed live online and have the licensee sign an affidavit that they attended the course, set up a way for them to pay online. He also suggested using Twitter to stream the live course.

Ms. Fox reported that she is working on a webinar system for the live course and reported that the classes are already available online and will look into Board member Colas' suggestion.

Administrator Smith stated that CCB is not funded to perform live classes; the budget allowed for CCB to charge \$15 per hour for online courses. Live courses are much more costly to conduct.

Board members reviewed the live course schedule mentioned above and are fine with the current schedule until there is too much demand for live classes. Should the demand increase to more than five or six live courses, the Board will revisit the issue. Board members are okay with the current \$15 per hour fee; however, if demand for live classes increases, then CCB may need to seek spending authority for a separate higher fee for live courses.

**d. Education Provider Estimated Course Costs:**

Administrator Smith and Gina Fox, Education Manager discussed the education provider name list issue with Board members.

Board members expressed concerns over education providers using website domain names like CCB license and using CCB logos on their private website. Board members don't want the public confused about who they are doing business with, and thinking they are dealing with CCB. They don't want education providers holding out to the public that they are the CCB. Using CCB's logo is not permitted. CCB's logo is copyright protected.

It was determined that staff will work with the education providers to negotiate and encourage them to make changes to domain names.

**3. Licensing/CSU:**

**a. Quarterly Report**

Administrator Smith asked if the Board had any questions regarding the Licensing reports.

**4. Field Investigation:**

## a. Quarterly Report

Administrator Smith asked if the Board had any questions regarding the Field Investigation reports.

**5. Enforcement:**

## a. Quarterly Report

Administrator Smith asked if the Board had any questions regarding the Enforcement reports.

**6. Dispute Resolution Services (DRS):**

## a. Quarterly Report

Administrator Smith asked if the Board had any questions regarding the Field Investigation reports.

**7. News Clippings/Press Releases/Blogs:**

Administrator Smith asked Board members if they had any questions about the new clippings and articles.

**8. Board Calendar:**

The next Board meeting is scheduled for April 17, 2012.

**Agenda Items for the April 17, 2012 Meeting:**

- Administrative Rules
- Legislative Issues Discussions

**F. OLD BUSINESS**

The Board went into executive session under ORS 192.660(2)(f) and 192.660(h) to consult with legal counsel regarding anticipated litigation on DRS Complaint No. 171009-101, Hettle vs. Homemasters Inc. dba Gutter Helmet of Oregon.

**G. ADJOURNMENT**

The meeting adjourned at 12:50 p.m. The next Board meeting and Appeal Committee meeting are scheduled for April 17, 2012.

Sincerely,

Catherine Dixon  
Board Secretary

## ATTACHMENT A

### 812-002-0443

#### Legal Capacity to Enter into Contracts

“Legal capacity to enter into contracts” as used in ORS ~~[701.046(2)(b)]~~ **701.046(3)(b)**, means the attaining of the age of 18 for any sole proprietor, partner of any general partnership, limited liability partnership, limited partnership or joint venture, corporate officer, member, or any other persons similarly situated who holds or could hold the authority to enter into a contract on behalf of the licensed entity.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.046

(12/01, 12/05, 6/08)

### 812-005-0140

#### Emergency Suspension

**Effective January 1, 2008**, the Administrator of the Board may immediately suspend or refuse to renew a license without a prior hearing, in accordance with ORS 701.098(4), in cases where the Administrator of the Board has in its possession a prima facie case of a wrongful act as described in ORS 701.098(4)(a)(A)-~~(D)~~ **(E)** having been committed by a contractor and upon a finding by the Administrator that the contractor is a serious danger to the public welfare. The respondent shall be entitled to a hearing on the Administrator’s action if the respondent requests such a hearing within 90 days after the date of the notice to the respondent, as provided in ORS 701.098(4)(b).

Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235 & 701.992

Stats. Implemented: ORS 701.098 & 701.102

(7/80, 8/80, 11/80, 12/80, 2/81, 6/81, 1/82, 3/82, 4/82, 10/82, 1/83, 3/83, 4/85, 12/85, 3/87, 12/87, 1/88, 1/89, 11/89, 2/90, 5/90, 6/90, 2/91, 3/91, 6/91, 7/91, 9/91, 2/92, 4/92, 7/92, 12/92, 5/93, 12/93, 1/94, 6/94, 7/94, 10/95, 11/97, 10/98, 6/00, 12/05, 6/08, Temp. 10/24/11)

### 812-005-0250

#### Repeal of Increased Bond, Letter of Credit or Cash Deposit Requirement

(1) Under ORS ~~[701.085(7) or (8) (2005)]~~, 701.068 or 701.088 after ~~[two]~~ **three** years of operating under the increased bond, letter of credit or cash deposit, an applicant or licensee may submit a written request to the ~~[Board]~~ **agency** ~~[appealing the agency’s determination requiring an increased bond, letter of credit or cash deposit amount.]~~

~~(2) A licensee required to file a bond, letter of credit or cash deposit of up to five times the normal amount may petition the agency~~ to be relieved of that obligation after demonstrating ~~[to the agency two]~~ **three** full years of acceptable business practices while having posted the increased bond, letter of credit or cash deposit.

~~[(3)]~~ **(2)** Petitions for return to normal bond, letter of credit or cash deposit requirements under ORS ~~[701.085 (2005)]~~, 701.068 or 701.088 must be made in writing and delivered to the agency. ~~[Such petitions must provide a full explanation why the licensee no longer poses an increased risk to the public and should be granted a license at the regular bond, letter of credit or cash deposit amount.]~~ **The petition should address each requirement set forth in section (3) of this rule.**

~~[(4)]~~ **(3)** The agency shall consider the ~~[following factors while considering the]~~ **applicant’s or licensee’s** petition~~].~~ **The agency shall grant the petition for return to a normal bond if, within three-years period in which the increased bond was in effect, applicant or licensee satisfies all of the following requirements.**

~~[(a) After the increased bond, letter of credit or cash deposit requirement, whether the petitioner has:~~

~~(A) A history of paying Dispute Resolution Services complaints within ten (10) days of the order becoming final;~~

~~or~~

~~(B) Incurred any unpaid court judgments;~~

~~(b) A review of the petitioner’s CCB enforcement/discipline history; and~~

~~(c) A criminal history background check.]~~

**(a) The applicant or licensee paid Dispute Resolution Services final orders, arbitration awards and determinations within thirty (30) days of its issuance.**

**(b) The applicant or licensee paid unpaid construction related court judgments issued against the applicant or licensee.**

**(c) The agency did not issue any enforcement final order against the applicant or licensee.**

**(d) There were no criminal convictions for any of the crimes set forth in ORS 701.098(i) entered against the applicant or licensee, its owners or officers.**

**(4) If the applicant or licensee fails to satisfy all of the conditions set forth in section (3), the agency will require the applicant or licensee to maintain the increased bond for an additional three years from the date of the agency’s decision. After that three year period, the applicant or licensee may again petition to return to a normal bond.**

(5) The agency shall notify the licensee or applicant in writing of the agency's decision within 30 days of [the agency's decision regarding] receiving the petition.

(6) If the agency [proposes to deny] denies the petition, the agency shall notify the licensee or applicant of the [basis for its proposed] reasons for the denial, [and provide notice and an opportunity for hearing, as provided for in ORS 183.415.] The licensee or applicant may seek judicial review of the agency's denial as an order in other than a contested case.

Stat. Auth.: ORS 670.310, 701.068, 701.085 (2005), 701.088 & 701.235

Stats. Implemented: ORS 701.068, 701.085 (2005), 701.088

(9/06, 12/07, 6/08)

## **812-005-0800**

### **Schedule of Penalties**

The agency may assess penalties, not to exceed the amounts shown in the following guidelines:

(1) \$600 for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, which may be reduced to \$200 if the respondent becomes licensed or to \$50 if the advertisement or bid is withdrawn immediately upon notification from the agency that a violation has occurred and no work was accepted as a result of the advertisement or bid; and

(2) \$700 per offense without possibility of reduction for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, when one or more previous violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(3) \$1,000 per offense for performing work as a contractor in violation of ORS 701.021 when the Board has no evidence that the person has worked previously without having a license and no consumer has suffered damages from the work, which may be reduced to \$700 if the respondent becomes licensed within a specified time; and

(4) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when an owner has filed a complaint for damages caused by performance of that work, which may be reduced to \$700 if the contractor becomes licensed within a specified time and settles or makes reasonable attempts to settle with the owner.

(a) A "complaint for damages" as used in section (4) of this rule includes, but is not limited to:

(A) A Construction Contractors Board Dispute Resolution Services (DRS) complaint; or

(B) A letter to Construction Contractors Board indicating that a citizen has been damaged by the contractor; and

(5) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when one or more violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(6) \$500 per offense for failure to respond to the agency's request for the list of subcontractors required in ORS 701.345; and

(7) \$1,000 per offense for hiring a unlicensed subcontractor; and

(8) For failing to provide an "Information Notice to Owners about Construction Liens" as provided in ORS 87.093, when no lien has been filed, \$200 for the first offense, \$400 for the second offense, \$600 for the third offense, \$1,000 for each subsequent offense. Any time a lien has been filed upon the improvement, \$1,000.

(9) Failure to include license number in advertising or on contracts, in violation of OAR 812-003-0120: First offense \$100, second offense \$200, subsequent offenses \$400.

(10) Failure to list with the Construction Contractors Board a business name under which business as a contractor is conducted in violation of OAR 812-003-0260: First offense \$50, second offense \$100, subsequent offenses \$200.

(11) Failure to notify the Construction Contractors Board of a new or additional business name or personal surname (for sole proprietors) under which business as a contractor is conducted, in violation of OAR 812-003-0320: First offense warning, second offense \$50, subsequent offenses \$200.

(12) Failing to use a written contract as required by ORS 701.305: \$500 for the first offense; \$1,000 for the second offense; and \$5,000 for subsequent offenses.

(13) Violation of OAR 812-012-0130(1), failure to provide a Consumer Notification form; \$100 first offense; \$500 second offense; \$1,000 third offense; and \$5,000 for subsequent offenses. Civil penalties shall not be reduced unless the agency determines from clear and convincing evidence that compelling circumstances require a suspension of a portion of the penalty in the interest of justice. In no event shall a civil penalty for this offense be reduced below \$100.

(14) Failure to conform to information provided on the application in violation of ORS 701.046(4), issuance of a \$5,000 civil penalty, and suspension of the license until the contractor provides the agency with proof of conformance with the application and the terms of the application.

(a) If the violator is a limited contractor or residential limited contractor working in violation of the conditions established pursuant to OAR 812-003-0130 or 812-003-0131, the licensee shall be permanently barred from licensure in the limited contractor category or residential limited contractor endorsement.

(b) If the violator is a licensed developer, residential developer or commercial developer working in violation of the conditions established pursuant to ORS 701.005(3), (6) or (14) or 701.042, the licensee shall be permanently barred from licensure in the licensed developer category or residential developer or commercial developer endorsement.

(15) Knowingly assisting an unlicensed contractor to act in violation of ORS chapter 701, \$1,000.

(16) Failure to comply with any part of ORS chapters 316, 656, or 657[;] or with ORS 701.035, 701.046 or 701.091, [as authorized by ORS 701.106,] \$1,000 and suspension of the license until the contractor provides the agency with proof of compliance with the statute.

(17) Violating an order to stop work as authorized by ORS 701.225(3), \$1,000 per day.

(18) Working without a construction permit in violation of ORS 701.098, \$1,000 for the first offense; \$2,000 and suspension of CCB license for three (3) months for the second offense; \$5,000 and permanent revocation of CCB license for the third and subsequent offenses.

(19) Failure to comply with an investigatory order issued by the Board, \$500 and suspension of the license until the contractor complies with the order.

(20) Violation of ORS 701.098(1)(L) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public: first offense, \$1,000, suspension of the license or both; second and subsequent offenses, \$5,000, per violation, revocation or suspension of the license until the fraudulent conduct is mitigated in a manner satisfactory to the agency or both.

(21) Engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public by:

(a) Not paying prevailing wage on a public works job; or

(b) Violating the federal Davis-Bacon Act; or

(c) Failing to pay minimum wages or overtime wages as required under state and federal law; or

(d) Failing to comply with the payroll certification requirements of ORS 279C.845; or

(e) Failing to comply with the posting requirements of ORS 279C.840:

\$1,000 and suspension of the license until the money required as wages for employees is paid in full and the contractor is in compliance with the appropriate state and federal laws.

(22) Violation of ORS 701.098(1)(L) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public, as described in [~~subparagraphs (19) or (20)~~] **sections (20) or (21)**, where more than two violations have occurred: \$5,000 and revocation of the license.

(23) When, as set forth in ORS 701.098(1)(h), the number of licensed contractors working together on the same task on the same job site, where one of the contractors is licensed exempt under ORS 701.035(2)(b), exceeded two sole proprietors, one partnership, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the contract, as follows: \$1,000 for the first offense, \$2,000 for the second offense, six month suspension of the license for the third offense, and three-year revocation of license for a fourth offense.

(24) Performing home inspections without being an Oregon certified home inspector in violation of OAR 812-008-0030(1): \$5,000.

(25) Using the title Oregon certified home inspector in advertising, bidding or otherwise holding out as a home inspector in violation of OAR 812-008-0030(3): \$5,000.

(26) Failure to conform to the Standards of Practice in violation of OAR 812-008-0202 through 812-008-0214: \$750 per offense.

(27) Failure to conform to the Standards of Behavior in OAR 812-008-0201(2)-(4): \$750 per offense.

(28) Offering to undertake, bidding to undertake or undertaking repairs on a structure inspected by an owner or employee of the business entity within 12 months following the inspection in violation of ORS 701.355: \$5,000 per offense.

(29) Failure to include certification number in all written reports, bids, contracts, and an individual's business cards in violation of OAR 812-008-0202(4): \$400 per offense.

(30) Violation of work practice standards for lead-based paint (LBP) activity pursuant to OAR 812-007-0140 or 812-007-0240 first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 plus suspension of license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(31) Violation of work practice standards for LBP renovation pursuant to OAR 812-007-0340 or violation of recordkeeping and reporting requirements pursuant to OAR 333-070-0110: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 and suspension of the certified LBP renovation contractor license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(32) Violation of OAR 812-007-0100, 812-007-0200 or 812-007-0300: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000. The civil penalty is payable to the Construction Contractors Board Lead-Based Paint (LBP) Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(33) Violation of ORS 279C.590:

(a) Imposition of a civil penalty on the contractor of up to ten percent of the amount of the subcontract bid submitted by the complaining subcontractor to the contractor or \$15,000, whichever is less; and

(b) Imposition of a civil penalty on the contractor of up to \$1,000; and

(c) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to six months for a second offense if the offense occurs within three years of the first offense.

(d) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to one year for a third or subsequent offense if the offense occurs within three years of the first offense.

(34) Violation of ORS 701.315, inclusion of provisions in a contract that preclude a homeowner from filing a breach of contract complaint with the Board: \$1,000 for the first offense, \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(35) Violation of ORS 701.345, failure to maintain the list of subcontractors: \$1,000 for the first offense; \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(36) Violation of 701.098(1)(f), knowingly providing false information to the Board: \$1,000 and suspension of the license for up to three months for the first offense; \$2,000 and suspension of the license for up to one year for the second offense; and \$5,000 and permanent revocation of license for the third offense.

(37) Failing to provide a written contract with the contractual terms provided by ORS 701.305 or OAR 812-012-0110: \$200 for the first offense; \$500 for the second offense; and \$1,000 for subsequent offenses.

(38) Working while the license is suspended if the licensee was required to provide an increased bond under ORS 701.068(5), 701.068(6), or OAR 812-003-0175: revocation.

(39) Working while the license is suspended for any violation of ORS 701.098(4)(a)(A) or ORS 701.098(4)(a)(B): \$5,000 for first offense, and revocation for second or subsequent offense.

(40) Working while the license is suspended for any reason except as otherwise provided for by this rule: revocation.

(41) Failure to comply with ORS 701.106(1)(a); \$1,000 for the first offense, \$5,000 for the second offense; \$5,000 and permanent revocation of CCB license for the third offense.

(42) Failure to deliver as required by ORS 701.109(2) a copy of a final judgment; \$200 first offense, \$400 second offense; \$600 for the third offense; \$1,000 for each subsequent offense.

(43) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is no claim of loss submitted to the insurance company: first offense, \$500; second offense, \$1,000; third and subsequent offenses, \$5,000.

(44) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is a claim of loss submitted to the insurance company: first offense, \$2,000; second and subsequent offenses, \$5,000.

(45) Undertaking, offering to undertake, or submitting a bid to work as a locksmith when an individual is not certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(46) Undertaking, offering to undertake, or submitting a bid to provide locksmith services when a business is not a licensed construction contractor or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(47) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the individual is a locksmith, unless an individual is certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(48) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the business providing locksmith services, unless a business (a) is a licensed construction contractor and (b) is owned by or employs a certified locksmith or is otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(49) Violating any applicable provision of the rules in division 30, including violating any standard of professional conduct other than OAR 812-030-0300(4): first offense, \$1,000; second offense, \$3,000; third offense, \$5,000 and revocation of the certificate.

(50) Violating OAR 812-030-0300(4): first offense, \$200; second offense, \$500; third offense, \$1,000.

Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235, 701.515, 701.992 & 701.995

Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.021, 701.026, 701.042, 701.046, 701.073, 701.091, 701.098, 701.106, 701.109, 701.227, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.510, 701.515, 701.992 & 701.995

(4/82, 10/82, 1/83, 3/83, 10/83, 3/84, 5/84, 3/85, 4/85, 1/87, 3/87, 1/88, 2/88, 6/88, 1/89, 11/89, 2/90, 3/90, 4/90, 5/90, 6/90, 7/90, 10/90, 11/90, 3/91, 9/91, 1/92, 2/92, 4/92, 6/92, 5/93, 12/93, 1/95, 9/95, 10/95, 8/96, 10/98), temp. 11/99, 5/00, 6/00, temp. 11/00, 4/01, 12/01, temp. 3/02, 3/02, 6/02, 9/02, 12/03, 6/04, 12/04, 12/05, 1/06, 6/06, 12/06, 6/07, 2/08, 6/08, 9/08, 11/08, 1/09 (eff. 2/1/09), 5/09, 2/10, 4/10, temp. 7/10, 2/11 eff. 3/1/11, 6/11 eff. 7/1/11, 9/11 eff. 10/1/11, 12/11 eff. 1/1/12)

## 812-007-0020

### Definitions

The following definitions apply to division 7 of OAR chapter 812.

- (1) "Abatement" means any measure or set of measures designed to permanently eliminate LBP hazards.
- (2) "Accredited training program" means a training program provisionally accredited or accredited by the OHA, the Environmental Protection Agency (EPA) or an EPA-authorized state or tribal program.
- (3) "Certified" means certified by OHA to perform LBP activities.
- (4) "Certified lead-based paint renovation contractor" means a construction contractor that is licensed by the board to conduct LBP renovation under ORS 701.515.
- (5) "Certified renovator" means an individual who has successfully completed a renovator course accredited by OHA, EPA, or EPA authorized program.
- (6) "Child-occupied facility" means a building, or portion of a building, constructed before 1978 and visited regularly by the same child, under age six, on at least two different days within any week (Sunday through Saturday), provided that each day's visit lasts at least three hours and the combined weekly visit lasts at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day-care centers, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age six, such as restrooms and cafeterias. Common areas that children under age six only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age six.
- (7) "Component or building component" means specific design or structural elements or fixtures of a building or residential dwelling that are distinguished from each other by form, function, and location. These include, but are not limited to: interior components such as ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools and troughs), built-in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners; and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes and wells, and air conditioners.
- (8) "Course completion certificate" means documentation issued by an accredited training program to an individual as proof of successful completion of an accredited renovator training program (initial or refresher).
- (9) "Deteriorated lead-based paint (LBP)" means any interior or exterior paint or other covering that is peeling, chipping, chalking, cracking, flaking or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.
- (10) "Dust-lead hazard" means surface dust that contains a mass-per-area concentration of lead equal to or exceeding 40 µg/ft<sup>2</sup> on floors or 250 µg/ft<sup>2</sup> on interior windows or 400 µg/ft<sup>2</sup> in troughs based on wipe samples.
- (11) "Emergency" means a situation in which failure to act promptly would likely result in immediate harm to persons or property.**
- (12) "Emergency renovation operations" means renovation activities, such as operations necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment or property with significant damage. Interim controls performed in response to an elevated blood lead level in a resident child are also emergency renovations.**
- ~~(13)~~ **(13)** "Inspection" means a surface-to-surface investigation to determine the presence of LBP and an accompanying report explaining the results of the investigation.
- ~~(14)~~ **(14)** "Lead abatement contractor" means a construction contractor that is licensed by the board to perform abatement.
- ~~(15)~~ **(15)** "Lead assessor" or "risk assessor" means an individual who has been trained by an accredited training program and certified by the Department to conduct risk assessments.
- ~~(16)~~ **(16)** "Lead-based paint" or "LBP" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.
- ~~(17)~~ **(17)** "Lead-based paint activities" means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement.
- ~~(18)~~ **(18)** "Lead inspection contractor" means a construction contractor that is licensed by the board to perform inspections or risk assessments.

~~[(47)]~~ **(19)** “Lead inspector” means an individual who has been trained by an accredited training program and certified by OHA to conduct inspections.

~~[(48)]~~ **(20)** “Lead supervisor” means an individual who has been trained by an accredited training program and certified by OHA to supervise and conduct abatements and prepare abatement reports.

~~[(49)]~~ **(21)** “Lead worker” or “lead abatement worker” means an individual who has been trained by an accredited training program and certified by OHA to perform abatements.

~~[(20)]~~ **(22)** “Minor repair and maintenance” means activities, (including minor heating, ventilation, air conditioning work, electrical work, or plumbing) that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities, that do not involve prohibited or restricted work activities and do not involve window replacement or painted surface demolition. Jobs, other than emergency renovations, performed within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

~~[(21)]~~ **(23)** “Prohibited or restricted work activities” include:

- (a) Open flame burning or torching;
- (b) Machines to remove paint through high-speed operation without HEPA exhaust control; and
- (c) Operating a heat gun at temperatures at or above 1100 degrees Fahrenheit.

~~[(22)]~~ **(24)** “Recognized test kit” means a commercially available kit recognized by EPA under 40 CFR § 745.88 as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of 1.0 milligrams per square centimeter, or more than 0.5 percent lead by weight, in a paint chip, paint powder, or painted surface.

~~[(23)]~~ **(25)** “Renovation” means the modification of any existing structure, or portion thereof, which results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement. The term renovation includes, but is not limited to:

- (a) Removal, modification or repair of painted surfaces or painted components, such as modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping or other such activities that may generate paint dust);
- (b) The removal of building components, such as walls, ceilings, plumbing and windows;
- (c) Window replacement;
- (d) Weatherization projects, such as cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, or planing thresholds to install weather-stripping;
- (e) Interim controls that disturb painted surfaces.

A renovation for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation. The term “renovation” does not include minor repair and maintenance.

~~[(24)]~~ **(26)** “Renovation Right Pamphlet” means the pamphlet entitled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* or any pamphlet approved by the Environmental Protection Agency (EPA) for the same purpose.

~~[(25)]~~ **(27)** “Risk assessment” means an on-site investigation to determine the existence, nature, severity, and location of a LBP hazard and an accompanying report explaining the results of the investigation and options for reducing LBP hazards.

~~[(26)]~~ **(28)** “Soil lead hazard” means 400 ppm of lead in child play areas or 1200 ppm in non-child play areas.

~~[(27)]~~ **(29)** “Target housing” means any housing constructed before 1978, except housing for the elderly or persons with disabilities or any housing with no bedrooms.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.505-701.520

(6/96, 11/96, 1/97, 5/97, 11/97, 10/98, 3/99, 6/00, 12/06, 2/10, temp. 3/11/10 eff. 3/11/10, temp. 6/1/10 eff. 6/1/10, 8/10 eff. 9/1/10, 9/11 eff. 10/1/11)

## **812-007-0302**

### **Applicability of and Exceptions to Rules Relating to Lead-Based Paint Renovation**

**(1)** OAR 812-007-0300 to OAR 812-007-0374 apply to all renovations performed for compensation in target housing and child-occupied facilities, except for renovations in target housing or child-occupied facilities in which:

~~[(4)]~~ **(a)** A lead assessor or lead inspector has made a written determination that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams/per square centimeter (mg/cm<sup>2</sup>) or 0.5 percent by weight. The person performing the renovation must obtain a copy of the written determination.

~~[(2)]~~ **(b)** A certified renovator, using a recognized test kit, has tested each component affected by the renovation and determined that the components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams/per square centimeter (mg/cm<sup>2</sup>) or 0.5 percent by weight. The certified renovator must follow the kit manufacturer’s instructions.

**(2) The notification requirements in OAR 812-007-0370 to 812-007-0374 do not apply to emergency renovation operations. Emergency renovations other than interim controls are also exempt from the warning**

**sign, containment, waste handling, training, and certification requirements in OAR 333-070-0105 to the extent necessary to respond to the emergency. Emergency renovations are not exempt from:**

**(a) The cleaning requirements of OAR 333-070-0090 (applicable to LBP renovation contractors by OAR 812-007-0340), which must be performed by certified renovators or individuals trained in accordance with OAR 333-070-0100;**

**(b) The cleaning verification requirements of OAR 333-070-0090, which must be performed by certified renovators; and**

**(c) The recordkeeping requirements of OAR 333-070-0110. Once the immediate emergency is over, lead safe work practices and all the requirements of these rules shall be in effect.**

Stat. Auth.: ORS 670.310 & 701.235 & 701.515

Stats. Implemented: ORS 701.505-701.520

(8/10 eff. 9/1/10)

### **812-007-0350**

#### **Denial, Suspension or Revocation of Certified Lead-Based Paint Renovation Contractor License**

(1) The board may deny, suspend, or revoke a license of a certified LBP renovation contractor on the following grounds:

(a) Obtaining a license through invalid documentation;

(b) Permitting the duplication or use of the license by another;

(c) Violating a rule of the board; or

(d) Violating OAR 333-070-0090 (work practice standards), 333-070-0100(4) (renovator responsibilities), or 333-070-0110 (recordkeeping and reporting requirements.) For purposes of recordkeeping and reporting requirements, as used in OAR 333-070-0110, the terms "Oregon Health Authority" and "Authority" **refer** to the board.

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

(2/10, 4/10, 9/11 eff. 10/1/11)

### **812-021-0015**

#### **Minimum Continuing Education Requirements – Continuing Education for Residential Contractors**

(1) Residential contractors, other than residential limited contractors, shall have an owner, officer, RMI or employee, or a combination of those persons, who complete a minimum of 16 hours of continuing education every license period as described in sections (3) and (4).

(2) Residential limited contractors shall have an owner, officer, RMI or employee, or a combination of those persons, who complete:

(a) A minimum of eight hours of continuing education as described in subsection (3)(a), for license renewals on or after October 1, 2011, and before October 1, 2013;

(b) A minimum of eight hours of continuing education, for license renewals on or after October 1, 2013 as follows:

(A) Five core hours as described in subsection ~~[(4)(a)]~~ **(5)(a)**; and

(B) Three elective hours as described in OAR 812-021-0019.

(3) For a residential contractor renewing on or after October 1, 2011, and before October 1, 2013, continuing education hours shall consist of the following:

(a) Eight core hours consisting of the following:

(A) Three hours of BEST offered by the agency or an approved provider;

(B) Two hours of education on one or more building codes offered by:

(i) A provider approved by the agency to offer courses in building codes; or

(ii) A provider offering a building codes course completed by the contractor on or before June 30, 2012, and approved by the Oregon Department of Consumer and Business Services, Building Codes Division, or the International Codes Council; and

(C) Three hours of education on laws, regulations, and business practices offered by the agency.

(b) For residential contractors renewing on or after October 1, 2011, and before October 1, 2013, education on "green" or sustainable building practices may satisfy the requirement for education on one or more building codes as required in paragraph (B) of subsection (a) provided that the contractor completes the education on "green" or sustainable building practices on or before September 30, 2011.

(c) Eight elective hours which may be satisfied by completing additional core hours or by completing other construction related courses or as otherwise set forth in OAR 812-021-0019.

(4) **Effective October 1, 2011**, if a residential contractor renews its license on or after October 1, 2011, but before October 1, 2013, for that renewal period only, the contractor may include any ~~core~~ **continuing education** hours that it earned ~~[between] from~~ July 1, 2009, ~~[and September 30, 2009]~~ **to the renewal date**.

(5) For a residential contractor renewing on or after October 1, 2013, continuing education hours shall consist of the following:

(a) Five core hours consisting of the following:

(A) Two hours of education on one or more building codes offered by a provider approved by the agency to offer courses in building codes; and

(B) Three hours of education on laws, regulations, and business practices offered by the agency.

(b) Eleven elective hours which may be satisfied by completing additional core hours or by completing other construction related courses or as otherwise set forth in OAR 812-021-0019.

(6) Courses shall be a minimum of one clock hour to qualify for one hour of continuing education credit.

(7) Credit shall not be given for a person repeating the same continuing education course during a two-year period.

(8) If, during the two years immediately preceding the expiration date of the license, a residential contractor served on active duty in the United States armed forces, including but not limited to mobilization or deployment, the continuing education requirement is waived for that two-year period. This exemption applies only if the residential contractor is a:

(a) Sole proprietor without employees;

(b) Sole owner of a corporation; or

(c) Sole member of a limited liability company.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: ORS 701.126

(6/09, temp. 7/1/11 eff. 7/1/11, 9/11 eff. 10/1/11, , temp. 11/18/11)

### **812-021-0019**

#### **Elective Hours – Continuing Education for Residential Contractors**

(1) Elective hours may be earned by [~~attending~~] completing construction or construction business related offerings provided by any of the following:

(a) Post-secondary institutions such as colleges or universities;

(b) Trade schools;

(c) Trade associations;

(d) Professional societies;

(e) Private companies;

(f) Public agencies;

(g) Business associations;

(h) Contractor-provided in-house training programs;

(i) Non-profit organizations; or

(j) Manufacturers or businesses in the construction industry.

(2) Elective hours may be earned by [~~attending~~] completing trainings or demonstrations offered by building component manufacturers on product use, capabilities, or installation.

(3) Elective hours may be earned by [~~attending~~] completing education classes required to maintain another construction industry license, such as a certified home inspector or a registered professional engineer.

(4) Elective hours may be earned by completing core classes not otherwise completed for core credit.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: ORS 701.126

(6/09, 6/11 eff. 7/1/11)

### **812-021-0025**

#### **Provider Approval, Standards, Fees and Renewal for Core – Continuing Education for Residential Contractors**

(1) The agency will review and approve providers offering core continuing education.

(2) Providers will apply for approval on a form prescribed by the agency. Providers may, but need not, apply for approval at the same time they apply for course approval.

(3) Providers seeking approval to offer training in BEST or building codes must submit the following to the agency:

(a) Name, address and contact information of the provider;

(b) Business entity type of the provider and, if applicable, the Corporation Division business registry number;

(c) Description of provider business plan;

(d) Description of the core subject area(s) provider intends to offer; and

(e) Such other information or documentation as the agency may request.

(4) Notwithstanding sections (1) through (3) of this rule, a provider offering education on “green” or sustainable building practices that obtained provider approval before January 1, 2011, may continue to offer courses qualifying for mandatory core continuing education until September 30, 2011.

(5) Providers must remit to the agency together with their application:

(a) A non-refundable fee of \$2,000 if applying to offer BEST;

- (b) A non-refundable fee of \$500 if applying to offer building codes; or
- (c) A non-refundable fee of \$2,500 if applying to offer both BEST and building codes.
- (6) To qualify for approval, providers must:
  - (a) Certify the programs offered meet the minimum standards and content objectives established by the Board;
  - (b) Employ or contract with educators who have at least [~~two~~] **four** years work experience or [~~two~~] **four** years of education, or any combination of both, in the subject that they instruct;
  - (c) Be capable of entering and transmitting electronic data to the agency;
  - (d) Describe a process for prompt resolution of complaints by registrants;
  - (e) Describe a process for cancellations and refunding registrant payments; and
  - (f) If applying to offer BEST, provide a surety bond in an amount of \$20,000 obligating the surety to pay registrants to whom the provider owes money for cancellation or other refunds that the provider fails to pay. The bond must be in the form adopted by the board as the "Continuing Education Provider Surety Bond" dated December 1, 2009.
- (7) Provider approval will be valid for two (2) years from the date the provider is approved by the agency.
- (8) Providers must re-submit application and fees required under sections (3) and (5) of this rule for renewal of approval. Renewal of approval will be subject to the same requirements as initial approval.  
Stat. Auth.: ORS 670.310, 701.126 & 701.235  
Stats. Implemented: ORS 701.126  
(6/09, 12/09 (eff. 1/1/2010), 8/10 eff. 9/1/10, 9/11 eff. 10/1/11)

#### **812-021-0040**

##### **Inactive Status During the License Period or Upon Renewal – Continuing Education for Residential Contractors**

- (1) If a contractor is inactive for less than a year and seeks to renew in an active status, the contractor must complete the total continuing education hours required in OAR 812-021-0015 in order to renew.
- (2) If a contractor is inactive for one year or more during the license period and seeks to renew in an active status, the contractor is not required to complete the continuing education hours as required in OAR 812-021-0015 in order to renew.
- (3) If a contractor is inactive for any period of time and seeks to renew in an inactive status, the contractor is not required to complete the continuing education hours required in OAR 812-021-0015 in order to renew.
- (4) If a contractor is active at the time of renewal and seeks to renew in an inactive status, the contractor is not required to complete the continuing education hours required in OAR 812-021-0015 in order to renew.**
- (5) Notwithstanding section (4) of this rule, if a active contractor renews to an inactive status and seeks to change to active status during the two-year license renewal period, the contractor must complete the continuing education requirements in OAR 812-021-0015 in order to change to active status. Continuing education hours earned during the prior two-year license period and the period of inactivity may be included for determining compliance. Notwithstanding OAR 812-021-0015, hours completed during this same period and credited towards renewal to active may not be included for the contractor's next renewal.**

Stat. Auth.: ORS 670.310, 701.126 & 701.235  
Stats. Implemented: ORS **701.063**; 701.126  
(6/09)