

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 January 26, 2010 by the
(Date prior to or same as filing date.)

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

to become effective February 1, 2010 Rulemaking Notice was published in the January 2010 Oregon Bulletin.**
(Date upon filing or later) (Month and Year)

RULE CAPTION

Adopt Locksmith Certification Program Rules

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.

Division 30	812-030-0010	812-030-0110	812-030-0210	812-030-0230	812-030-0250
812-030-0000	812-030-0100	812-030-0200	812-030-0220	812-030-0240	812-030-0300

AMEND:

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, 701.235, 701.485

Stat. Auth.

Chapter 781 OR Laws 2009 (HB 3127)

Other Authority

ORS 670.280, 701.098, 701.102, 701.475 to 701.490, 701.480, 701.485 & 701.490

Stats. Implemented

RULE SUMMARY

- 812-030-0000 is adopts general definitions applicable to Division 30 rules.
- 812-030-0010 is adopted to implement ORS 701.485 (HB 3127, section 4), requiring certified locksmith applicants to pass a test. This rule sets forth the requirements to take the test and the fees for the test.
- 812-030-0100 is adopted to set forth the criminal offenses that may be the basis for determining that an applicant is not qualified for certification as a locksmith. The crimes listed include many of the crimes that may disqualify an applicant for a contractor's license.
- 812-030-0110 is adopted to set forth the standards that CCB will apply to determine whether an applicant who has been convicted of a crime is qualified to be a certified locksmith.
- 812-030-0200 is adopted to set forth the general requirements for a new applicant for certification as a locksmith.
- 812-030-0210 is adopted to set the effective date, number and name affixed to each certificate. Provides for applicant to withdraw an applicant for certification. Indicates how the Board will handle the issuance or denial of a certificate. Provides that a certificate is valid for two years.
- 812-030-0220 is adopted to require a renewal application and fee to renew a locksmith certificate.

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- 812-030-0230 is adopted to specify the effective date for a renewal certificate. Explains that a certificate that is not timely renewed is lapsed. During the period a certificate is lapsed, the individual may not work as or hold out as a locksmith. If the period of lapse is two years or less, the individual may renew the existing certificate. If the period of lapse is more than two years, the individual must obtain a new certificate.
- 812-030-0240 is adopted to require that a certified locksmith work with an active, licensed CCB contractor at all times; effective July 1, 2010.
- 812-030-0250 is adopted to implement HB 3127 § 4(4)(d)(A), (C), and (D) allowing the board to charge a fee of up to \$100 for the new or renewal application, up to \$300 for issuance of the initial certificate and up to \$300 for certificate renewal.
- 812-030-0300 is adopted to set forth standards of professional conduct. The rule follows similar standards for dishonest or fraudulent conduct and non-cooperation currently in CCB's rules. See OAR 812-003-0110 and 812-002-0260. Follows the client identification standards in the "Technical Standards Policy" of the Associated Locksmiths of America (ALOA).

Authorized Signer

Catherine Dixon
Printed Name

February 1, 2010
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.

**DIVISION 30
LOCKSMITH CERTIFICATION**

812-030-0000

General Definitions

The following definitions apply to OAR 812-030-0100 to 812-030-0145:

(1) "Certificate" means the authorization issued by the board to an individual locksmith.

(2) "Conviction" means a final judgment on a verdict or finding of guilty, a plea of guilty, a plea of nolo contendere (no contest), or any other determination of guilt entered by a court against an individual in a criminal case unless the final judgment has been reversed or set aside by a subsequent court decision.

(3) "False statement" means a statement whereby an individual applying for a locksmith certificate:

(a) Provides the board with materially false information; or

(b) Fails to provide the board with information material to determining his or her qualifications.

(4) "License" means the construction contractor license issued by the board under ORS 701.046 to a business offering to or providing locksmith services.

Stat. Auth.: ORS 670.310, 701.235

Stats. Implemented: ORS 701.475 to 701.490.

(2/10)

812-030-0010

Testing

(1) The board shall provide and administer a test to each applicant for a locksmith certificate.

(2) The test shall demonstrate the competency of the applicant to act as a locksmith.

(3) The applicant must correctly answer 100 percent of the questions to pass the test.

Stat. Auth.: ORS 670.310, 701.235

Stats. Implemented: ORS 701.485

(2/10)

812-030-0100

Potentially Disqualifying Crimes

The following crimes will potentially disqualify an applicant for a locksmith certificate:

(1) Murder

(2) Kidnapping

(3) Assault in the first degree

(4) Rape

(5) Sodomy

(6) Unlawful sexual penetration

(7) Arson in the first degree

(8) Robbery in the first or second degree

(9) Burglary in the first or second degree

(10) Theft in the first or second degree

(11) Theft by extortion

(12) Aggravated theft in the first degree.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.098 and 701.485

(2/10)

812-030-0110

Fitness Determination – Criminal Offense

(1) Locksmiths have the knowledge and tools to bypass or neutralize security devices in

vehicles, homes and businesses. An individual may not be fit to be a locksmith if the individual engaged or engages in activity that puts public safety or security at risk by unlawfully accessing property that does not belong to the individual.

(2) The fitness to engage in locksmithing also includes, but is not limited to, the ability to refrain from violent, threatening, intimidating or sexually predatory behavior and to refrain from dishonest or fraudulent conduct.

(3) The board may determine that an individual is not fit for a locksmith certificate based on:

(a) A conviction for any crime listed in OAR 812-030-0100 occurring within seven (7) years before the date of application;

(b) The nature of the crime;

(c) The facts that support the conviction;

(d) The relevancy, if any, of the crime to the requirements for certified locksmiths;

(e) The fact that the individual is currently on probation or post-prison supervision; and

(f) Intervening circumstances relevant to the responsibilities and circumstances of a certified locksmith. Intervening circumstances include, but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the subject individual at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another crime listed in OAR 812-030-0100 or a closely related crime; and

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction. An individual shall not be denied certification on the basis of a criminal conviction that has been expunged pursuant to ORS 419A.260 and 419A.262, or other similar process under the laws of any jurisdiction.

(4) Upon notice and request from the board, an applicant for a new or renewal certificate will provide requested information to permit the board to conduct a criminal background check. Requested information includes, but is not limited to, police records, records of conviction, parole or probation reports, restitution records, counseling reports and letters of recommendation.

(5) Failure to provide the information requested in section (4) of this rule may result in denial, suspension or revocation of a certificate.

(6) If the board determines that an applicant is not fit for certification as a locksmith, the applicant is entitled to a hearing as provided in ORS 183.413 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 670.280, 701.098, 701.102 & 701.485

(2/10)

812-030-0200

General Application Requirements

An individual must submit the following to qualify for a locksmith certificate:

(1) An application on a form provided by the board;

(2) The fee established in OAR 812-030-0250; and

(3) If applicable, the CCB license number of the business owned by or employing the applicant.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.485

(2/10)

812-030-0210

Certificate Issuance

(1) The effective date of the certificate will be the date that the applicant meets all board requirements, including but not limited to passing the test required by OAR 812-030-0010 and paying the fee required under OAR 812-030-0250.

(2) A unique number will be assigned to each certificate.

(3) All certificates shall be issued in the name of the individual who passed the test required by

OAR 812-030-0010.

(4) If the board issues a certificate, it shall mail the certificate to the applicant.

(5) If the board denies a certificate, it shall state, in writing, the reasons for denial.

(6) A certificate shall be non-transferable.

(7) A certificate shall be effective for two years from the date of issue.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.485

(2/10)

812-030-0220

Requirements for Certificate Renewal

A certified locksmith shall submit the following to the board for renewal of the locksmith's certificate:

(1) Renewal application information as required by the board;

(2) The fee established in OAR 812-030-0250; and

(3) If applicable, the CCB license number of the business owned by or employing the applicant.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.485

(2/10)

812-030-0230

Certificate Renewal – Effective Date; Effect of Lapse

(1) A renewed certificate shall be effective on the day following the expiration date for which the renewal is sought if the certified locksmith fulfills all of the requirements in OAR 812-030-0220 on or before the expiration date.

(2) Except as provided in subsection (4), if a certified locksmith fails to fulfill all of the requirements in OAR 812-030-0220 on or before the expiration date, but fulfills the requirements at a future date, the renewal shall be effective on the date that all the requirements for renewal have been fulfilled. During the period from the expiration date to the effective date, the certificate is deemed to have lapsed.

(a) A locksmith may not undertake, offer to undertake or submit to do work as a locksmith for compensation while the certificate is lapsed.

(b) A locksmith may not use the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" while the certificate is lapsed.

(3) If the certificate lapses for two years or less, the applicant may renew its certification by renewing the certificate as provided for in OAR 812-030-0220.

(4) If the certificate lapses for more than two years, the applicant must apply for a new certificate as provided for in OAR 812-030-0200.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.485

(2/10)

812-030-0240

Requirement that Locksmith Own or Work for a Licensed Contractor

(1) Effective July 1, 2010, in order to work as a locksmith, a certified locksmith must:

(a) Be an owner or employee of a licensed construction contractor; or

(b) Be otherwise exempt under ORS 701.490.

(2) Effective July 1, 2010, if the board refuses to issue, refuses to reissue, suspends or revokes the contractor's license, or if the construction contractor's license expires or becomes inactive, the certified locksmith, not otherwise exempt under ORS 701.490, may not:

(a) Undertake, offer to undertake or submit to do work as a locksmith for compensation; or

(b) Use the title of locksmith, locksmith professional, commercial locksmith, lock installer or

any title using a form of the word "locksmith."

Stat. Auth.: ORS 670.310, 701.235

Stats. Implemented: ORS 701.480 & 701.490

(2/10)

812-030-0250

Application, Renewal and Certificate Fees

(1) The application fee for all certificates is \$60.

(2) The fee for the test required under OAR 812-030-0010 is \$60.

(3) The fee for issuance of an initial two-year certificate is \$60.

(4) The fee for renewal of a two-year certificate is \$60.

(5) All fees are non-refundable and non-transferrable.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.480 & 701.485

(2/10)

812-030-0300

Standards of Professional Conduct

(1) A certified locksmith shall not engage in dishonest or fraudulent conduct, including, but not limited to:

(a) Committing any crime that results in a conviction of an offense listed in OAR 812-003-0100 to the extent the conviction demonstrates a lack of fitness under OAR 812-003-0110;

(b) Submitting to the board an application for a certificate that includes a false statement; or

(c) Failing to timely pay a civil penalty or fine imposed by a unit of local, state or federal government.

(2) A licensed construction contractor that offers locksmith services shall not engage in dishonest or fraudulent conduct, including, but not limited to:

(a) Accepting payment in advance and failing to perform the work or provide the services agreed to and failing to return payment, upon reasonable and proper demand, within ten days of the demand;

(b) Displaying to the public false, misleading or deceptive advertising whereby a reasonable person could be misled or injured; or

(c) Failing to timely pay a civil penalty or fine imposed by a unit of local, state or federal government.

(3) A certified locksmith and a licensed construction contractor that offers locksmith services shall cooperate fully with any investigation undertaken by the board.

(4) When gaining entry to private or public property, a licensed construction contractor that offers locksmith services shall:

(a) Direct the certified locksmith to make positive identification of the client; and

(b) Obtain and retain, for three years, an authorization or work order signed by the client.

(5) Subsection (4) does not apply to licensed construction contractors where the construction contractor and the client have a standing agreement covering locksmith services.

Stat. Auth.: ORS 670.310, 701.235 & 701.485

Stats. Implemented: ORS 701.480 & 701.485

(2/10)