

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.)
Home Inspector Standards of Behavior

Statutory Authority: ORS 670.310, 701.235, 701.350 & 701.355

Other Authority:

Stats. Implemented: ORS 701.350 & 701.355

Need for the Rule(s): (Explain how the rule is intended to meet the need).
812-008-0201 is amended to make it clear that licensed home inspector businesses can advertise without violating the standards of behavior; makes it clear that home inspectors may discount, credit or add-on services without violating the standards of behavior; and otherwise clarify restrictions on receiving financial consideration.

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)): None.
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: CCB certified home inspectors and home inspection businesses must comply with OAR 812-008-0201.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
None.
 - c. Equipment, supplies, labor and increased administration required for compliance:
None.

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?:

Authorized Signer
Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Catherine Dixon
Printed Name

May 8, 2008
Date
ARC 925-2007

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: June 24, 2008

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)

812-008-0201 is amended to make it clear that licensed home inspector businesses can advertise without violating the standards of behavior; makes it clear that home inspectors may discount, credit or add-on services without violating the standards of behavior; and otherwise clarify restrictions on receiving financial consideration.

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

812-008-0201 is amended to make it clear that licensed home inspector businesses can advertise without violating the standards of behavior; makes it clear that home inspectors may discount, credit or add-on services without violating the standards of behavior; and otherwise clarify restrictions on receiving financial consideration.

List of rules adopted or amended:

812-008-0201

Materials and labor costs increase or savings:

The rule amendments have no measurable cost for construction materials or labor costs.

Estimated administrative construction or other costs increase or savings:

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

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 amendments have no known impact on costs increases or savings.

*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

**Rule Amendments for June 24, 2008 Rule Hearing
Rules Effective 7/1/08**

PROPOSED RULE	EXPLANATION
<p>812-008-0201 Standards of Behavior</p> <p>(1) An Oregon certified home inspector shall not:</p> <p>(a) Engage in dishonest or fraudulent conduct or undertake activities that are injurious to the welfare of the public, which result in injury or damage to another person.</p> <p>[(2) Opinions expressed by Oregon certified home inspectors shall only be based on their education, experience, and physical evidence observed by the inspector.</p> <p>(3) An Oregon certified home inspector shall not</p> <p>(b) Disclose any information about the results of an inspection without the approval of the client for whom the inspection was undertaken-</p> <p>[(4) No Oregon certified home inspector shall]</p> <p>(c) Accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.</p> <p>[(5) No Oregon certified home inspector shall give any gift, rebate, kickback, or any thing of value, including but not limited to any payment of money, to any person for the purposes of obtaining an engagement, referral or preference selection to perform a home inspection. However, section (5) of this rule shall not apply to items of nominal value given as part of an advertising promotion of general distribution.</p> <p>(6) No Oregon certified home inspector shall express, within the context of an inspection, an appraisal or opinion of the market value of the inspected property.</p> <p>(7) Before the execution of a contract to undertake a home inspection, an Oregon certified home inspector shall disclose to the client any interest in a business that may affect the client. No Oregon certified home inspector shall allow his or her interest in any business to affect the quality or results of inspection work that the Oregon certified home inspector may be called upon to undertake.</p> <p>(8) An Oregon certified home inspector shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.]</p> <p>(d) <u>Directly or indirectly compensate realty agents, or other parties having a financial interest in closing or settlement of real estate transactions, for the referral of inspections or for inclusion on a list of recommended inspectors, preferred providers or similar arrangements. This paragraph is not intended to prohibit any discount, credit or add-on service made directly to an inspector's client.</u></p> <p>(e) <u>Accept financial or other consideration, such as material or equipment, from suppliers for suggesting the use of, or promoting a specific product in the course of performing an inspection.</u></p> <p>(f) <u>Accept compensation, directly or indirectly, for recommending contractors, services, or products to inspection clients or other parties having an interest in inspected properties.</u></p> <p>(g) <u>Inspect properties under contingent arrangements whereby any compensation or future referrals are dependent on reported findings or on the sale of a property.</u></p>	<p>Amended to make it clear that licensed home inspector businesses can advertise without violating the standards of behavior; makes it clear that home inspectors may discount, credit or add on services without violating the standards of behavior; and otherwise clarify restrictions on receiving financial consideration. (CPS)</p>

(h) Express, within the context of an inspection, an appraisal or opinion of the market value of the inspected property.

(i) Allow his or her interest in any business to affect the quality or results of inspection work that the Oregon certified home inspector may be called upon to undertake.

(j) Misrepresent any matters to the public.

(2) Opinions expressed by Oregon certified home inspectors shall only be based on their education, experience, and physical evidence observed by the inspector.

(3) Before the execution of a contract to undertake a home inspection, an Oregon certified home inspector shall disclose to the client any interest in a business that may affect the client.

(4) Nothing in OAR 812-008-0201 shall prohibit a business offering home inspection services from advertising services or for the purpose of recruiting employees and personnel. All such advertisements shall not be misleading or deceptive. A business shall not advertise home inspection services unless the business is properly licensed.

Stat. Auth.: ORS 670.310, 701.235, 701.350 & 701.355

Stats. Implemented: ORS 701.350 & 701.355

(2/98, 10/98, 2/00, 6/00, 8/00, 9/01, 6/02, 8/05)

(Amended and renumbered from 812-008-0080(15), 8/05)