

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

<u>Construction Contractors Board</u> (Agency and Division)		<u>OAD 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)

RULE CAPTION

Amended for clarity/housekeeping, sets fees for information requests, and apply license application exemption fairly.
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

<u>September 23, 2008</u> Hearing Date	<u>11:00 a.m.</u> Time	<u>West Salem Roth's IGA, Santiam Rm., 1130 Wallace Rd., Salem, OR</u> Location	<u>Tom Skaar</u> 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:
812-001-0160
812-001-0200
812-003-0260

REPEAL:

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

Renumber 812-001-0300 to 812-012-0140 Renumber 812-001-0310 to 812-012-0150

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

Amend and renumber 812-001-0240 to 812-012-0120 Amend and renumber 812-001-0305 to 812-012-0145

ORS 87.007, 87.093, 293.445, 670.310, 701.235, 701.325, 701.330, 701.530
Stat. Auth.: ORS

Other Authority

ORS 25.270, 25.785, 25.990, ORS Ch. 87, 87.007, 87.093, 192.430, 293.445, ORS Ch. 701, 701.035, 701.050, 701.056, 701.068, 701.073, 701.081, 701.088, 701.122, 701.235, 701.250, 701.325, 701.330, 701.335 & 701.530

Stats. Implemented: ORS

RULE SUMMARY

OAD 812-001-0160 is amended to clarify the existing agency practice of completing one certification statement for a file or a set of documents. Moreover, it will replace with specific fees an indeterminate fee referenced by the current rule. The agency presently charges the specific fees for electronically maintained records. Finally, the rule will make clear that the agency is authorized to charge fees for certain odd-sized reproductions and for the cost of attorney time in segregating exempt and non-exempt records.

812-001-0200 is amended to adopt the revised form to update the cite references from ORS 701.055 to ORS 701.325. ORS 701.055 was renumbered in 2007.

812-001-0240 is amended and renumbered to 812-012-0120. Sections (7) and (8) are amended for consistency and section (9) is added to clarify that only the prime or general contractor must provide a maintenance schedule. The law is unclear and might be read to obligate all subcontractors on the job to provide the schedule. This is not the apparent intent of the legislation.

812-001-0300 is renumbered to 812-012-014 so that all the items that are duties of a contractor are under Division 12, Contractor Duties.

812-001-0305 is amended and renumber to 812-012-0145, the amendment corrects a cite reference and so that all the items that are duties of a contractor are under Division 12, Contractor Duties.

812-001-0310 is renumbered to 812-012-0150 so that all the items that are duties of a contractor are under Division 12, Contractor Duties.

812-003-0260 is amended to apply the exemption fairly and not distinguish between business entities. In addition, the rule focuses on whether the companies have securities registered with the federal SEC. If so, the companies are already providing detailed information about their directors, partners, members or others that acquire financial interests greater than 5%.

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.

September 23, 2008 at 11:00 a.m.

Last Day for Public Comment

Last day to submit written comment to the Rules Coordinator

Signature

Catherine Dixon

Printed Name

August 11, 2008

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

OAR 812

Agency and Division

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.)

Amended for clarity/housekeeping, sets fees for information requests, and apply license application exemption fairly.

Statutory Authority: ORS 87.007, 87.093, 293.445, 670.310, 701.235, 701.325, 701.330, 701.530

Other Authority:

Stats. Implemented: ORS 25.270, 25.785, 25.990, ORS Ch. 87, 87.007, 87.093, 192.430, 293.445, ORS Ch. 701, 701.035, 701.050, 701.056, 701.068, 701.073, 701.081, 701.088, 701.122, 701.235, 701.250, 701.325, 701.330, 701.335 & 701.530

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

- OAR 812-001-0160 is amended to clarify the existing agency practice of completing one certification statement for a file or a set of documents. Moreover, it will replace with specific fees an indeterminate fee referenced by the current rule. The agency presently charges the specific fees for electronically maintained records. Finally, the rule will make clear that the agency is authorized to charge fees for certain odd-sized reproductions and for the cost of attorney time in segregating exempt and non-exempt records.
- 812-001-0200 is amended to adopt the revised form to update the cite references from ORS 701.055 to ORS 701.325. ORS 701.055 was renumbered in 2007.
- 812-001-0240 is amended and renumbered to 812-012-0120. Sections (7) and (8) are amended for consistency and section (9) is added to clarify that only the prime or general contractor must provide a maintenance schedule. The law is unclear and might be read to obligate all subcontractors on the job to provide the schedule. This is not the apparent intent of the legislation.
- 812-001-0300 is renumbered to 812-012-014 so that all the items that are duties of a contractor are under Division 12, Contractor Duties.
- 812-001-0305 is amended and renumbered to 812-012-0145, the amendment corrects a cite reference and so that all the items that are duties of a contractor are under Division 12, Contractor Duties.
- 812-001-0310 is renumbered to 812-012-0150 so that all the items that are duties of a contractor are under Division 12, Contractor Duties.
- 812-003-0260 is amended to apply the exemption fairly and distinguish between business entities. The board previously amended this rule to exempt large corporations (with a market capitalization in excess of \$300 million) from reporting the dates of birth and driver's license numbers of corporate officers. The agency later discovered that there are other business entities, such as partnerships and LLCs, which present a similar issue. In order to apply the exemption fairly, the proposed rule does not distinguish between business entities. In addition, the rule focuses on whether the companies have securities registered with the federal SEC. If so, the companies are already providing detailed information about their directors, partners, members or others that acquire financial interests greater than 5%. The agency has submitted a similar legislative concept. The rule amendment would be consistent with that concept, if enacted.

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)):
While OAR 812-001-0160 sets fees for requests for documents, it is simply clarifying the agency current practices and charge and does not create new charges; therefore, they have no known fiscal impact. The other rule amendments have no known fiscal impact.
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:
This rule amendment does not have an impact on small businesses.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
This rule does not impact reporting, recordkeeping or other administrative activities required for compliance.
 - c. Equipment, supplies, labor and increased administration required for compliance:
No known 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?:

Authorized Signer

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

Catherine Dixon

Printed Name

August 11, 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 **PERMANENT:** **HEARING DATE:** 9/23/08
ADDRESS: 700 Summer St. NE Ste 300
CITY/STATE: Salem OR 97309 **TEMPORARY:** **EFFECTIVE DATE:**
PHONE: (503) 378-4621

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)

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- 812-001-0240 is amended and renumbered to 812-012-0120. Sections (7) and (8) are amended for consistency and section (9) is added to clarify that only the prime or general contractor must provide a maintenance schedule. The law is unclear and might be read to obligate all subcontractors on the job to provide the schedule. This is not the apparent intent of the legislation.
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- 812-003-0260 is amended to apply the exemption fairly and not distinguish between business entities. In addition, the rule focuses on whether the companies have securities registered with the federal SEC. If so, the companies are already providing detailed information about their directors, partners, members or others that acquire financial interests greater than 5%.

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

- OAR 812-001-0160 is amended to clarify the existing agency practice of completing one certification statement for a file or a set of documents. Moreover, it will replace with specific fees an indeterminate fee referenced by the current rule. The agency presently charges the specific fees for electronically maintained records. Finally, the rule will make clear that the agency is authorized to charge fees for certain odd-sized reproductions and for the cost of attorney time in segregating exempt and non-exempt records.
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List of rules adopted or amended:

Amend ORS 812-001-0160, 812-001-0200, and 812-003-0260

Renumber 812-001-0300 to 812-012-0140 and renumber 812-001-0310 to 812-012-0150

Amend and renumber 812-001-0240 to 812-012-0120 and Amend and renumber 812-001-0305 to 812-012-0145

Materials and labor costs increase or savings:

The rule amendments have no measurable impact the cost of a materials and labor.

Estimated administrative construction or other costs increase or savings:

The rule amendments have no known impact.

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 measurable impact the cost of a new home or a building lot.

*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 September 23, 2008 Rule Hearing

PROPOSED RULE	EXPLANATION
<p>812-001-0160 Requests for Information; Charges for Records</p> <p>(1) The agency shall provide certification of license or non-license relating to a specific entity upon written request and payment of required fee. This certification will include the following information:</p> <p>(a) License numbers.</p> <p>(b) Name of licensed entity and any assumed business names on file with the agency.</p> <p>(c) Type of business entity.</p> <p>(d) Category of license.</p> <p>(e) Class of independent contractor license status.</p> <p>(f) Personal names of owner, partners, joint venturers, members, corporate officers, or trustees.</p> <p>(g) The dates in the license history and the action that took place on those dates.</p> <p>(2) The agency may make the following charges for records:</p> <p>(a) \$20 for each certification that an entity has or has not been licensed with the Construction Contractors Board.</p> <p>(b) \$20 for certified copies of documents <u>each file or of set of documents certified under one cover or of any other document.</u></p> <p>(c) \$5 for the first 20 copies made and 25 cents per page thereafter.</p> <p>(d) \$20 for duplicate audio recordings of, Board meetings and Appeal Committee meetings.</p> <p>(e) \$20 for duplicate audio recordings of a three hour agency hearing or arbitration and \$10 for duplicate audio recordings of each additional 90 minutes or fraction thereof of the hearing or arbitration.</p> <p>[(f) Charge as determined by preparation time and production cost for mailing labels of licensees.]</p> <p>[(g)] <u>(f) \$10 per half-hour unit or portion of a half-hour unit for [research] researching, [œ] copying [œ] or preparing records for each request from a person beginning with the 31st minute of research or copying time.</u></p> <p><u>(g) \$40 for an electronic copy of computer-maintained data containing information on CCB licensees.</u></p> <p><u>(h) \$140 for a paper copy of computer-maintained data containing information on CCB licensees.</u></p> <p><u>(i) \$40/month for an electronic copy of computer-maintained data containing information on CCB mailings of application packets, provided once during the month.</u></p> <p><u>(j) \$50/month for electronic copies of computer-maintained data containing information on CCB mailings of application packets, provided on a weekly basis.</u></p> <p><u>(k) \$140/month for a paper copy of computer-maintained data containing information on CCB mailings of application packets, provided once during the month.</u></p> <p><u>(l) \$150/month for a paper copy of computer-maintained data containing</u></p>	<p>Amended (note: currently a temporary rule)</p> <p>(b) Clarifies existing agency practice of completing one certification statement for a file or for a set of documents. (KD)</p> <p>(f) Replaced by specific fees set forth in sections (g) through (n)</p> <p>(f) Include time spent in preparing records, as for certification.</p> <p>(g)-(l) Include specific fees currently charged by agency for providing copies of electronically maintained information.</p>

<p><u>information on CCB mailings of application packets, provided on a weekly basis.</u></p> <p><u>(m) \$5 for a 3.5-inch computer disk or compact disk (CD) if documents are stored on the agency’s computer system. Requestors may not provide disks for electronic reproduction due to the possibility of computer viruses.</u></p> <p><u>(n) The actual cost for material and equipment used in producing copies of non-standard sized records.</u></p> <p><u>(o) The actual cost for delivery of records, for example, postage, courier fees or the cost of transmitting a facsimile long-distance.</u></p> <p><u>(p) Actual attorney fees charged to CCB for the cost of time spent by its attorney (ordinarily provided by the Oregon Department of Justice) to review public records, redact materials from public records or segregate public records into exempt and nonexempt records. The charge will not include attorney fees incurred in determining the application of ORS 192.410 to 192.505.</u></p> <p>Stat. Auth.: ORS 293.445, 670.310 & 701.235 Stats. Implemented: ORS 192.430, 293.445, 701.235 & 701.250 (1/83, 3/83, 3/84, 5/84, 3/85, 4/85, 3/87, 12/87, 1/88, 2/88, 6/88, 1/89, 2/89, 6/89, 7/89, 11/89, 2/90, 5/90, 6/90, 2/92, 4/92, 2/95, 9/95, 5/96, 5/97, 4/98, 9/98, 3/99, temp. 6/99, 9/99, 6/00, 12/00, 12/01, 5/02, 2/04, 12/04, 8/05, 12/05, 5/06, 6/07, 4/08, temp. 8/08) (Amended and renumbered from 812-001-0015, 12/05)</p>	<p>(m) Include fee currently charged by agency for computer or compact disks.</p> <p>(n) Add fees for reproducing odd sized documents and mailing or transmitting documents.</p> <p>(p) Add fees for cost of attorney time in segregating exempt and non-exempt records.</p> <p>(KD)</p>
<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. 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 December 20, 2007.</p> <p>(3) In order to comply with the requirement to adopt a “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 [December 4, 2007] 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>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) (Amended and renumbered from 812-001-0020, 12/05)</p>	<p>Amended to adopt form that was revised to correct cite references. (GF)</p>

~~[812-001-0240]~~ 812-012-0120

Maintenance Schedules

(1) A contractor that constructs a new residential structure or zero-lot-line dwelling shall provide a maintenance schedule to the first purchaser or owner of the structure or dwelling. The maintenance schedule will recommend periodic steps that the purchaser or owner should take to prevent moisture intrusion or water damage to the structure or dwelling. The minimum information contained in the maintenance schedule will consist of the information listed below in section (4).

(2) "Moisture intrusion" and "water damage" are defined as follows:

(a) "Moisture intrusion" means water, whether liquid, frozen, condensed or vaporized, that penetrates into a structure or behind the outside cladding of a structure.

(b) "Water damage" means damage or harm caused by moisture intrusion that reduces the value or usefulness of a structure.

(3) Moisture intrusion and water damage may occur, for example, from the following:

- (a) Missing or loose roofing materials or flashing;
- (b) Window sills or door frames without adequate caulking or weather-stripping;
- (c) Lack of caulking in siding, mortar in masonry or grout in exterior ceramic tile installations;
- (d) Degraded paint on exterior siding or surfaces;
- (e) Overflowing or clogged gutters;
- (f) Gutter drains or downspouts that are not a sufficient distance from the structure;
- (g) Improper drainage slope next to foundation;
- (h) Plant materials too close to the structure or foundation;
- (i) Sprinklers that overspray onto the structure or foundation;
- (j) Non-working interior ventilation systems.

(4) The recommended maintenance schedule for new residential structures and dwellings, to prevent moisture intrusion and water damage, is as follows:

(a) At least once a year:

(A) Check roof for damaged, loose or missing shingles. Check flashing around roof stacks, vents, skylights, and chimneys and in roof valleys for missing or loose flashing. Repair or replace if necessary.

(B) Check for water stains in the roof of the attic and in the exterior overhangs or soffits. If water stains are present, locate and repair the cause of moisture intrusion.

(C) Check and repair missing mortar in exterior masonry.

(D) Check painted surfaces for cracking, peeling or fading. Repaint if necessary.

(E) Inspect gutters and downspouts for leaks. Repair if necessary. Check alignment of gutters, downspouts and splash blocks to ensure that water is properly diverted away from the structure and foundation. Repair if necessary.

(F) Inspect gutters for debris blockage. Remove debris (for example, tree needles and leaves) from downspouts and gutters.

(G) Check soil around foundation to make sure that it slopes in such a way

Amended and renumbered to 812-012-0120; amended subsections (7) and (8) for consistency with statutory language.

Adopt Subsection (9) is to clarify that only the prime, or general contractor must provide a maintenance schedule. The law is unclear and might be read to obligate all subcontractors on the job to provide the schedule. This is not the apparent intent of the legislation.
(KD)

<p>that water can flow away from the foundation. Fill soil in any areas that have settled around the foundation.</p> <p>(H) Trim back tree branches, shrubs and other plants to make sure they are not in contact with the structure.</p> <p>(I) Check landscaping sprinklers to make sure that they are not set so that they will soak siding or form puddles near the foundation. Adjust if necessary.</p> <p>(b) At least twice a year, check and repair missing, cracked or peeling caulking or weather-stripping around window sills, door frames and in siding gaps.</p> <p>(c) At least once every two months, check to make sure that interior mechanical ventilation systems (such as bathroom, kitchen and utility room vent fans) are in good working order. Repair if necessary.</p> <p>(5) Signs of water damage may include, but are not limited to, dampness, staining, mildewing (blackened surfaces with musty smell) and softness in wood members (possible sign of dry rot).</p> <p>(6) If water damage is discovered, investigation should be made into the source of the water damage. Steps should be taken to repair or replace building components or materials that allowed moisture intrusion leading to the water damage. Additional steps may need to be taken depending on the extent of the water damage.</p> <p>(7) The maintenance schedule in section (4) contains the minimum information that a contractor [øf] that constructs a new residential structure or zero-lot-line dwelling must provide. A contractor may offer a maintenance schedule with additional information, recognizing the uniqueness of each structure and its material components. A contractor may use any form or layout for its maintenance schedule, provided that it contains the information in section (4).</p> <p>(8) The contractor [øf] that constructs a new residential structure or zero-lot-line dwelling shall provide a copy of its maintenance schedule to the first purchaser or owner no later than 60 days after substantial completion of the structure or dwelling, or occupancy of the structure or dwelling, whichever occurs later.</p> <p><u>(9) For purposes of this rule, a contractor that constructions a new residential structure or zero-lot-line dwelling refers to the prime or general contractor that contracts with the homeowner or sells to the first purchaser. Subcontractors that do not have a contractual relationship with the homeowner or first purchaser are not required to deliver a maintenance schedule.</u></p> <p>Stat. Auth.: ORS 670.310 & 701.235 Stats. Implemented: ORS 701.335 (6/08)</p>	
<p>[812-001-0300] 812-012-0140 Requirements for Notice of Compliance with Homebuyer Protection Act</p> <p>(1) Under ORS 87.007(3), a seller of residential property must deliver a Notice of Compliance with Homebuyer Protection Act on or before the date the sale of the property closes to the purchaser of:</p> <p>(a) A new single family residence, condominium or residential building; or (b) An existing single-family residence, condominium or residential building where:</p> <p>(A) The price for original construction, including but not limited to an</p>	<p>Renumbered to 812-012-0140. (KD)</p>

<p>addition to the single family residence, condominium or residential building, that is completed within three months prior to the date of the sale of the property is \$50,000 or more; or</p> <p>(B) The contract price for improvements to the single-family residence, condominium or residential building that are completed within three months prior to the date of the sale of the property is \$50,000 or more.</p> <p>(2) The seller must deliver the notice required under ORS 87.007(3) on or before the close of the sale of the property.</p> <p>(3) The notice required under ORS 87.007(3) shall be on the form adopted under OAR 812-001-0200.</p> <p>(4) Under ORS 87.007(3), a seller of residential property may specify on the Notice of Compliance with Homebuyer Protection Act that ORS 87.007(2) does not apply to the sale of the property if the seller knows that no person may enforce a valid lien against the property because:</p> <p>(a) The last day to perfect any lien on the property under ORS 87.035 was prior to the date of sale of the property; and</p> <p>(b) No lien was perfected.</p> <p>Stat. Auth.: ORS 87.007, 670.310, & 701.235 Stats. Implemented: ORS 87, 87.007, & ch. 701 (temp. 12/03, 2/04, 5/04, 12/05) (Amended and renumbered from 812-001-0022, 12/05)</p>	
<p><u>[812-001-0305] 812-012-0145</u> Surety Bond Issued to Protect Purchasers of Residential Property from Lien Claims</p> <p>A seller of residential property may provide a surety bond to satisfy the requirements of ORS 87.007(2)(c), provided that the bond complies with the following requirements.</p> <p>(1) The bond must be issued by an insurer authorized or approved to do business in this state.</p> <p>(2) The bond must be issued on or after the date of completion of the residential property. For purposes of this rule, the “date of completion” shall be determined in accordance with ORS 87.045.</p> <p>(3) The bond must be issued in an amount of not less than 25 percent of the sales price of the residential property.</p> <p>(4) The bond shall remain in effect:</p> <p>(a) Not less than 75 days after the date of completion if no lien is perfected under ORS 87.035 against the residential property; or</p> <p>(b) If one or more liens are perfected against the residential property within 75 days from the date of completion, until:</p> <p>(A) All liens are released and the releases recorded;</p> <p>(B) The seller files a bond or makes a deposit and the seller files the required affidavit under ORS 87.076 to 87.081;</p> <p>(C) The surety files a bond or makes a deposit and the seller files the required affidavit under ORS 87.076 to 87.081; or</p> <p>(D) The surety pays the buyer the amount of the lien or the penal sum of the bond, whichever is less.</p> <p>(5) The bond shall include the following terms and conditions: “NOW, THEREFORE, the conditions of the foregoing obligation are that if the principal shall not permit any construction lien to be placed upon the subject property; shall obtain the release of all construction liens upon the subject</p>	<p>Amended and Renumbered to 812-012-0145. (KD)</p>

<p>property and have the releases recorded; or shall file a bond or deposit in accordance with ORS 87.076 to 87.081; then this obligation shall be void; otherwise to remain in full force and effect.</p> <p>“This bond is for the exclusive purpose of paying construction lien obligations encumbering (legal description or address of property) arising out of the sale by principal to (name(s) of purchaser(s)), in compliance with ORS 87.007(2)(c) and OAR [812-001-0305] 812-012-0145.</p> <p>“The bond shall be one continuing obligation, and the liability of the surety for the aggregate of any and all claims, which may arise hereunder, shall in no event exceed the penalty on this bond.</p> <p>“The bond shall remain in effect for not less than 75 days after the date of completion if no lien is perfected under ORS 87.035 against the property; or, if one or more liens are perfected against the property within 75 days from the date of completion, until (1) all liens are released and the releases recorded; (2) the principal files a bond or makes a deposit and the principal files the required affidavit under ORS 87.076 to 87.081; (3) the surety files a bond or makes a deposit and the surety files the required affidavit under ORS 87.076 to 87.081; or (4) the surety pays the liens.”</p> <p>Stat. Auth.: ORS 87.007, 670.310 & 701.235 Stats. Implemented: ORS 87.007 (10/04, 12/05) (Amended and renumbered from 812-001-0023, 12/05)</p>	
<p>[812-001-0310] 812-012-0150 Letter of Credit Issued to Protect Purchasers of Residential Property from Lien Claims</p> <p>(1) As used in this rule, “letter of credit” means an irrevocable standby letter of credit.</p> <p>(2) A seller of residential property may provide a letter of credit to satisfy the requirements of ORS 87.007(2)(c), provided that the letter of credit complies with the following requirements.</p> <p>(a) The letter of credit must be issued by or confirmed by an Oregon state-chartered bank or a federally chartered bank that has an Oregon branch.</p> <p>(b) The letter of credit must be issued on or after the date of completion of the residential property. For purposes of this rule, the “date of completion” shall be determined in accordance with ORS 87.045.</p> <p>(c) The letter of credit must be issued in an amount of not less than 25 percent of the sales price of the residential property.</p> <p>(d) The beneficiary of the letter of credit must be the purchaser of the property.</p> <p>(e) The letter of credit shall remain in effect:</p> <p>(A) Not less than 75 days after the date of completion if no lien is perfected under ORS 87.035 against the residential property; or</p> <p>(B) If one or more liens are perfected against the residential property within 75 days from the date of completion, until:</p> <p>(i) All liens are released and the releases recorded;</p> <p>(ii) The seller files a bond or makes a deposit and the seller files the required affidavit under ORS 87.076 to 87.081; or</p> <p>(iii) The issuing or confirming bank pays the purchaser of the property the amount of the lien or the amount of the letter of credit, whichever is less in accordance with the terms of the letter of credit.</p>	<p>Renumbered to 812-012-0150. (KD)</p>

<p>(f) The letter of credit can be called by the purchaser of the property immediately if:</p> <p>(A) The seller of the property permits any construction lien to be placed upon the property;</p> <p>(B) The seller of the property fails to obtain the release of all construction liens upon the property and have the releases recorded; or</p> <p>(C) The seller of the property fails to file a bond or deposit and record the required affidavit under ORS 87.076 to 87.081.</p> <p>(g) The credit shall be available by presentation of the purchaser of the residential property at sight on the issuing, or confirming, bank when accompanied by a notice of lien filing together with the claim of lien, as provided by ORS 87.039. The credit shall be available within three business days of presentation.</p> <p>Stat. Auth.: ORS 87.007, 670.310 & 701.235 Stats. Implemented: ORS 87.007 (10/04, 12/05) (Amended and renumbered from 812-001-0024, 12/05)</p>	
<p>812-003-0260 Application for New License</p> <p>(1) Each entity must complete an application form prescribed by the agency. Information provided on the form must include, but not be limited to:</p> <p>(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);</p> <p>(b) Mailing and location address of the business entity;</p> <p>(c) Legal name and address (which may be the business address) of:</p> <p>(A) The owner of a sole proprietorship;</p> <p>(B) All partners of a general partnership or limited liability partnership;</p> <p>(C) All joint venturers of a joint venture;</p> <p>(D) All general partners of a limited partnership;</p> <p>(E) All corporate officers of a corporation;</p> <p>(F) All trustees of a trust;</p> <p>(G) The manager and all members of a manager-managed 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, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph;</p> <p>(H) All members of a member-managed 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, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph; or</p> <p>(I) The responsible managing individual designated by the applicant.</p> <p>(d) Except for a public company, the date Date of birth and driver license number of:</p> <p>(A) The owner of a sole proprietorship;</p> <p>(B) All partners of a general partnership or limited liability partnership;</p> <p>(C) All joint venturers of a joint venture;</p>	<p>Amend (1)(d) and (1)(d)(J):</p> <p>The board previously amended this rule to exempt large corporations (with a market capitalization in excess of \$300 million) from reporting the</p>

(D) All general partners of a limited partnership;

(E) ~~For corporations with a market capitalization of less than \$300 million,~~
 aH] **All** corporate officers of a corporation;

(F) All trustees of a trust;

(G) The manager and all members of a manager-managed 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, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph;

(H) All members of a member-managed 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, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph; or

(I) The responsible managing individual designated by the applicant.

(J) For purposes of this subsection, a “public company” means any business entity that offers securities registered for sale by the federal Securities and Exchange Commission to the general public.

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

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

(g) License endorsement sought, as provided for under OAR 812-003-0131;

(h) The identification number of the responsible managing individual who has completed the education and passed the examination required under ORS 701.122 or is otherwise exempt under Division 6 of these rules;

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

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

(k) For each person described in subsection (1)(c) of this section, the following information if related to construction activities:

(A) If unsatisfied on the date of application, a copy of a final judgment by a court in any state entered within five years preceding the application date that requires the person to pay money to another person or to a public body;

(B) If unsatisfied on the date of application, a copy of a final order by an administrative agency in any state issued within five years preceding the application date that requires the person to pay money to another person or public body;

(C) If pending on the date of application, a copy of a court complaint filed in any state that alleges that the person owes money to another person or public body; or

(D) If pending on the date of application, a copy of an administrative notice of action issued in any state that alleges that the person owes money to another person or public body.

(l) For each person described in subsection (1)(c) of this section, the following information if related to construction activities;

(A) A copy of a judgment of conviction for a crime listed in ORS 701.098(1)(h), entered within five years preceding the application date; or

dates of birth and driver’s license numbers of corporate officers. The agency later discovered that there are other business entities, such as partnerships and LLCs, which present a similar issue. In order to apply the exemption fairly, the proposed rule does not distinguish between business entities. In addition, the rule focuses on whether the companies have securities registered with the federal SEC. If so, the companies are already providing detailed information about their directors, partners, members or others that acquire financial interests greater than 5%. The agency has submitted a similar legislative concept. The rule amendment would be consistent with that concept, if enacted.

(KD)

(B) A copy of an indictment for a crime listed in ORS 701.098(1)(h), entered within five years preceding the application date.

(C) In addition to documents required in paragraphs (1)(l)(A) and (B) of this section, copies of police reports, parole or probation reports indicating parole or probation officer's name and phone number, and letters of reference.

(m) 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;

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

(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, letter of credit or assignment of savings as required under OAR 812-003-0152, 812-003-0153, or 812-003-0155; 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, 701.050, 701.056, 701.068, 701.073, 701.081, 701.088 & 701.122

(12/04, 8/05, 5/06, 9/06, 12/06, 8/07, 12/07, 2/08, 3/08, 6/08)