

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 December 5, 2006 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 January 1, 2007. Rulemaking Notice was published in the November 2006 Oregon Bulletin.**
(Date upon filing or later) (Month and Year)

RULE CAPTION

Changes "license fee" to "application fee", requires a new license number upon a 24 month or longer lapse in license, and housekeeping.
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:

812-002-0537 812-003-0140 812-003-0280 812-003-0300 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, 701.130 & 701.235

Stat. Auth.

Chapter 432 OR Laws 2005 (HB 2200)

Other Authority

ORS 701.055, 701.077, 701.078, 701.085, 701.105, 701.115, 701.125, 701.130 & 701.135

Stats. Implemented

RULE SUMMARY

812-002-0537 is amended to include OAR 812-005-0210 in the definition of owner.

812-003-0140 is amended to implement HB 200 (Chapter 432 OR Laws 2005) which changed the fee from a license fee to an application fee.

812-003-0280 and 812-003-0300 are amended to require a new license number upon a 24-month or more lapse of license; and 812-003-0280 is also amended to change "claim" to "complaint" and clarify language.

812-005-812-005- is amended clarify the amounts of increased bond required. Requiring a larger bond will provide for additional funds available to consumers who are damaged by construction contractors and hopefully reduce the number of unpaid final orders of the Board.

Authorized Signer

Catherine Dixon
Printed Name

December 12, 2006
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.

812-002-0537

Owner

“Owner”, as used in ORS 701.078, [~~and~~] 701.102 **and OAR 812-005-0210**, means:

- (1) A person described as an “owner” in ORS 701.077;
- (2) A general partner in a limited partnership;
- (3) A majority stockholder in a corporation;
- (4) A manager in a manager-managed limited liability company;
- (5) A member in a member-managed limited liability company; or
- (6) A person who has a financial interest in a business and manages or shares in the

management of the business.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.077 & 701.078

(12/05, 6/06, 12/06)

812-003-0140

~~[License, Renewal, and Reissue]~~ Fees

(1) The fee for all categories for new license, renewal, or reissue applications is:

- (a) \$260 for two years; or
- (b) \$520 for four years.

(2) Fees will not be prorated.

(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 [~~licensing~~] **application** fee, but will retain a processing fee of \$40.

(5) If a licensee paid **an application fee** for a four-year license at their own discretion as authorized by ORS 701.115(1) and voluntarily terminates their license within the first two-year license period, the agency may refund the unused two-year [~~renewal~~] **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, 701.130 & 701.235

Stats. Implemented: ORS 701.115, 701.125 & 701.130

(12/04, 8/05, 12/06)

812-003-0280

Renewal and Reissue of License

(1) **Notwithstanding OAR 812-003-0300(3)**, a license may be renewed or reissued upon:

(a) The applicant's completion of the renewal form or application form prescribed by the agency;

(b) Payment of the fee or fees,

(c) Receipt of the required certification of insurance coverage, and

(d) A non-cancelled bond on file. If it appears to the agency that the required surety bond has been cancelled, the applicant must submit a reinstatement from the surety on the cancelled bond or a new, original, continuous until cancelled surety bond.

(2) A licensee may qualify for Limited Contractor license and reduce the bond to \$5,000 upon certification that:

(a) The licensee will not enter into contracts that exceed \$5,000;

(b) The licensee's gross business sales of work subject to ORS chapter 701 was less than \$40,000 in the previous twelve months and is expected to be less than \$40,000 during the next twelve months; and

(c) The licensee agrees that if the licensee's gross construction business volume exceeds \$40,000 during the coming year the licensee will immediately increase the bond amount to the amount required under OAR 812-003-0170, and increase the insurance coverage if necessary, to meet the requirements of the appropriate license category.

(3) A bond may be reduced under section (2) of this rule by submitting a decrease rider to an existing bond or submitting a new bond. The effective date on either the decrease rider or the new bond must be the license renewal date or after.

(4) The agency may refuse to authorize a reduced bond amount under section (2) of this rule until any pending [claim(s)] **complaint** against the licensee [are] **is** resolved.

(5) If a licensee provides a decrease rider to an existing bond under section (3) of this rule [prior to] **before** the license renewal date, the agency will determine the effective date to be the date of renewal or reissue.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.085, 701.105, 701.115 & 701.125

(12/04, 5/06, 12/06)

812-003-0300

Lapse in License

(1) An entity whose license has lapsed is considered unlicensed from the date the lapse occurred until the date the license is backdated and renewed, reissued, or reinstated. During a period of lapse, the entity shall not perform the work of a contractor.

(2) A period of lapse will end and the license previously issued will again become valid on the date upon which the agency receives the missing items that caused the lapse. This includes, but is not limited to, a new bond or a notice of reinstatement for the existing bond or on the effective date of a backdated bond or backdated reinstatement for the existing bond.

(3) A license that has lapsed for 24 months or more must be issued a new identifying license number.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.055, 701.115 & 701.135

(12/04, 12/06)

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 defined in ORS 701.055 and 701.077 or OAR 812-002-0537 and 812-002-0533] **, 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.

~~[(2)]~~ **(b)** Five or more ~~[Dispute Resolution Services]~~ **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**. ~~[The amount of increased bond required will be based on the agency's estimate of the cumulative possible damages.]~~

~~[(3)]~~**(c)** An unpaid construction debt as defined in ORS 701.005(2) that exceeds the amount of the bond.

~~[(4)]~~ **(2)** The amount of the increased bond required ~~[in this section]~~ **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 required under subsection (1)(b) of this rule will be based on the agency's estimate of damages and must conform to the following schedule:

(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 amount required under ORS 701.085.

(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.

(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 in the amount of five times the normal amount required under ORS 701.085.

(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)