

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on August 28, 2007 by the
(Date prior to or same as filing date.)

Construction Contractors Board OAR 812
(Agency and Division) (Administrative Rules Chapter Number)
Catherine Dixon 700 Summer Street NE Suite 300, Salem OR 97310 378-4621 ext. 4077
(Rules Coordinator) (Address) (Telephone)

to become effective September 1, 2007 Rulemaking Notice was published in the August 2007 Oregon Bulletin.**
(Date upon filing or later) (Month and Year)

RULE CAPTION

Regarding providing SSN, granting a license to parties with criminal convictions, and criteria for higher bond requirements
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

ADOPT: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:

812-003-0260 812-003-0450 812-005-0210

REPEAL:

Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Amend & Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ORS 670.310, 701.085 and 701.235

Stat. Auth.

Other Authority

ORS 25.270, 25.785, 25.990, 701.005, 701.035, 701.072, 701.075, 701.077, 701.085, 701.105, 701.125 & 701.135

Stats. Implemented

RULE SUMMARY

- OAR 812-003-0260 is amended to clarify that sole proprietorships and partners in partnership, if partners are human beings, are required to provide their social security number to CCB on their application form.
- OAR 812-003-0450 is amended to establish the conditions under which CCB will grant a license to applicants or licensees who have had a criminal conviction.
- OAR 812-005-0210 is amended to provide objective criteria the agency will use when requiring higher bond levels mandated by the agency pursuant to OAR 812-005-0210(1)(b).

Authorized Signer

Catherine Dixon
Printed Name

August 29, 2007
Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

**The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday. ARC 930-2005

NOTE: In order to save postage and printing costs in these difficult times, CCB is only providing a copy of the notice. To view the language of each individual rule change, please go to our web site at http://www.oregon.gov/CCB/Laws_Rules.shtml#Administrative_Rule_Notices. If you don't have web access, contact Cathy Dixon at (503) 378-4621 ext. 4077 for assistance in receiving a copy.

812-003-0260

Application for New License

(1) Each entity must complete an application form prescribed by the agency. Information provided on the form must include, but not be limited to:

(a) Name of business entity, all additional business names, including assumed business names, under which business as a contractor is conducted, and Corporation Division registry numbers (if applicable);

(b) Mailing and location address of the business entity;

(c) Legal name, date of birth and driver license number of:

(A) The owner of a sole proprietorship;

(B) All partners of a general partnership or limited liability partnership;

(C) All joint venturers of a joint venture;

(D) All general partners of a limited partnership;

(E) All corporate officers of a corporation;

(F) All trustees of a trust; or

(G) All members of a limited liability company, and if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees or members of the entity that is a member of the limited liability company that is the subject of this paragraph.

(d) Social security number of the owner of a sole proprietorship **or partners, if partners are human beings, in a general partnership;**

(e) Class of independent contractor license and employer account numbers as required under OAR 812-003-0250;

(f) Category of license requested as required under OAR 812-003-0130;

(g) Name and identification number of the responsible managing individual who has completed the education and passed the examination required under ORS 701.072 or is otherwise exempt under Division 6 of these rules;

(h) The Standard Industrial Classification (SIC) numbers of the main construction activities of the entity;

(i) Names and certification numbers of all certified home inspectors if the entity will do work as a home inspector under ORS 701.350;

(j) Litigation, complaint, and licensing history;

(k) Criminal background;

(l) Independent contractor certification statement and a signed acknowledgment that if the licensee qualifies as an independent contractor the licensee understands that the licensee and any heirs of the licensee will not qualify for workers' compensation or unemployment compensation unless specific arrangements have been made for the licensee's insurance coverage and that the licensee's election to be an independent contractor is voluntary and is not a condition of any contract entered into by the licensee; and

(m) Signature of owner, partner, joint venturer, corporate officer, member or trustee, signifying that the information provided in the application is true and correct.

(2) A complete license application includes but is not limited to:

(a) A completed application form as provided in section (1) of this rule;

(b) The new application license fee as required under OAR 812-003-0140;

(c) A properly executed bond as required under OAR 812-003-0150; and

(d) The certification of insurance coverage as required under OAR 812-003-0200.

(3) The agency may return an incomplete license application to the applicant with an explanation of the deficiencies.

(4) All entities listed in section (1) of this rule that are otherwise required to be registered with the Oregon Corporation Division must be registered with the Oregon Corporation Division and be active and in good standing. All assumed business names used by persons or entities listed in section (1) of this rule

must be registered with the Oregon Corporation Division as the assumed business name of the person or entity using that name.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 25.270, 25.785, 25.990, 701.035, 701.072, 701.075, 701.085, 701.105, & 701.125

(12/04, 8/05, 5/06, 9/06, 12/06, 8/07)

812-003-0450

License Fitness Standards

(1) In considering whether to sanction an applicant or licensee pursuant to ORS 701.135(1)(h)(A)~~[(B), (C), (D), (E), or (F)]~~ **-(I)**, the agency shall consider whether the applicant's or licensee's criminal conduct is substantially related to the fitness and ability of the applicant or licensee to engage in construction contracting.

(2) Fitness to engage in construction contracting includes, but is not limited to ~~[-of]~~ the ability to:

(a) Refrain from violent, threatening, intimidating or sexually predatory behavior~~[-];~~

(b) Refrain from dishonest or fraudulent conduct; or

(c) Be financially responsible.

(3) Factors to be considered in denying or refusing to issue or renew a license include, but are not limited to, the date of the offense and the circumstances of the crime. In addition, factors relating to rehabilitation, or lack thereof, as evidenced by intervening events include, but are not limited to: failure to complete the criminal sentence, including probation or parole; failure to complete court ordered treatment; or failure to pay court ordered restitution.

(4) Applicants or licensees that meet all of the conditions listed in subsections (4)(a)-(c) of this section will be considered to meet the fitness standards if:

(a) The conviction is more than five years old;

(b) The applicant or licensee has been out of prison for at least three years; and

(c) The applicant or licensee has been off probation or parole for at least 24 months with no subsequent arrests.

~~[(2)]~~ **(5)** Upon notice and request from the Board, it will be the duty of an applicant or licensee to provide the requested information in order for the Board to conduct a criminal background check as authorized by 701.135(1)(h)(A)~~[(B), (C), (D), (E), or (F)]~~ **-(I)**. Requested information includes but is not limited to police reports, record of conviction, parole or probation reports, restitution records, counseling reports, and letters of recommendation.

~~[(3)]~~ **(6)** Failure to provide requested information in (2) of this section may result in the denial of a license.

~~[(4)]~~ **(7)** A contractor licensed under ORS 701 must immediately report to the Board if the contractor is convicted of any crime listed in ORS 701.135(1)(h)(A)~~[(B), (C), (D), (E), or (F)]~~ **-(I)**.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.135

(4/07, 8/07)

812-005-0210

Conditions to Require an Increased Bond

(1) Under ORS 701.085(8), the agency may require a bond of up to five times the normally required amount, if it determines that a current or previous license of an owner or officer, as those terms are defined in division 2 of these rules, has:

(a) A history of unpaid final orders consisting of two or more final orders unpaid for longer than thirty (30) days following the date of issuance.

(b) Five or more breach of contract complaints filed under ORS 701.139 to 701.180 by five or more separate complainants within a one-year period from the date of filing of the most recent Dispute Resolution Services complaint.

(c) An unpaid construction debt as defined in ORS 701.005(2) that exceeds the amount of the bond.

(2) The amount of the increased bond required under subsection (1)(a) of this rule must conform to the following schedule:

(a) If the sum of unpaid amounts on final orders exceeds the licensee's most recent bond by less than 50 percent, the agency may require a bond two times the amount required under ORS 701.085.

(b) If the sum of the unpaid final orders exceeds the licensee's most recent bond by 50 percent or more, but less than 100 percent, the agency may require a bond three times the bond amount required under ORS 701.085.

(c) If the sum of unpaid amounts on final orders exceeds the licensee's most recent bond by 100 percent or more, the agency may require a bond in the amount of five times the normal amount required under ORS 701.085.

(3) The amount of increased bond **the agency may [required] require** under subsection (1)(b) of this rule will be based on the ~~[agency's estimate of damages and must conform to the following schedule]~~ **number of complaints filed and the time period that the complaints were received as follows:**

(a) ~~[If the sum of cumulative possible damages exceeds the licensee's most recent bond by less than 50 percent, the agency may require a bond]~~ **Two times the **bond** amount required under ORS 701.085 **if five or more complaints are received in any twelve-month period.****

(b) ~~[If the sum of cumulative possible damages exceeds the licensee's most recent bond by 50 percent or more, but less than 100 percent, the agency may require a bond]~~ **Three times the **bond** amount required under ORS 701.085 **if five or more complaints are received in any six-month period.****

(c) ~~[If the sum of cumulative possible damages exceeds the licensee's most recent bond by 100 percent or more, the agency may require a bond]~~ **Five times the [normal] **bond** amount required under ORS 701.085 **if five or more complaints are received in any three-month period.****

(4) The amount of the increased bond required under subsection (1)(c) of this rule must conform to the following schedule:

(a) If the sum of the unpaid construction debt exceeds the licensee's most recent bond by less than 50 percent, the agency may require a bond two times the bond amount required under ORS 701.085.

(b) If the sum of the unpaid construction debt exceeds the licensee's most recent bond by 50 percent or more, but less than 100 percent, the agency may require a bond three times the bond amount required under ORS 701.085.

(c) If the sum of the unpaid construction debt exceeds the licensee's most recent bond by 100 percent or more, the agency may require a bond five times the bond amount required under ORS 701.085.

Stat. Auth.: ORS 670.310, 701.085 & 701.235

Stats. Implemented: ORS 701.005, 701.077 & 701.085

(12/04, 6/05, 12/05, 9/06, 12/06, 8/07)