

**MINUTES OF THE JANUARY 27, 2009
CONSTRUCTION CONTRACTORS BOARD MEETING**

The Construction Contractors Board met on Tuesday, January 27, 2009, in the Oregon Room, West Salem Roth's IGA, 1130 Wallace Rd. NW, Salem, Oregon.

Attendees:

Board Members: Chair, Tom Skaar, Chuck Crump, Richard DeWolf, Rob Hernandez, Mary Stern, Sandy Trainor, and Rob Yorke. Board member Dennis Schad was excused from the meeting.

Staff: Administrator Craig P. Smith, Administrative Services Manager Linda Teet, Education Manager Gina Fox, Enforcement Manager Richard Blank, Dispute Resolution Manager Bill Boyd, Information Technology Manager Shelly Wiles and Board Secretary Catherine Dixon. Assistant Attorney General Joanna Tucker Davis was also present.

Guests: Bonnie Sullivan, Steven Brandel, and Summer Miller.

A. PROCEDURAL

1. Call to Order:

Chair Tom Skaar called the meeting to order at 8:05 a.m.

2. Approval of Agenda and Order of Business:

The agenda for the January 27, 2009, meeting was amended to correct the year to 2009, change the start time on left column to 8:30 a.m., and in A.3. delete "& Appeal Committee", and the agenda was approved.

3. Approval of Minutes:

The December 9, 2008, Board meeting minutes were approved.

4. Board Member Reports:

Board members reported on what was happening in the geographic region, in which they live and work.

5. Agency Report:

a. Number of New Licenses Processed Per Month:

Administrator Smith reported that the number of new licenses processed in December 2008 was 205. The average number of new licensees per month for the period July 2008 through December 2008 was 279. The 2007-09 budget is based on an average of 385 new licenses per month. The number of new licenses is down significantly. The number of new licenses must be carefully watched during the next several months.

Board members discussed their surprise that the number of new licenses was 205 per month, given the current slow down in the construction industry.

b. Rate of Renewals:

Administrator Smith reported that the renewal rate for December 2008 was 72.3 percent.

The average renewal rate for the period July through December 2008 was 76.5 percent.

CCB's budget is based on an 80 percent renewal rate.

The 2009-11 base budget is based on 75 percent renewal rate. The 2009-11 base budget projections were developed six months ago and may need to be adjusted to reflect the downturn in the number of contactors renewing.

c. CCB License Categories:

Administrator Smith reported that as of January 1, 2009, there are currently 44,827 total active and inactive licensees. As of January 1, 2009 there are 9,444 licensees with an active dual endorsement, 7,733 with an active residential endorsement, and 1,711 with an active commercial endorsement.

d. New Single Family Residential Permits Issued:

Administrator Smith reported that staff gathered statistics on the number of new single family residential permits taken out in the last three years in Oregon as follows:

City	2006	2007	2008
Bend	1,471	971	369
Eugene	501	241	151
Medford	383	296	92
Portland	1,149	1,099	612
Salem	712	558	278

e. Workload Volume Chart:

Administrator Smith briefly discussed the chart with Board members.

f. Projections—Ending Balance:

Administrator Smith and Administrative Services Manager Linda Teet discussed alternative projections for new licenses of 250, 300 and 375 through June 2010 and renewals of 80 percent, 75 percent, 70 percent, and 60 percent through June 2010.

Board member DeWolf stated that another consideration would be the number of businesses currently licensed that are going out of business and will not renew in the future.

Ms. Teet discussed the based budget and program packages with Board members.

Board member DeWolf reported that Oregon Remodelers Association (ORA) would like to see frivolous complaints against a license taken off the website and an increase in the DRS complaint filing fee, since proposed license fee increase is proposed. The problem is that contractors do not get to explain why there is a complaint on their record and there is no consideration for length of time in business and the volume of work. A new contractor's record may look better because they are new and have not had time to get a complaint filed, when the fact is that the contractor who has been in business longer actually has a better record even with a complaint on their record.

DRS Records:

Administrator Smith reported that the agency may want to revisit the content and format of information displayed on the website. He reaffirmed to the Board that it is a difficult task to balance the public's need to have access to information necessary to determine a contractor's DRS history essential to best determine a contractor's reputation, keeping access to public records in mind, and the contractor's need to be safeguarded from the damage caused by displaying of frivolous complaints.

Board members were in favor of looking at not showing complaints that were dismissed for lack of jurisdiction or those that were dismissed for other reasons from showing on the website.

(Staff Action Item 1.09.A.5.f.)

DRS Fees:

Board members discussed the suggestion of raising the complaint filing fee and expressed their concerns about raising the fee. Many Board members were not in favor of increasing the complaint filing fee.

g. Two-Year License Fee:

Administrator Smith and Administrative Services Manager Linda Teet discussed the history of the CCB fees with Board members. The legislature authorized a two-year CCB license fee of \$295 in 2003. Had CCB had a five percent fee increase each year since 2004, the license fees would be \$395 in 2010. In 2005 CCB reduced the fee to \$260/2-years. When times were good, CCB reduced license fees giving licensees a savings.

Board members suggested that staff prepare a report showing the measures CCB has taken to reduce costs, and where cuts have been made.

(Staff Action Item 1.09.A.5.g.)

h. Assumptions—Reduced Budget Fee Projection Analysis:

Administrator Smith and Administrative Services Manager Linda Teet discussed the reduced budget fee projection analysis with Board members.

Administrator Smith suggested that the agency will need to look for revenue sources, other than licensing fees in the future.

i. Annual Summary of Time Worked:

Administrator Smith discussed the annual summary of staff time worked with Board members. Staff resources are spent as follows:

- a) Education 4.93%
- b) Licensing 24.37%
- c) Field Investigations 15.64%
- d) Enforcement 16.99%
- e) Dispute Resolution Services 18.13%
- f) IT 9.33%
- g) Administrative Services 6.94%
- h) Administration 3.67%

By adding Enforcement (16.99%) and Field Investigations (15.64%) together, CCB is spending 32.63% of its resources on enforcement. If CCB doesn't enforce its statutes, non-complying businesses will drive legitimate contractors out of business.

j. 2009-11 Affirmative Action Plan:

Administrative Smith reported that CCB's Affirmative Action Plan has been approved by the Governor's office. The plan includes training of staff.

B. ONGOING ISSUES:**1. Customer Awareness Plan Spending:**

Administrator Smith and Education Manager Gina Fox discussed the customer awareness campaign with Board members. Ms. Fox recommended that CCB not spend the remaining \$450,000 of the consumer awareness funds for the remainder of the biennium. A couple of campaigns have been conducted: one in fall 2007 and one in the spring of 2008. CCB has done some print ad campaigns as well. When the funds are spread out over two year period, we have found that the impact fails to influence the public.

Ms. Fox will focus on what can be done with current resources.

Staff have spent some time on Craig's List, CCB enforcement checks the Craig's List for violations and notify the Education Section. Upon notification by Enforcement we post a message to Craig's List letting consumers know that they should be checking to see if the person has a CCB license. We have different blurbs that are posted.

Administrator Smith reported that he discussed not spending the remaining consumer awareness campaign funds with Legislative Fiscal Office (LFO) and Budget and Management (BAM). LFO advised Administrator Smith that LFO cannot give CCB permission not to spend the funds, and that CCB needs to do what it feels is appropriate and explain why the funds were not spent, and CCB is not spending the funds at its own risk as it may lose the funding for the future when economic times are better.

Ms. Fox described a possible replacement project that would be less costly, which is to create a public relations campaign modeled after the State of Nevada's. Nevada's Contractors Board partners with industry groups and suppliers and get the media involved in special projects like "Building Hope."

Ms. Fox stated that in relation to key performance measure 2; that one of the messages that CCB needs to reach consumers with is not relying on their trust of the contractor rather than checking the contractor's license. Consumers feel they can trust their own instincts and not check the contractor out. They think the contractor seems nice so they do not need to check to see if the contractor is licensed.

MOTION: Sandy Trainor moved to accept the staff recommendation to not spend the remaining \$450,000 on the consumer awareness campaign through the remainder of this biennium.

VOTE: 7-0, Ayes—Crump, DeWolf, Hernandez, Stern, Skaar, Trainor, and Yorke.

Board members directed staff to prepare a memo notifying BAM and LFO of the action taken by the Board.

(Staff Action Item 1.09.B.1.)

2. Update on CCB Continuing Education System (CES) Program:

Education Manager Gina Fox handed out a draft of the residential continuing education (RCE) rules. The draft rules will be discussed at the February Board meeting. The draft rules will be shared with stakeholders prior to a rulemaking hearing being held on the proposed rules to obtain their feedback and input.

Ms. Fox reported that the meeting that was scheduled for January 26, 2009, was postponed. Implementation of continuing education is on scheduled.

3. Draft Residential Continuing Education Flyer:

Education Manager Gina Fox briefly discussed the draft flyer with Board members.

4. HIAC Applications:

Administrator Smith and Education Manager Gina Fox discussed the applications for HIAC membership with the Board. Staff recommends approval of the applicants. There are two vacancies still remaining on HIAC.

5. Annual Performance Measure Report (APPR) and Draft KPM Management Report:

Administrator Smith discussed the annual performance measure report with Board members. Administrator Smith discussed each performance measure.

- a. **KPM 1: Tested Contractors** – Reduce the percent of CCB tested contractors that have a final order for damages that remain unpaid after 60 days, or that are discharged in bankruptcy. This is a new measure. It didn't get away from

bankruptcy. Board members questioned the value of this key performance measurement.

- b. **KPM 2: Homeowner Awareness** – Percent of homeowners who are aware of their rights and responsibilities and the services of CCB.
- c. **KPM 3: Unlicensed Recidivism Rate** – Percent of offenders who recidivate by performing work without a CCB license within three years of first offense. Board members suggested requiring licensees assessed civil penalties that have not taken the education to take the prerequisite education, to reduce the fine.
- d. **KPM 4: Contractors Who Fail to Pay Damages** – Percent of licensed contractors operating in Oregon that fail to pay in full final Dispute Resolution (claims) final orders for damages.
- e. **KPM 5: Enforcement Investigations** – Average days to close an enforcement investigation.
- f. **KPM 6: Dispute Resolution Final Orders** – Average days to issue a dispute resolution (claims) final order.
- g. **KPM 7: Fair and Impartial Dispute Resolution Process** – Percent of parties to claims who perceive claims process to be fair and impartial
- h. **KPM 8: License and Renewal Processing** – Percent of contractors satisfied with the agency's processing of license and renewal information.
- i. **KPM 9: Customer Service** - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall, timeliness, accuracy, helpfulness, expertise, availability of information. Administrator Smith reported that this measure may go down because people are not happy with government.
- j. **KPM 10: Boards and Commissions Best Practices** – Percent of best practices met by the Board.

Administrator Smith asked Board members to please be prepared to attend the budget hearing on CCB's budget.

6. 2009 Legislation:

Administrator Smith reported that CCB's bills SB 202, 203, 204 and 206 have been assigned to the Senate Business and Transportation Committee and that SB 205 has been assigned to Senate Consumer Protection Committee.

7. Program Reduction Options:

Administrator Smith discussed the plan with Board members. CCB has implemented a hiring freeze, reduced the consumer awareness campaign, and travel has been reduced. CCB has 82 positions and 6 are currently vacant. Two staff have indicated that they may retire later this year.

C. ADMINISTRATIVE RULES HEARINGS

1. First Look at Draft Proposed Rules for April:

Administrator Smith discussed the draft proposed rules with Board members.

2. January Rulemaking Hearing:

Chair Tom Skaar opened the rulemaking hearing. Administrator Smith discussed the rule notices with Board members.

Public Comment:

No one came forward to give public comment.

MOTION: Mary Stern moved to approve the proposed rules as presented on pages 272-276 of the Board packet.

VOTE: 7-0, Ayes—Crump, DeWolf, Hernandez, Stern, Skaar, Trainor, and Yorke.

(See Attachment B for the language of the adopted rules.)

D. NEW BUSINESS:

None.

E. PUBLIC COMMENT:

Chair Skaar opened the meeting to take public comment. No one came forward to speak.

F. CCB PROGRAM ISSUES:

1. Administrative Services:

a. Quarterly Report: Administrative Services Manager Linda Teet discussed the quarterly report. Ms. Teet reported that revenue is less than projected. The rate of collections averages 32.49 percent.

Administrator Smith reported that Maggie Dennett's work in collecting civil penalty fines is outstanding.

2. Information Technology Unit:

a. Quarterly Report: Information Technology Manager Shelly Wiles gave a brief summary of the section. Improved virus and email filters have been implemented and now CCB is not getting viruses as often. The IT plan is to not keep hardware over four years. The state requirements the life cycles are four years because of the requirement to have maintenance agreements on the hardware. If we go over four years with equipment, the vendors will not support our software programs. Board members expressed concern over the practice of not keeping hardware longer than four years.

3. **Education:**
 - a. **Quarterly Report:** Administrator Smith reported that the passing rate is 83 percent. The number of applicants taking the test in the fourth quarter was 1,389 and in the sixth quarter it was 612, which are down significantly.
4. **Licensing/CSU:**
 - a. **Quarterly Report:** Administrator Smith asked if Board members had any questions on the quarterly report and reported that CCB is receiving a very high number of incomplete applications and renewals that staff are having to return.
5. **Enforcement Program:**
 - a. **Quarterly Report:** Enforcement Manager Rich Blank reported that job site checks have increase significantly. For the 2003-05 biennium enforcement opened 4,078 investigations and in the sixth quarter of the 2007-09 biennium enforcement opened 8,677, which is a 113 percent increase. Enforcement Section has an increased workload. The on-line enforcement complaint forms submissions are increasing. The recidivism rate is down.
 - b. **New Article re: Ross Brothers:** Enforcement Manager Rich Blank briefly mentioned the news article on Ross Brothers.
6. **Field Investigations:**
 - a. **Quarterly Report:** Administrator Smith discussed the quarterly report with Board members.
7. **Dispute Resolution Services (DRS):**
 - a. **Quarterly Report:** Dispute Resolution Manager Bill Boyd discussed the quarterly report with Board members. The number of complaints is increasing. There is a rise in the number of subcontractor versus prime and material supplier complaints being filed. The amount of unpaid final orders is at an all time high.
8. **Administration:**
 - a. **News letter from ORA:**

Administrator Smith briefly mentioned the newsletter.
 - b. **Newsletter from NASCLA:**

Administrator Smith briefly discussed the newsletter. The national conference may be cancelled due to so many states having travel restrictions due to budget problems.
 - c. **Letters to Board:**

Administrator Smith briefly discussed the letters with Board members.

d. Board Calendar 2008 and 2009:

Administrator Smith discussed whether to move the February 24, 2009 Board meeting to March 10, 2009. Board member consensus was to move the meeting to March 10, 2009.

e. Agenda Items for the Next Meeting:

- Administrative Rules
- Legislative Concepts
- Budget/Measures CCB has taken to reduce costs
- Update on CES

G. Adjournment

The Board meeting adjourned at 1:00 p.m. The next Board meeting is scheduled for March 10, 2009.

Sincerely,

Catherine Dixon
Board Secretary

Attachment A
MINUTES OF THE JANUARY 27, 2009
CONSTRUCTION CONTRACTORS BOARD
APPEAL COMMITTEE MEETING

The Construction Contractors Board Appeal Committee met on Tuesday, January 27, 2009, at West Salem Roth's IGA, Oregon Room, 1130 Wallace Rd NW, Salem, Oregon. Appeal Committee Members present included: Chair, Tom Skaar, Chuck Crump, Richard DeWolf, Rob Hernandez, Mary Stern, Sandy Trainor, and Rob Yorke. Note that Board member Mary Stern left the meeting at 2:45 p.m., prior to the conclusion of the meeting. Board member Dennis Schad was excused from the meeting. Construction Contractors Board staff present were: Administrator Craig P. Smith, Education Manager Gina Fox, Enforcement Manager Richard Blank, Dispute Resolution Manager Bill Boyd, Information Technology Manager Shelly Wiles, Enforcement Compliance Officers Christine Ulberg and Weisha Mize, and Board Secretary Catherine Dixon. Assistant Attorney General Joanna Tucker Davis was also present.

Guests Included: Bonnie Sullivan

The agenda for the January 27, 2009, meeting was approved.

The Committee convened at 1:00 p.m. to decide the following cases for which exceptions have been filed:

1. Enforcement No. 73107, Steven Earl Brandel (respondent). The respondent, Steven Earl Brandel, appeared before the Board.

MOTION: Chuck Crump moved to affirm the proposed order and issue a final order in the amount of \$5,000.

VOTE: 7-0, Ayes—Crump, DeWolf, Hernandez, Skaar, Stern, Trainor, and Yorke.

2. Enforcement No. 73608, Stuart McMullen dba GW Inspections (respondent). The respondent, Stuart McMullen, and respondent's Attorney, Norm Hill, appeared before the Board.

MOTION: Richard DeWolf moved to issue a final order dismissing the civil penalty enforcement action.

VOTE: 6-1, Ayes—Crump, DeWolf, Hernandez, Skaar, Stern, and Trainor; Nays—Yorke.

3. Enforcement No. 54434, Dragos Werner dba Dragos Werner Construction (respondent). The respondent, Dragos Werner, failed to appear before the Board.

MOTION: Richard DeWolf moved to affirm the proposed order and issue a final order in the amount of \$5,000.

VOTE: 6-0, Ayes—Crump, DeWolf, Hernandez, Skaar, Trainor, and Yorke.

4. Enforcement No. 64549, Daniel J. Wentworth (respondent). The respondent failed to appear before the Board.

MOTION: Sandy Trainor moved to affirm the proposed order and issue a final order in the amount of \$5,000.

VOTE: 6-0, Ayes—Crump, DeWolf, Hernandez, Skaar, Trainor, and Yorke.

5. Enforcement No. 72508, Kenneth Michael Krieser & Jane E Krieser (respondents). The respondent, Kenneth Krieser, appeared before the Board.

MOTION: Rob Yorke moved to affirm the proposed order and issue a final order in the amount of \$6,000.

VOTE: 6-0, Ayes—Crump, DeWolf, Hernandez, Skaar, Trainor, and Yorke.

The meeting adjourned at 3:00 p.m. The next Appeal Committee meeting is scheduled for March 10, 2009.

Respectfully submitted,

Catherine Dixon
Appeal Committee Secretary

Attachment B

812-002-0262

Engaged in the Commercial Harvest of Forest Products

“Engaged in the commercial harvest of forest products” as used in ORS 701.005(5)(e) means engaged in buying or selling fallen trees, logs, poles or pilings. “Engaged in the commercial harvest of forest products” does not mean masticating, chipping or mulching trees or brush on site.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.005

(1/09)

812-003-0140

License Application Fees

(1) The application fee for all [~~license~~] new, renewal, or [~~reissue applications is \$260 for a period of two years~~] reissued licenses is \$260.

(2) [~~Fees~~] Application fees will not be [~~prorated~~] refunded or transferred.

[~~(3) Except as provided in sections (4) and (5) of this rule, licensing, renewal, or reissue application fees are non-refundable and nontransferable.~~

(4) ~~When an applicant withdraws their application for a new license or renewal prior to issuance or fails to complete the licensing or renewal process, the agency may refund the application fee, but will retain a processing fee of \$40.~~

(5) ~~If a licensee paid an application fee for a four-year renewal and voluntarily terminated their license within the first two years following the renewal, the agency may refund the unused two-year application fee only if the following conditions are met:~~

(a) ~~The licensee will submit a written request for a voluntary termination of the license and a refund of the unused two-year fee;~~

(b) ~~The licensee will return the original license card(s) to the agency; and~~

(c) ~~The agency will retain a \$40 processing fee.]~~

Stat. Auth.: ORS 670.310, 701.238 & 701.235

Stats. Implemented: ORS 701.056, 701.063, & 701.238

(12/04, 8/05, 12/06, 2/08, 1/09)

812-003-0141

Four-Year Renewal Fees

If, on or before July 1, 2008, a licensee paid an application fee for a four-year renewal and voluntarily terminated their license within the first two years following the renewal, the agency may refund the unused two-year application fee of \$260, less processing fee, only if the following conditions are met:

(1) The licensee will submit a written request for a voluntary termination of the license and a refund of the unused two-year fee;

(2) The licensee will return the original license card(s) to the agency; and

(3) The agency will retain a \$130 processing fee.

Stat. Auth.: ORS 670.310, 701.238 & 701.235

Stats. Implemented: ORS 701.056, 701.063, & 701.238

(1/09)

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 701.026 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 701.026 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 701.026 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 701.026, 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 701.026, 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]~~ **Failing** to use a written contract as required by ORS 701.305[7]; ~~[\$200; when a claim has been filed, \$400; second and subsequent offenses, \$1,000]~~ **\$500 for the first offense; \$1,000 for the second offense; and \$5,000 for subsequent offenses.**

(12) 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.

(13) 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 (13) or 701.042, the licensee shall be permanently barred from licensure in the licensed developer category or residential developer or commercial developer endorsement.

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

(15) Failure to comply with any part of ORS chapters 316, 656, or 657, 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.

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

(17) 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.

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

(19) Violation of ORS 701.098(1)(k) 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.

(20) 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.

(21) Violation of ORS 701.098(1)(k) 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), where more than two violations have occurred: \$5,000 and revocation of the license.

(22) When, as set forth in ORS 701.098(1)(g), 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.

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

(24) 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.

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

(26) Failure to conform to the Standards of Behavior in OAR 812-008-0201(2)-(8): \$750 per offense.

(27) 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.

(28) Failure to include certification number in all written reports, bids, contracts, and an individual's business cards in violation of OAR 812-008-0201(4): \$400 per offense.

(29) Violation of work practice standards for lead-based paint activity pursuant to OAR 812-007-0070; \$5,000 per violation and suspension of the lead-based paint business endorsement for up to one year.

(30) 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.

(31) 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.

(32) 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.

(33) Violation of 701.098(1)(e), 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.

(34) Failing to provide a written contract with the contractual terms provided by ORS 701.305 or OAR 812-012-0110:

~~[(a) On or before December 31, 2008: first offense, a warning letter; second offense, \$500 civil penalty; and third offense, up to \$5,000 civil penalty.~~

~~[(b) After December 31, 2008: first offense, \$500 civil penalty; second offense, \$2,000 civil penalty; and third offense, up to \$5,000 civil penalty.]~~ **\$200 for the first offense; \$500 for the second offense; and \$1,000 for subsequent offenses.**

(35) 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.

(36) 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.

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

(38) 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.

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

Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.026, 701.042, 701.046, 701.091, 701.098, 701.106, 701.227, 701.305, 701.315, 701.330, 701.345 & 701.992

(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)

812-020-0070

Certification of Hours – Continuing Education for Commercial Contractors

(1) Upon renewal, a commercial contractor must certify that one or more key employees obtained the continuing education required by OAR 812-020-0050 to 812-020-0073.

(2) For a commercial general or specialty contractor – level 1 with five or more key employees, the commercial contractor must certify that one or more key employees completed at least 80 hours during the preceding license period.

(3) For a commercial general or specialty contractor – level 1 with four or fewer key employees, the commercial contractor must certify as follows:

(a) With four key employees, that one or more key employees completed at least 64 hours during the preceding license period.

(b) With three key employees, that one or more key employees completed at least 48 hours during the preceding license period.

(c) With two key employees, that one or more key employees completed at least 32 hours during the preceding license period.

(d) With one key employee, that the key employee completed at least 16 hours during the preceding license period.

(4) For a commercial general or specialty contractor – level 2, the commercial contractor must certify that one or more key employees completed at least 32 hours during the preceding license period.

(5) For purposes of sections (2) to (4) of this rule, the number of key employees is the number of such persons employed by the commercial contractor [~~on the most recent date of license issue or reissue~~] **as of the previous date of license issuance, reissuance or renewal.**

Stat. Auth.: ORS 670.310, 701.124 & 701.235

Stats. Implemented: 701.124

(11/08, 1/09)