

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

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

RULE CAPTION

Amends Continuing Education for Commercial Contractors and Information Notice to Owner About Construction Liens

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

January 26, 2010 Hearing Date	11:00 a.m. Time	West Salem Roth's IGA, Santiam Rm., 1130 Wallace Rd., Salem, OR Location	Rob Hernandez Hearings Officer
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Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

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

AMEND:

812-001-0200 812-020-0070

REPEAL:

812-020-0082

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

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

ORS 87.093, 670.310, 701.124, 701.235, 701.325, 701.330, & 701.530

Stat. Auth.: ORS

Chapter 408 OR Laws 2009 (SB 203)

Other Authority

ORS 87.093, 701.124, 701.235, 701.325, 701.330, & 701.530

Stats. Implemented: ORS

RULE SUMMARY

- 812-001-0200 is amended to adopt the revised Information Notice to Owner About Construction Liens form.
- 812-020-00070 is amended to clarify that the date applicable to all continuing education (CE) requirements is the date of the previous license issuance.
- 812-020-0082 is repealed, this rule is no longer necessary.

ORS 183.335(2)(b)(G) requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

January 26, 2010 at 11:00 a.m.

Last Day for Public Comment

Last day to submit written comment to Rules Coordinator, Catherine Dixon

PO Box 14140, Salem OR 97309

Signature

Catherine Dixon

Printed Name

December 9, 2009

Date

*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 OR 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 920-2005

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.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Construction Contractors Board
Agency and Division

OAR 812
Administrative Rules Chapter Number

In the Matter of: Amendments to OAR 812

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Amends Continuing Education for Commercial Contractors and Information Notice to Owner About Construction Liens

Statutory Authority: ORS 87.093, 670.310, 701.124, 701.235, 701.325, 701.330, & 701.530

Other Authority: Chapter 408 OR Laws 2009 (SB 203)

Stats. Implemented: ORS 87.093, 701.124, 701.235, 701.325, 701.330, & 701.530

Need for the Rule(s): (Explain how the rule is intended to meet the need).

- 812-001-0200 is amended to adopt the revised Information Notice to Owner About Construction Liens form to reflect the new thresholds established in chapter 408 OR Laws 2009 (SB 203).
- 812-020-00070 is amended to clarify that the date applicable to all continuing education (CE) requirements is the date of the previous license issuance.
- 812-020-0082 is repealed, this rule is no longer necessary.

Documents Relied Upon, and where they are available: ORS 701 and OAR 812. Documents are on the agency website at www.oregon.gov/ccb or a paper copy is available upon request.

Fiscal and Economic Impact, including a Statement of Cost of Compliance:

The rule changes have no known fiscal impact on state agencies, units of local government or the public.

The rule changes have no known economic impact on state agencies, units of local government or the public.

The rule changes do not increase the reporting, recordkeeping or other administrative activities for businesses. The rule changes will not increase costs of compliance for businesses.

The rule changes will not increase the cost of a new single-family dwelling.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
The rule changes have no known fiscal impact on state agencies, units of local government or the public.
2. Cost of compliance effect on small business (ORS 183.336):
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
Theses rule amendments do not have an impact on small businesses.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: Theses rule amendments do not impact reporting, recordkeeping or other administrative activities required for compliance.
 - c. Equipment, supplies, labor and increased administration required for compliance: No impact.

How were small businesses involved in the development of this rule?

Six of the current nine Board members are business owners.

Administrative Rule Advisory Committee consulted? The Construction Contractors Board is made up of six contractors; one elected public official, and two public members. They serve as their own Administrative Rule Advisory Committee.

If not, why?:

HOUSING COST IMPACT STATEMENT

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING
A *TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.
(ORS 183.534)

FOR ADMINISTRATIVE RULES

AGENCY NAME: Construction Contractors Board
ADDRESS: 700 Summer St. NE Ste 300
CITY/STATE: Salem OR 97309
PHONE: (503) 378-4621

PERMANENT:

HEARING DATE: January 26, 2010

TEMPORARY:

EFFECTIVE DATE:

BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL RESULT FROM THIS PROPOSED CHANGE.

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED.
IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

Description of proposed change: (Please attach any draft or permanent rule or ordinance)

- 812-001-0200 is amended to adopt the revised Information Notice to Owner About Construction Liens form to reflect the new thresholds established in chapter 408 OR Laws 2009 (SB 203).
- 812-020-00070 is amended to clarify that the date applicable to all continuing education (CE) requirements is the date of the previous license issuance.
- 812-020-0082 is repealed, this rule is no longer necessary.

Description of the need for, and objectives of the rule:

- 812-001-0200 is amended to adopt the revised Information Notice to Owner About Construction Liens form to reflect the new thresholds established in chapter 408 OR Laws 2009 (SB 203).
- 812-020-00070 is amended to clarify that the date applicable to all continuing education (CE) requirements is the date of the previous license issuance.
- 812-020-0082 is repealed, this rule is no longer necessary.

List of rules adopted or amended:

Amend:

812-001-0200 812-020-0070

Repeal: 812-020-0082

Materials and labor costs increase or savings:

None.

Estimated administrative construction or other costs increase or savings:

None.

Land costs increase or savings:

The rule amendments have no measurable impact the cost of a new home or a building lot.

Other costs increase or savings:

The rule changes have no known fiscal or economic impact on state agencies, units of local government or the public.

*Typical-Single story 3 bedrooms, 1 ½ bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

PREPARERS NAME: Catherine Dixon

EMAIL ADDRESS: catherine.a.dixon@state.or.us

Proposed Rules for January 26, 2010 Other Rules

Proposed Rule	Explanation
<p>812-001-0200 Consumer Notices Adoption</p> <p>(1) In order to comply with the requirement to adopt an information notice to owner under ORS 87.093, the Construction Contractors Board adopts the form entitled “Information Notice to Owner About Construction Liens,” as revised [December 20, 2007] January 1, 2010 . This form may be obtained from the agency.</p> <p>(2) In order to comply with the requirement to adopt a consumer notice form under ORS 701.330(1), the board adopts the form “Consumer Protection Notice” as revised February 20, 2009.</p> <p>(3) In order to comply with the requirement to adopt an “Information Notice to Property Owners About Construction Responsibilities” form under ORS 701.325(3), the board adopts the form “Information Notice to Property Owners About Construction Responsibilities” as revised September 23, 2008.</p> <p>(4) In order to comply with the requirement to adopt a notice of procedure form under ORS 701.330(2), the board adopts the form “Notice of Procedure” dated December 4, 2007.</p> <p>(5) The board adopts the form “Notice of Compliance with Homebuyer Protection Act” (HPA) as revised December 16, 2003.</p> <p>(6) The board adopts the form “Model Features for Accessible Homes” dated December 4, 2007.</p> <p>(7) The board adopts the form “Home Inspection Consumer Notice” dated October 27, 2009.</p> <p>Stat. Auth.: ORS 87.093, 670.310, 701.235, 701.325, 701.330 & 701.530 Stats. Implemented: ORS 87.093, 701.235, 701.325, 701.330 & 701.530 (4/81, 11/81, 1/82, 3/82, 6/82, 1/83, 1/83, 3/83, 3/83, 10/83, 2/87, 7/87, 1/89, 11/89, 5/92, 7/92, 8/92, 3/99, 9/99, temp. 5/00, 8/00, 6/02, 12/02, temp. 3/03, 6/03, 12/03, temp. 12/03, temp. 12/03, 2/04, 5/04, temp. 6/04, 8/04, 12/05, temp. 1/06, 3/06, 6/07, 12/07, temp. 1/08, 4/08, 9/08, temp. 2/09, 5/09, 11/09 (eff. 1/1/10)) (Amended and renumbered from 812-001-0020, 12/05)</p>	<p>Amended to adopt the revised Information Notice to Owner About Construction Liens to reflect the new thresholds established in SB 203 (2009). (GF)</p>
<p>812-020-0070 Certification of Hours – Continuing Education for Commercial Contractors</p> <p>(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.</p> <p>(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.</p> <p>(3) For a commercial general or specialty contractor – level 1 with four or fewer key employees, the commercial contractor must certify as follows:</p> <p>(a) With four key employees, that one or more key employees completed at least 64 hours during the preceding license period.</p> <p>(b) With three key employees, that one or more key employees completed at least 48 hours during the preceding license period.</p> <p>(c) With two key employees, that one or more key employees completed at least</p>	<p>Amended to clarify that the date applicable to all CE requirements is the date of the previous license issuance. (GF)</p>

<p>32 hours during the preceding license period.</p> <p>(d) With one key employee, that the key employee completed at least 16 hours during the preceding license period.</p> <p>(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.</p> <p><u>(5) For purposes of this rule, the required amount of continuing education hours for the renewing contractor is determined based on the contractor’s endorsement status as of the previous date of license issuance, reissuance or renewal. If the contractor was not endorsed as a commercial contractor on the previous date, continuing education does not apply.</u></p> <p>[(5)] <u>(6) For purposes of [sections (2) to (4) of] this rule, if a contractor is subject to the continuing education requirement, the number of key employees is the number of such persons employed by the commercial contractor as of the previous date of license issuance, reissuance or renewal as a commercial contractor.</u></p> <p>Stat. Auth.: ORS 670.310, 701.124 & 701.235 Stats. Implemented: 701.124 (11/08, 1/09 (eff. 2/1/09))</p>	
<p><u>[812-020-0082</u> <u>Endorsed as Commercial Contractor Less Than License Period—Continuing Education for Commercial Contractors]</u></p> <p>(1) If a commercial contractor was endorsed as a commercial contractor for less than one year of the license period, the commercial contractor satisfies the continuing education requirements by completing one half of the number of continuing education hours outlined in OAR 812-020-0070(2) to (4).</p> <p>(2) If a commercial contractor was endorsed as a commercial contractor for one year or more of the license period, the commercial contractor satisfies the continuing education requirements by completing the total number of continuing education hours outlined in OAR 812-020-0070(2) to (4).]</p> <p>Stat. Auth.: ORS 670.310, 701.124 & 701.235 Stats. Implemented: 701.124 (11/08)</p>	<p>Repeals/delete existing rule as the rule is no longer unnecessary. (GF)</p>



Information Notice To Owner About Construction Liens

(ORS 87.093)

This is not a lien. Your contractor is required by law to provide this notice to inform you about construction lien laws. This notice explains the construction lien law, and gives steps you can take to protect your property from a valid lien. As an owner, you should read this information notice carefully. This information notice is required to be given if you contract for residential construction or remodeling, if you are buying a new home, or at any time the contract price exceeds \$2,000.

- Under Oregon law, your contractor and others who provide labor, materials, equipment, or services to your project may be able to claim payment from your property if they have not been paid. That claim is called a Construction Lien.
- If your contractor does not pay subcontractors, employees, rental equipment dealers, materials suppliers, or does not make other legally required payments, those who are owed money may place a lien against your property for payment. **It is in your best interest to verify that all bills related to your contract are paid, even if you have paid your contractor in full.**
- If you occupy or will occupy your home, persons who supply materials, labor, equipment, or services ordered by your contractor are permitted by law to file a lien against your property only if they have sent you a timely Notice of Right to Lien (which is different from this Information Notice), before or during construction. If you enter into a contract to buy a newly-built, partially-built, or newly-remodeled home, a lien may be claimed even though you have not received a Notice of Right to a Lien. If you do not occupy the building, a Notice of Right to Lien is not required prior to filing a lien.

This notice is not intended to be a complete analysis of the law. You should consult an attorney for more information.

Common Questions and Answers About Construction Liens

Can someone record a construction lien even if I pay my contractor? Yes. Anyone who has not been paid for labor, material, equipment, or services on your project and has provided you with a valid Notice of Right to Lien has the right to record a construction lien.

What is a Notice of Right to Lien? A Notice of a Right to Lien is sent to you by persons who have provided labor, materials, or equipment to your construction project. It protects their construction lien rights against your property.

What should I do when I receive a Notice of Right to Lien? Don't ignore it. Find out what arrangements your contractor has made to pay the sender of the Notice of Right to Lien.

When do construction liens need to be recorded? In Oregon, construction liens generally need to be recorded within 75 days from the date the project was substantially completed, or 75 days from the date that the lien claimant stopped providing labor, material, equipment, or services, whichever happened first. To enforce a lien, the lien holder must file a lawsuit in a proper court within 120 days of the date the lien was filed.

Note to Contractor: This notice must be delivered personally, or mailed by registered mail, certified mail, or by first-class mail with a certificate of mailing. Ask the signing parties to provide you with an original or copy to retain in your files. You should retain proof of delivery of this notice for at least two years.

(over)

Steps That Consumers Can Take to Protect Themselves

- **Contact the Construction Contractors Board (CCB) and confirm that your contractor is licensed.** The law requires all construction contractors to be licensed with the CCB. Check a contractor's license online at the CCB consumer website: www.oregon.gov/CCB, or call 503-378-4621.
- **Review the Consumer Protection Notice (ORS 701.330(1)),** which your contractor must provide to you at the time of contract on a residential structure.
- **Consider using the services of an escrow agent** to protect your interests. Consult your attorney to find out whether your escrow agent will protect you against liens when making payments.
- **Contact a title company about obtaining a title policy** that will protect you from construction lien claims.
- **Find out what precautions, if any, will be taken** by your contractor, lending institution, and architect to protect your project from construction liens.
- **Ask the contractor to get lien waivers or lien releases** from every subcontractor, materials provider, equipment provider, and anyone else the contractor is responsible for paying. Do this before you give your contractor a progress payment.
- **Have a written contract with your contractor.** A written contract is **required** for projects greater than \$2,000. An original contractor that fails to provide a written contract as required by law, may not place a construction lien against the owner's property.
- **If you receive a Notice of Right to Lien, ask for a statement of the reasonable value of the materials, labor, equipment, or services** provided to your project from everyone who sends you a Notice of Right to Lien. If the information is not provided in a timely manner, the sender of the Notice of Right to Lien may still be able to file a construction lien, but will not be entitled to attorney fees.
- **When you pay your contractor, write checks made jointly payable to the contractor, subcontractors, materials, equipment, or services providers.** The checks name both the contractor and the subcontractor, materials or equipment provider. The checks can only be cashed if **both** the contractor and the subcontractor, materials or equipment provider endorses it. This ensures that the subcontractor and other providers will be paid by your contractor, and can eliminate the risk of a lien on your property.
- **Should you have a dispute with your contractor,** you may be able to file a complaint with the CCB and be reimbursed in whole or in part from the contractor's bond. For more details about help available through the agency, write to the CCB at PO Box 14140, Salem, OR 97309-5052 or call 503-378-4621.
- **Consult an attorney.** If you do not have an attorney, consider contacting the Oregon State Bar Referral Service at 503-684-3763 or 1-800-452-7636.

Signing this Information Notice verifies only that you have received it. Your signature does not give your contractor or those who provide material, labor, equipment, or services, any additional rights to place a lien on your property.

Job Site Address: _____

CONTRACTOR: CCB#: _____

PROPERTY OWNER: _____

Print Name (as it appears on contract)

Print Name (as it appears on contract)

Signature

Date

Signature

Date