



CONSTRUCTION CONTRACTORS E-BULLETIN BOARD

HELPING TO PREVENT AND RESOLVE PROBLEMS IN THE CONSTRUCTION INDUSTRY

JULY 2011

- ▶ CCB adopts exemptions...Pg 2
- ▶ 2011 New laws.....Pg 3
- ▶ Changes to CCB's DRS...Pg 5
- ▶ LBP: One year later.....Pg 6
- ▶ Civil Penalties.....Pg 7

Construction Contractors Board

Issue 80

This electronic newsletter gives Oregon contractors information on laws, policies and activities of the CCB and better business practices.

CCB Mission:

The CCB protects the public interest relating to improvements to real property. The Board regulates construction contractors and promotes a competitive business environment through education, contractor licensing, dispute resolution and law enforcement.

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CCB releases two more continuing education course for residential contractors

The Construction Contractors Board released its second and third online residential continuing education courses.

The first course, titled Residential Contracts, Contract Terms and Required Notices was released on April 25, 2011.

The second course, Contractor Endorsements and Structure Types; Why they matter was released on June 20, 2011. The third course, Residential Contractors Guide to Preventing and Resolving Disputes followed approximately one month later.

Each course is one hour and costs \$15.00 per credit hour.

Residential Contractors renewing on or after October 1, 2011 are required to have completed sixteen hours of continuing education. Each course qualifies toward one hour of the three required hours in the Laws, Regulations and Business Practices area of the CORE continuing education requirement.

"We are excited to be able to make these courses available," says Gina Fox, spokesperson for the CCB. "Our plans are to follow-up with more so contractors will have more choices".

The link to register for CCB-offered online courses is available below:
<https://portal.ccb.state.or.us/?loginType=>

Contractors will be asked to register for a CCB Online Services account (or log in once an account is established) in order to access online courses. Currently, only the individuals that are part of the licensing record are able to access CCB's continuing education courses.

The CCB will begin working with industry leaders to bring a limited number of "live" courses beginning this summer to supplement the online program.

Developing continuing education courses and the delivery systems is new ground for the agency. Feedback on the courses and what contractors would like to see in the future is important and contractors can include their thoughts as part of the course survey.

Contractors can find more information about residential continuing education and the requirements at www.oregon.gov/CCB.

Construction Contractors Board adopts several exemptions from Residential Continuing Education

Senate Bill 155, passed by the 2011 Legislative Session, paves the way for the Oregon Construction Contractors Board (CCB) to adopt temporary rules exempting certain contractors from some of the Residential Continuing Education (RCE) core requirements.

Contractors that have an electrical or plumbing license through the Department of Consumer and Business Services, Building Codes Division, are exempt from the three hours in Building Exterior Shell Training (BEST) and the two hour requirement in building codes.

In addition, contractors who have an owner or officer licensed as an architect or a professional engineer are exempt from the BEST and building codes requirement.

They all must, however, take the 3 hours of core in CCB Laws, Regulations and Business Practices.

Exempted contractors must substitute the five exempted hours with five elective hours.

Residential contractors must begin to demonstrate compliance with continuing education with license renewals on or after October 1, 2011.

For more information on continuing education visit the CCB website at: www.oregon.gov/CCB

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CCB By The Numbers (April - June 2011)

Licensing:

Number of Licensed Contractors	38,918
Number of new applications	760
Number of renewal	4690

Dispute Resolution:

Number of complaints filed	351
Number of investigations	135
Number of settlements	74
Number of final orders issued for damages	130

Enforcement:

Complaints of illegal activity	1679
Jobsite inspections	1477
Investigations opened	1679
Final Orders issued	519
Number of licenses suspended	130

Education:

Number of tests	760
Number of candidates passing on 1st attempt	609

Customer Service:

Incoming telephone calls	22,606
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2011 Legislation: New laws affecting construction contractors

The 76th Legislative Assembly adjourned the 2011 Session on June 30, 2011. Below are the bills passed (by topic) affecting construction contractors. The information includes when the law takes effect (Operative date) and the bill number and its section within the bill.

To read full text of the bills, go to www.leg.state.or.us/bills_laws/

Agricultural Exemptions

Operative date: June 1, 2011

Legislation: SB 704, sec. 1 (Or Laws 2011, ch. 174, sec. 1)

Persons are exempt from needing a CCB license to do work as contractor if the person performs work for the purposes of one of the following.

1. Agricultural drainage.
2. Agricultural trenching.
3. Agricultural irrigation.
4. Constructing agricultural fences to control livestock.

Appurtenance

Operative date: January 1, 2012

Legislation: SB 155, secs. 1 & 2 (Or Laws 2011, ch. 170, secs. 1 & 2)

An "appurtenance" refers to an accessory improvement to real estate associated with the structure, like a fence or swimming pool.

SB 155 defines the term "residential structure" to include an "appurtenance to a home, structure, unit or dwelling." SB 155 also defines the term "small commercial structure" to include an "appurtenance."

Construction Debt

Operative date: July 6, 2011

Legislation: SB 939, sec. 38 (Or Laws 2011, ch. 630, sec. 38)

Under existing law, CCB may refuse to issue or may suspend a license if a contractor, or a business with which the contractor is or has been associated, has a "construction debt." SB 939 expands the term "construction debt" to include an arbitration award, in addition to a court judgment or civil penalty.

Construction Lien

Operative date: January 1, 2012

Legislation: SB 382 (Or Laws 2011, ch. 505)

A contractor claiming a lien, notice of which must be provided to a mortgage holder, is only required to deliver the notice if the name and address of the mortgage holder appears in a mortgage or trust deed recorded by the county clerk.

Continuing Education – Residential Contractors

Operative date: January 1, 2012

Legislation: SB 155, sec. 5 (Or Laws 2011, ch. 170, sec. 5)

CCB shall adopt criteria for exempting certain contractors from building code or building exterior shell continuing education (CE). These contractors must substitute equivalent elective hours to offset their CE requirements.

Continuing Education – Training Providers

Operative date: January 1, 2012

Legislation: SB 155, sec. 6 (Or Laws 2011, ch. 170, sec. 6)

CCB may approve private and public education and training as qualifying for continuing education. Such programs must be designed to directly contribute to the professional competency of residential contractors.

Dispute Resolution – Arbitration

Operative date: July 1, 2011 (Complaints filed on or after this date)

Legislation: SB 939 (Or Laws 2011, ch. 630)

Continued on page 4

Beginning with complaints filed with the CCB on or after July 1, 2011, Dispute Resolution Services will include mediation only (DRSMO). There will be no arbitration staffed by the Office of Administrative Hearings (OAH). This includes voluntary arbitrations in which the parties agree to allow OAH to resolve their issues.

Dispute Resolution – Attorney Fees

Operative date: July 1, 2011 (Complaints filed on or after this date)

Legislation: SB 939, secs. 46 & 47 (Or Laws 2011, ch. 630, secs. 46 & 47)

For complaints arising out of residential (or certain small commercial) construction, the CCB's determination for payment may not include payment of attorney fees awarded in either a court judgment or Bureau of Labor and Industries final order. For complaints arising out of large commercial (or certain small commercial) construction, the CCB's determination for payment may include payment of attorney fees awarded in a court judgment.

Dispute Resolution – Contested Case

Operative date: July 1, 2011 (Complaints filed on or after this date)

Legislation: SB 939 (Or Laws 2011, ch. 630)

Beginning with complaints filed with the CCB on or after July 1, 2011, Dispute Resolution Services will include mediation only (DRSMO). There will be no contested case staffed by the Office of Administrative Hearings.

Dispute Resolution – Contractual Arbitration or Mediation

Operative date: July 1, 2011 (Complaints filed on or after this date)

Legislation: SB 939, sec. 51 (Or Laws 2011, ch. 630, sec. 51)

Filing a complaint with the CCB does not change the mediation or arbitration obligations of the parties as provided for in their contract. The CCB mediation process, however, may go forward if the contractor does not invoke the contract process.

Dispute Resolution – Lien Against Contractor

Operative date: July 6, 2011

Legislation: SB 939, sec. 50 (Or Laws 2011, ch. 630, sec. 50)

If the CCB issues an order on a complaint filed before July 1, 2011, and the order is not paid by the contractor or bonding company in full, the complainant may file a lien for the unpaid balance. This provision does not apply, however, to complaints filed on or after July 1, 2011.

Dispute Resolution – Offsets

Operative date: July 1, 2011 (Complaints filed on or after this date)

Legislation: SB 939, sec. 45 (Or Laws 2011, ch. 630, sec. 45)

the CCB will no longer be able to "offset" from damages suffered by complainants the amounts contractors are owed. If not resolved by mediation, resolution of disputes will be heard in court – where offsets and counterclaims will be resolved.

Dispute Resolution – Stay of Foreclosure Actions

Operative date: July 1, 2011 (Complaints filed on or after this date)

Legislation: SB 939, sec. 53 (Or Laws 2011, ch. 630, sec. 53)

SB 939 repeals ORS 87.058, which allows circuit courts to stay (place on hold) foreclosure actions because the homeowner filed a complaint with the CCB. Because homeowner complaints will now proceed in court (not by administrative arbitration or contested case), the statute is unnecessary for complaints filed on or after July 1, 2011.

Forest Land Exemption

Operative date: June 1, 2011

Legislation: SB 704, sec. 1 (Or Laws 2011, ch. 174, sec. 1)

Persons are exempt from needing a CCB license to perform work on forest lands for which a notice of operation has been filed with the State Board of Forestry.

Home Inspection

Operative date: January 1, 2012

Legislation: SB 153 (Or Laws 2011, ch. 79)

the CCB may, by rule, identify businesses or individuals whose work might otherwise be a home inspection. However, these persons would not need to be home inspectors if the inspection is not a sufficient assessment of a home's overall physical condition that would require the services of a certified home inspector.

Notice of Defects

Operative date: January 1, 2012

Legislation: SB 383 (Or Laws 2011, ch 268)

Under existing law, before a person may compel arbitration or file a lawsuit against a contractor for damages arising from any defect in construction, they must first notify the contractor. The 2011 law eliminates this requirement if (1) the person files a lawsuit in small claims court or (2) the contractor initiates the lawsuit and the person is responding. Also, the notice of defect may be sent by certified mail, not registered mail, as required under existing law.

Surety Bond – Court Order for Payment

Operative date: July 1, 2011 (Complaints filed on or after this date)

Legislation: SB 939 (Or Laws 2011, ch. 630)

In order for a surety company to pay a complaint filed on or after July 1, 2011, there must be:

1. A final judgment issued by a court.
2. An arbitration award that a court has reduced to a judgment.
3. In the event of a wage complaint, a court judgment or a final order of the Bureau of Labor and Industries.

Surety Bond – Payment Determined by CCB

Operative date: July 1, 2011 (Complaints filed on or after this date)

Legislation: SB 939, sec. 39 (Or Laws 2011, ch. 630, sec. 39).

Beginning with complaints filed with the CCB on or after July 1, 2011, bonding companies will pay an amount determined by CCB. This reflects a change to Dispute Resolution Services (DRS). Under the new law, DRS will include mediation only, (DRSMO), not arbitration or a contested case staffed by the Office of Administrative Hearings. As a result, the CCB will no longer issue proposed and/or final orders subject to administrative review, but, instead, will issue determinations ordering payment.

Big Changes Coming in Construction Contractors Board Dispute Resolution Services Program

On July 1, 2011 the Construction Contractors Board (CCB) Dispute Resolution Services (DRS) program made significant changes to its program. Because of the relatively short amount of time between the Legislature finalizing the new laws impacting the program and its effective date, the agency is working diligently to make changes to the website and related documents, though it may take time.

For complaints filed on and after July 1, 2011, DRS will provide only mediation services. If the parties do not settle the complaint, the complainant must go to court and obtain a court judgment before DRS can send it to the contractor's surety for payment.

This change is made necessary by the recent sharp slowdown in construction that resulted in a significant drop in the number of licensed contractors and the license fees paid to the CCB.

To adjust to this drop in revenue, the legislature made significant cutbacks in the CCB's budget for the DRS program. This reduced budget recently was signed into law by the Governor.

The legislation and draft rules implementing the necessary changes are still being finalized. Parties interested in the DRS program should continue to check the CCB website at <http://www.oregon.gov/ccb> at for more information. In addition, the agency developed a list serve for automatic email notification of changes.

Registration for the list serve can be done by clicking on the below email link drsservicetransition-request@listsmart.osl.state.or.us and in the message body enter the word "Subscribe"

Lead-Based Paint Laws: Over a year later

On April 22, 2010, federal law required contractors and business that renovate (remodel, repair, or work on) older homes and some other buildings (known as target housing and child-occupied facilities) to comply with the new Lead-Based Paint (LBP) licensing regulations. This is referred to as the Renovation, Repair and Painting (RRP) program.

On May 3, 2010, Oregon received the federal authorization needed to administer and enforce the federal program at the state level. Oregon's program is administered jointly by the Construction Contractors Board (CCB) and the Oregon Health Authority (formerly Department of Human Services (DHS)).

CCB Certified Lead-Based Paint Renovation

In Oregon, for construction contractors to perform renovation on target housing or child occupied facilities, a Certified LBP Renovation (LBPR) Contractor License must be obtained through the CCB. So far, the CCB has licensed more than 3,700 contractors.

To qualify for the Certified LBP Renovation Contractors License, an owner or employee of a CCB licensed business must take the required Renovation, Repair and Painting (RRP) training and receive a completion certificate. The contractor submits a copy of the completion certificate along with the required application and fee to the CCB.

The license fee is \$50 and is good for one year. A business may renew its license annually for \$50.

The application is available on the CCB website or by clicking on the link below. <http://ccbed.ccb.state.or.us/WebPDF/CCB/Lead%20Based%20Paint/LBPR%20application.pdf>

About RRP training

The Renovation, Repair and Painting (RRP) training is an 8-hour course that business owners or employees take to become a Certified Renovator. Upon completion of the course, the individual receives a course completion certificate. The RRP course completion certificate is valid for five years.

For an RRP course to qualify for CCB's Certified LBP Renovation License, it must be offered by a training provider accredited by the federal Environmental Protection Agency (EPA) or the Oregon Health Authority. CCB does not accredit or approve training providers for RRP training.

Contractors can find an accredited RRP provider at the link below: <http://www.oregon.gov/DHS/ph/leadpaint/RRPTraining.shtml>.

For information on Lead-Based paint requirements, visit the CCB website at: www.oregon.gov/CCB/lead-based-paint.shtml