Chapter 671

2011 EDITION

Architects; Landscape Professions and Business

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ARCHITECTS

671.010 Definitions for ORS 671.010 to 671.220. As used in ORS 671.010 to 671.220, unless the context requires otherwise:

(1) "Architect" means an individual qualified and licensed to practice architecture under ORS 671.010 to 671.220.

(2) "Board" means the State Board of Architect Examiners.

(3) "Building" means any structure consisting of foundations, floors, walls and roof, having footings, columns, posts, girders, beams, joists, rafters, bearing partitions, or a combination of any number of these parts, with or without other parts or appurtenances thereto.

(4) "Consulting architect" means a person who is licensed by a jurisdiction in the United States or Canada to use the title of "Architect" and engage in the unlimited practice of architecture and who is not subject to practice restrictions as the result of disciplinary action by any architect licensing board.

(5) "Foreign architect" means a person who is licensed by a country other than the United States or Canada to use the title of "Architect" and engage in the unlimited practice of architecture and who is not subject to practice restrictions as a result of disciplinary action by the architect licensing board issuing the license.

(6) "Practice of architecture" means the planning, designing or supervising of the erection, enlargement or alteration of any building or of any appurtenance thereto other than exempted buildings.

(7) "Registered professional engineer" means a person defined in ORS 672.002 and described in ORS 672.002 to 672.325.

(8) "State Building Code" means the State of Oregon Structural Specialty Code and Fire and Life Safety Code. [Amended by 1957 c.408 §1; 1961 c.585 §1; 1977 c.803 §1; 2003 c.763 §1]

671.020 Registration requirement; consulting architects; foreign architects; rules; use of title; stamp; use of name. (1) In order to safeguard health, safety and welfare and to eliminate unnecessary loss and waste in this state, a person may not practice the profession of architecture or assume or use the title of "Architect" or any title, sign, cards or device indicating, or tending to indicate, that the person is practicing architecture or is an architect or represent in any manner that the person is an architect, without first qualifying before the State Board of Architect Examiners and obtaining a certificate of registration as provided by ORS 671.010 to 671.220.

(2) Notwithstanding subsection (1) of this section, a consulting architect may practice the profession of architecture if the consulting architect:

(a) Is affiliated with a board-certified architect who is in responsible charge of all aspects of the architectural services provided; and

(b) Uses the designation of "Consulting Architect, in consultation with," followed by the name of the Oregon architect described in paragraph (a) of this subsection and the name of the architectural firm.

(3) Notwithstanding subsection (1) of this section, a foreign architect may practice architecture if:

(a) The foreign architect is affiliated with a board-certified architect who is in responsible charge of all aspects of the architectural services provided;

(b) The foreign architect uses the designation of "Foreign Architect, in consultation with," followed by the name of the Oregon architect described in paragraph (a) of this subsection and the name of the architectural firm; and

(c) The board determines that the jurisdiction in which the foreign architect is licensed has adequate education and training standards. The board, by rule, may recognize agreements between a national certification organization and the foreign jurisdiction as proof of education and training standards.

(4) A person may not practice or attempt to practice the profession of architecture, or assume the title of "Architect," "Consulting architect" or "Foreign architect," or use in connection with the business of the person any words, letters or figures indicating the title of "Architect," "Consulting architect" or "Foreign architect" without first complying with ORS 671.010 to 671.220.

(5) Every registered architect shall, upon registration, obtain a stamp of the design authorized by the board, bearing the name of the registrant and the legend "Registered Architect, State of Oregon." All drawings and the title page of all specifications intended for use as construction documents in the practice of architecture must bear the stamp of a registered architect and be signed by the architect. The stamp and signature constitute certification that the architect has exercised the requisite professional judgment about and made the decisions upon all matters embodied within those construction documents, that the documents were prepared either by the architect or under the direct control and supervision of the architect and that the architect accepts responsibility for them.

(6) A licensed architect shall pursue the profession under the architect's own name only, as it appears in the architect's license, except as provided by ORS 671.041. [Amended by 1955 c.407 §1; 1957 c.408 §2; 1961 c.585 §4; 1971 c.587 §1; 1977 c.803 §2; 1979 c.354 §1; 2003 c.763 §2]

671.025 Certain plans to carry stamp; identification. (1) Any person applying for a license or permit required under the laws of this state or the ordinances of any jurisdiction in which the person proposes to erect, construct, enlarge, alter, repair, move, improve, remove or convert a building shall submit an original or reproduction of the plans and specifications for the work proposed. The plans and specifications shall bear the stamp of a registered architect, or of a registered professional engineer, where the services of a registered architect or of a registered professional engineer are required by the provisions of ORS 671.010 to 671.220, and shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed and that the work proposed conforms to ORS 671.010 to 671.220, State Building Code and to any other applicable laws and ordinances.

(2) The plans and specifications shall bear identification which shall include, but not be limited to:

(a) The project name and location;

(b) The name, address and telephone number of the person responsible for the preparation of the documents;

(c) The name, address and telephone number of the owner; and

(d) The date the documents were issued.

(3) Each jurisdiction which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement or repair of any building or structure shall require the signature and registration stamp on the plans and specifications from a person allowed under the provisions of this section to prepare the plans and specifications.

(4) The registration stamp and signature on the plans and specifications of a person registered under this section to prepare the plans and specifications shall constitute compliance with this section.

(5) The provisions under this section shall not apply to the issuance of permits where the preparation of plans and specifications for the construction, alteration, improvement or repair of a building or structure is exempt from the provisions of this section except that the person preparing the plans and specifications for others shall be so identified. [1961 c.585 §3; 1977 c.803 §3; 1991 c.910 §1]

671.030 Activities not considered as "practice of architecture." (1) ORS 671.010 to 671.220 do not apply to the practice of naval or landscape architecture or of engineering by a registered professional engineer or a person engaged in architecture or engineering work as an employee of an architect or registered professional engineer.

(2) ORS 671.010 to 671.220 do not prohibit:

(a) Draftsmen, clerks of the work, superintendents and other employees of registered architects and registered professional engineers from acting under the instructions, control or supervision of their employers. A draftsman, clerk, superintendent or other employee may not use the designation "architect," "architectural" or "architecture" unless licensed under the provisions of ORS 671.010 to 671.220, or unless a title containing the designation is provided by rule of the State Board of Architect Examiners.

(b) A person from making plans or specifications for, or supervising the erection, enlargement or alteration of, a building, or an appurtenance thereto, if the building:

(A) Is to be used for a single family residential dwelling or farm building; or

(B) Is a structure used in connection with or auxiliary to a single family residential dwelling or farm building, including but not limited to a three-car garage, barn or shed or a shelter used for the housing of domestic animals or livestock.

(c) A person from making plans or specifications for, or supervising the erection, enlargement or alteration of, a building, or an appurtenance thereto, if the building has a ground area of 4,000 square feet or less and is not more than 20 feet in height from the top surface of lowest flooring to the highest interior overhead finish of the structure.

(d) A person from planning, designing, specifying or supervising the alterations or repairs to a building if:

(A) The structural part of the building, including but not limited to the foundation walls, floors, roof, footings, bearing partitions, beams, columns and joists, is not involved;

(B) The building code classification by use or occupancy of the building is not changed; and

(C) The building code classification by type of construction of the building is not changed.

(e) A contractor or duly appointed superintendent or foreman from directing the work of erecting, enlarging or altering a building, or an appurtenance thereto, under

the supervision of a registered architect or registered professional engineer.

(f) A person practicing marine, naval or landscape architecture from purporting to be a marine, naval or landscape architect if the work is confined and limited to those classifications.

(g) A construction contractor licensed under ORS chapter 701 from offering services constituting the practice of architecture if:

(A) The services are appurtenant to construction services to be provided by the contractor;

(B) The services constituting the practice of architecture are performed by an architect or architects registered under ORS 671.010 to 671.220; and

(C) The offer by the construction contractor discloses in writing that the contractor is not an architect and identifies the registered architect or architects who will perform the services constituting the practice of architecture. [Amended by 1955 c.407 §2; 1957 c.408 §3; 1987 c.158 §134; 1991 c.910 §2; 2001 c.362 §1; 2003 c.763 §3]

671.040 [Amended by 1961 c.585 §5; 1965 c.303 §1; repealed by 1969 c.596 §1 (671.041 enacted in lieu of 671.040)]

671.041 Practice of architecture by corporations, limited liability companies and partnerships; exceptions; annual statement of directors or members; documents to be stamped; reciprocity; rules. (1) A corporation, limited liability company or partnership may engage in the practice of architecture in this state under a corporate or assumed business name if the directors of the corporation representing at least a two-thirds percentage of the board of directors, the members of the limited liability company holding at least a two-thirds ownership interest or the partners of the partnership holding at least a two-thirds ownership interest are registered or licensed as architects or as engineers in any jurisdiction recognized by rule of the State Board of Architect Examiners or the State Board of Examiners for Engineering and Land Surveying and provided that:

(a) The directors of the corporation representing at least a one-third percentage of the board of directors, the members of the limited liability company holding at least a one-third ownership interest or the partners of the partnership holding at least a one-third ownership interest shall be architects registered or licensed in any jurisdiction recognized by rule of the State Board of Architect Examiners and that all persons in charge of the practice of architecture in this state for the corporation, limited liability company or partnership shall be:

(A) Members of the board of directors of the corporation, members of the limited liability company or partners of the partnership;

(B) Regularly employed in the office of the corporation, limited liability company or partnership that directs and has supervisory control of the practice of architecture in this state; and

(C) Registered as architects under ORS 671.010 to 671.220;

(b) A corporate or assumed business name does not include the surname of an individual who is not presently or was not previously associated in the practice of architecture or engineering in this state or in any jurisdiction recognized by rule of the State Board of Architect Examiners or the State Board of Examiners for Engineering and Land Surveying with the named entity or its members or predecessors; and

(c) The corporate or assumed business name identifies the corporation, limited liability company or partnership as being engaged in the practice of architecture.

(2) The president of a corporation, the senior member of a limited liability company or the senior partner of a partnership practicing architecture under an assumed name shall file annually during the month of January with the State Board of Architect Examiners a statement containing the names of all directors of the corporation, all members of the limited liability company or all partners of the partnership. The statement shall indicate whether the directors, members or partners are registered or licensed architects or engineers and shall list the jurisdictions in which they are registered or licensed. The statement shall also indicate the ownership interest of each member of a limited liability company or of each partner of a partnership.

(3) All professional documents issued by the corporation, limited liability company or partnership that are required by ORS 671.010 to 671.220 to bear the stamp of an architect shall bear the stamp of the architect responsible for the preparation thereof and shall also bear the corporate or assumed business name of the corporation, limited liability company or partnership.

(4) Notwithstanding the provisions of subsection (1) of this section, a professional corporation that existed on September 29, 1991, may engage in the practice of architecture if the stockholders owning a majority of the stock of the corporation are registered as architects under ORS 671.010 to 671.220 or professional engineers under ORS 672.002 to 672.325.

(5) As used in this section:

(a) "Corporation" includes a domestic private corporation, foreign private corporation, domestic cooperative corporation, foreign cooperative corporation, domestic professional corporation and foreign professional corporation.

(b) "Partnership" includes a domestic general partnership, foreign general partnership, domestic limited partnership, foreign limited partnership, domestic registered limited liability partnership and foreign registered limited liability partnership.

(6) In adopting rules required by this section, the State Board of Architect Examiners or the State Board of Examiners for Engineering and Land Surveying shall recognize jurisdictions that enforce requirements for registration or licensing of architects or engineers that are substantially equal to the requirements for registration or licensing of architects or engineers in this state. [1969 c.596 §2 (enacted in lieu of 671.040); 1971 c.587 §2; 1977 c.803 §4; 1985 c.764 §2; 1991 c.910 §3; 1995 c.327 §§1,6]

671.045 Liability of professional corporation. ORS 671.041 to 671.047 do not affect the law applicable to the professional relationship and liabilities between a person rendering professional service and a person receiving the service, and ORS 671.041 to 671.047 do not affect the standards of professional conduct of a profession. A shareholder, director, officer, employee or agent of a professional corporation may be held personally liable for negligent or wrongful acts or misconduct committed by that person, or by a person under the direct supervision and control of that person, while rendering professional service on behalf of the corporation to a person receiving the service the same as though the service was being rendered by an individual. A shareholder, director or officer may also be held liable for negligent or wrongful acts or misconduct in participation with such acts or misconduct of another shareholder, director or officer of the corporation. The corporation is jointly and severally liable up to the full value of its assets for such acts or misconduct. However, the shareholders, directors, officers, employees and agents of the corporation are not personally liable for the debts or other contractual obligations of the corporation. [1969 c.596 §3; 1977 c.803 §5; 1991 c.910 §4; 1997 c.249 §203]

671.047 Application of general corporation law to professional corporations. The Oregon Business Corporation Act is applicable to professional corporations and they enjoy the powers and privileges and are subject to the duties, restrictions and liabilities of corporations organized under the Oregon Business Corporation Act, except when inconsistent with ORS 671.041 to 671.047. ORS 671.041 to 671.047 take precedence in the event of any conflict with provisions of the Oregon Business Corporation Act or other law. [1969 c.596 §4; 1977 c.803 §6]

671.050 Application for certificate of registration; qualifications. (1) Any person desiring the right to practice architecture in the State of Oregon shall make application to the State Board of Architect Examiners 15 days prior to any meeting of the board upon such forms and in such manner as may be provided by the board. In addition to the qualifications required by ORS 671.010 to 671.220, each applicant shall be at least 18 years of age.

(2) Each applicant for a certificate of registration shall pay to the board the required fee. [Amended by 1973 c.827 §62; 1973 c.832 §21; 1974 c.36 §20; 1977 c.803 §7]

671.060 Examination of applicants; issuing certificates; rules. (1) Examinations of applicants for certificates of registration shall be made by the State Board of Architect Examiners according to the method deemed by it to be the most practicable to test the applicants' qualifications. Examinations shall be written or oral or both written and oral and shall cover such subjects and be graded on such basis as the board shall determine by administrative rule. The board may adopt the examination and the recommended grading procedures of the National Council of Architectural Registration Boards. The board shall prescribe the minimum educational and experience requirements for applicants by administrative rule.

(2) A certificate of registration shall be granted to all applicants who after the examinations are, in the opinion of a majority of the board, properly qualified. A certificate shall be denied to applicants who, in the opinion of the majority of the board, are not properly qualified. [Amended by 1973 c.832 §22]

671.065 Certification based on recognition by national council or other jurisdictions. (1) The State Board of Architect Examiners may grant a certificate of registration without examination to any person who is not registered to practice architecture in this state but is certified by the National Council of Architectural Registration Boards or has lawfully been issued a license or certificate to practice in another jurisdiction of the United States or another country that has qualifications and licensing examinations substantially similar to those required in this state.

(2) A person who seeks to practice architecture in this state and meets the requirements for certification in subsection (1) of this section may offer to render architectural services without being issued a certif-

icate of registration by the board, if the architect advises the prospective client and the board in writing and submits an application for registration in this state. The person may use the title of "Architect" while offering to render architectural services, but may not represent that the person is qualified to practice under ORS 671.010 to 671.220. [1977 c.803 §9; 2003 c.763 §4]

671.070 [Repealed by 1977 c.803 §18 and 1977 c.842 §14]

671.080 Annual renewal; fee; effect of failure to renew; inactive status; rules. (1) Each registrant who desires to continue as an architect in this state shall annually submit to the State Board of Architect Examiners, on or before the renewal deadline established by board rule, a renewal application and the renewal fee authorized under ORS 671.085. The registrant shall also furnish evidence satisfactory to the board that the registrant has complied with any continuing education requirements adopted by the board under ORS 671.125, unless those requirements have been waived. Upon payment and, if required, the furnishing of satisfactory evidence, the board shall issue to the registrant a certificate of renewal of registration for a period of one year.

(2) If a registrant fails to have a certificate renewed on or before the renewal deadline established by board rule, the registrant is delinquent. The registrant may renew the certificate not later than the 30th day after the renewal date, without penalty, if the registrant pays the renewal fee and furnishes evidence satisfactory to the board that the registrant has complied with any continuing education requirements adopted by the board under ORS 671.125, unless those requirements have been waived. The registrant may renew the certificate after the 30th day after the renewal date, if the registrant pays the renewal fee plus a late fee in an amount to be prescribed by the board by rule, and furnishes evidence satisfactory to the board that the registrant has complied with any continuing education requirements adopted by the board under ORS 671.125, unless those requirements have been waived.

(3) Any person who fails to pay the renewal fee, with any late fees, or fails to furnish evidence satisfactory to the board that the registrant has complied with any continuing education requirements adopted by the board under ORS 671.125, unless those requirements have been waived, for a period of 60 days, forfeits the right to practice architecture in this state. The person may be reinstated as an architect only upon passing examinations required by the board, by complying with any continuing education requirements adopted by the board under ORS 671.125 and by paying any required fees and penalties.

(4) The board may grant inactive status to any registered architect who gives up the practice and while in good standing makes a request in writing to the board. The architect may resume practice by complying with any continuing education requirements adopted by the board under ORS 671.125 and paying any required fees and penalties. [Amended by 1957 c.408 §4; 1973 c.832 §23; 1977 c.803 §10; 1977 c.873 §2a; 1991 c.910 §5; 1997 c.643 §10; 1999 c.802 §§2,3; 2003 c.763 §5]

671.085 Fees; rules. In addition to any other fee imposed by the State Board of Architect Examiners by rule, the board may impose fees for the following:

(1) Registration.

(2) Renewal.

(3) Filing an application for Architectural Registration Examination.

(4) Architectural Registration Examination, resident and nonresident.

(5) Reciprocal application.

(6) Duplicate certificate.

(7) Corporation renewal.

(8) Corporation registration. [1973 c.832 §20; 1977 c.803 §11; 1981 c.121 §3; 1983 c.50 §1; 1989 c.795 §1; 1991 c.703 §17; 1997 c.643 §11; 2003 c.14 §412; 2003 c.763 §6]

671.090 Grounds for denial, suspension or revocation of certificates. The State Board of Architect Examiners may refuse to grant, reinstate or renew, or may suspend or revoke, a certificate of registration to practice architecture in this state upon proof of one or more of the following grounds:

(1) Using fraud or deception in applying for a certificate of registration or in passing an examination as provided in ORS 671.010 to 671.220.

(2) Falsely impersonating a practitioner or former practitioner.

(3) Practicing under an assumed, fictitious, or a corporate name contrary to the provisions of ORS 671.010 to 671.220.

(4) Demonstrating fraud, deceit, gross negligence, incompetency or misconduct in the practice of architecture.

(5) Willfully evading or attempting to evade any law, ordinance, code or regulation of the state, or counties and cities of this state, governing construction of buildings.

(6) Stamping or signing any plans, specifications or drawings that were not prepared by the architect or under the architect's direct control and supervision.

(7) Unbeknown to a party for whom the architect is doing work, receiving rebates, commissions, grants of moneys or favors

which the architect is not entitled to or justified in receiving.

(8) Practicing contrary to the provisions and requirements of ORS 671.010 to 671.220.

(9) Failing to comply with any continuing education requirements adopted by the board under ORS 671.125, unless the requirements have been waived by the board.

(10) Being convicted of any crime under circumstances that relate to the practice of architecture.

(11) Being the subject of disciplinary action taken by another jurisdiction. [Amended by 1973 c.832 §24; 1977 c.803 §12; 1979 c.354 §2; 1999 c.802 §5; 2003 c.165 §1]

671.100 Disciplinary action by board. (1) The State Board of Architect Examiners may revoke, suspend or annul the certificate of registration to practice architecture in this state of an architect, or reprimand, censure or otherwise discipline an architect, as provided in this section.

(2) Any person may prefer charges against a holder of a certificate of registration to practice architecture. The charges shall be in writing and sworn to by the complainant. They shall be forwarded to the board which shall act on the charges at its next regular meeting. [Amended by 1971 c.734 §105]

671.105 Hearing required in disciplinary action; judicial review of board orders. (1) Where the State Board of Architect Examiners proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license, or to reprimand, censure or otherwise discipline an architect, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS chapter 183. [1971 c.734 §107]

671.110 [Amended by 1955 c.407 §3; repealed by 1971 c.734 §21]

671.120 State Board of Architect Examiners; members; term; chair. The State Board of Architect Examiners shall operate as a semi-independent state agency subject to ORS 182.456 to 182.472 for the purpose of carrying out ORS 671.010 to 671.220. The board shall be composed of seven members appointed by the Governor to four-year terms with three terms maximum. The chair of the board shall be elected by the board from among the current members. The board shall have as members:

(1) Five architects who are residents of Oregon and who have resided in this state for a period of not less than five years; and

(2) Two members of the general public. [Amended by 1963 c.580 §24; 1971 c.753 §25; 1977 c.803 §13; 1981 c.121 §2; 1987 c.414 §41; 1991 c.910 §6; 1993 c.18 §144; 1997 c.643 §12; 1999 c.1084 §57]

671.125 Rulemaking authority of board. In accordance with any applicable provisions of ORS chapter 183, the State Board of Architect Examiners may:

(1) Adopt reasonable rules necessary for the administration of the laws the board is charged with administering; and

(2) Adopt reasonable rules prescribing standards of professional conduct for architects and rules requiring continuing professional education for architects. In adopting rules under this subsection, the board shall give consideration to national standards and practices as a means of facilitating reciprocal licensing of architects among jurisdictions recognized by the board. The board shall also consider local practices. [1977 c.803 §15; 1999 c.802 §1]

671.130 [Amended by 1963 c.580 §25; repealed by 1971 c.753 §74]

671.140 [Amended by 1969 c.596 §5; repealed by 1971 c.753 §74]

671.150 [Amended by 1957 c.408 §5; 1969 c.596 §6; repealed by 1971 c.753 §74]

671.160 [Repealed by 1971 c.753 §74]

671.165 [1961 c.431 §27; repealed by 1971 c.753 §74]

671.170 [Amended by 1961 c.585 §6; repealed by 1971 c.753 §74]

671.180 [Repealed by 1961 c.585 §8]

671.190 [Amended by 1957 c.408 §6; 1969 c.314 §73; repealed by 1971 c.753 §74]

671.200 [Repealed by 1971 c.753 §74]

671.210 [Amended by 1955 c.407 §4; repealed by 1971 c.753 §74]

671.220 Civil penalties; injunction; effect of failure to be licensed; representation of membership in trade or professional organization. (1) Any person who violates any provision of ORS 671.010 to 671.220 or any rule promulgated thereunder shall be assessed a civil penalty of not more than $5,000 for each offense. The provisions of this section are in addition to and not in lieu of any other penalty or sanction provided by law.

(2) If the State Board of Architect Examiners decides that any person has or is about to engage in an activity that is or will be a violation of any provision of ORS 671.020 or 671.041, the board may institute a proceeding in an appropriate circuit court to restrain the activity or proposed activity. An injunction may be issued without proof of actual damages, but does not relieve the defendant from criminal prosecution for violation of ORS 671.010 to 671.220.

(3) No person, partnership, limited liability company or corporation practicing architecture is entitled to maintain a proceeding in any court of this state relating to services in practicing architecture unless it is alleged

and proven that the person, partnership, limited liability company or corporation was licensed to practice architecture under ORS 671.010 to 671.220 at the time services were rendered.

(4) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(5) Nothing in ORS 671.010 to 671.220 shall be construed to prevent any person from representing the person's membership or affiliation with any bona fide professional or trade organization unless such representation is made to advance that person's unlicensed practice or unlawful attempt to practice the profession of architecture.

(6) Notwithstanding ORS 670.335, civil penalties recovered under this section shall be deposited into an account established by the board as provided in ORS 182.470. Moneys deposited are appropriated continuously to the board and shall be used only for the administration and enforcement of ORS 182.456 to 182.472 and 671.010 to 671.220. [Amended by 1961 c.585 §7; 1977 c.803 §16; 1983 c.389 §3; 1989 c.795 §§2,5; 1991 c.734 §64; 1995 c.327 §2; 1995 c.762 §1; 1997 c.643 §13; 1999 c.1084 §58]

LANDSCAPE ARCHITECTS

671.310 Definitions for ORS 671.310 to 671.459. As used in ORS 671.310 to 671.459, unless the context requires otherwise:

(1) "Board" means the State Landscape Architect Board.

(2) "Design" means layout, form and establishment of grades and tangible site features for services described in subsection (5) of this section.

(3) "Landscape architect" means an individual who engages in the practice of landscape architecture.

(4) "Landscape architect in training" means a person registered as a landscape architect in training under ORS 671.316 (3).

(5) "Landscape architecture" or the "practice of landscape architecture" means the performance of, or offer to perform, professional services that have the dominant purpose of landscape preservation, development and enhancement, including but not limited to reconnaissance, research, planning, landscape and site design, the preparation of related drawings, construction documents and specifications and responsible construction observation. "Landscape architecture" or the "practice of landscape architecture" includes the location, arrangement and design of tangible objects and features that are incidental and necessary for landscape preservation, development and enhancement.

(6) "Landscape preservation, development and enhancement" means:

(a) The preservation and aesthetic and functional enhancement of land uses and natural land features;

(b) The location and construction of aesthetically pleasing and functional systems, approaches and settings for structures, roadways and walkways or other improvements for natural drainage and erosion control;

(c) Design for trails, pedestrian systems, plantings, irrigation, site lighting, grading and drainage and other site features;

(d) Investigation, selection and allocation of land and water resources for appropriate uses;

(e) Feasibility studies;

(f) Formulation of graphic and written criteria to govern the planning and design of land conservation programs;

(g) Preparation, review and analysis of master plans for land use and development;

(h) Production of overall site plans, plans for grading, drainage, irrigation and planting, and related construction details;

(i) Development specifications, cost estimates and reports;

(j) Collaboration in the design of roads, bridges and structures with respect to the functional and aesthetic requirements of the areas where the roads, bridges and structures are to be placed;

(k) Negotiation and arrangement for execution of land area projects; and

(L) Field observation of land area construction, restoration and maintenance.

(7) "Registered landscape architect" means a person registered as a landscape architect under ORS 671.310 to 671.459.

(8) "Site features" means constructed surfaces, steps, retaining walls, fences, arbors, trellises, benches, decks, fountains, ponds, waterways, pools or other physical elements constructed or proposed for construction in the landscape. [1961 c.431 §1; 1963 c.580 §31; 1981 c.536 §1; 1983 c.455 §1; 1987 c.414 §42; 2001 c.950 §11; 2003 c.14 §413]

671.312 Purpose of ORS 671.310 to 671.459, 671.992 and 671.995. ORS 671.310 to 671.459, 671.992 and 671.995 are enacted in order to introduce qualifying criteria in the professional practice of landscape architecture. This action is necessary to safeguard public health, safety, welfare and property and to eliminate unnecessary loss and waste in this state. These safeguards are in the practice of landscape architecture as it relates to engineering, architecture, ground water, land use planning, landscape hazards, the further development of the practice of landscape architecture and the landscape ar-

chitectural concerns of the people of this state. [1983 c.455 §3; 1995 c.189 §1; 2001 c.950 §12]

671.315 [1981 c.536 §2; 1995 c.189 §2; repealed by 2001 c.950 §23]

671.316 Registration requirement for practice of landscape architecture; registration as landscape architect in training; rules. (1) Except as provided in this section, unless an individual is registered as a landscape architect by the State Landscape Architect Board, the individual may not engage in the practice of landscape architecture. Unless an individual is registered as a landscape architect by the board, the individual may not use the title of "landscape architect," "registered landscape architect" or "landscape architectural designer" or use other titles or any words, letters, figures, signs, cards, advertisements, symbols or other devices to represent that the individual or a business associated with the individual is authorized to practice landscape architecture.

(2) A person may not knowingly aid or abet an individual who is not registered as required under this section in the practice of landscape architecture.

(3) Notwithstanding subsections (1) and (2) of this section, the board may register a person as a landscape architect in training if the person meets the education and experience standards established by board rule and passes a board approved examination. The board shall adopt rules establishing fees and specifying the qualifications, duties, functions and powers of a landscape architect in training. [2001 c.950 §2]

671.318 Businesses providing landscape architecture services. A business may not provide landscape architecture services unless the work is under the full authority and responsible charge of a registered landscape architect who is also an owner or officer of the business. A business shall file a form with the State Landscape Architect Board identifying responsible landscape architects by name and registration number. The filing must also describe the services that the business is offering to the public. The filing must be in a form prescribed by the board. The business shall notify the board in writing no later than 30 days after a change of registered owners or officers or a change of business name or address. [2001 c.950 §3]

671.320 [1961 c.431 §2; repealed by 1977 c.842 §10]

671.321 Activities not considered practice of landscape architecture. (1) ORS 671.310 to 671.459, 671.992 and 671.995 do not restrict or otherwise affect the right of any person to:

(a) Practice architecture under ORS 671.010 to 671.220;

(b) Practice engineering under ORS 672.002 to 672.325;

(c) Engage in the occupation of growing and marketing nursery stock, or use the title "nurseryman" or "landscape nurseryman";

(d) Operate as a landscape construction professional or landscape contracting business under ORS 671.510 to 671.760 or use the title "landscape construction professional" or "landscape contractor";

(e) Engage in making plans or drawings for the selection, placement or use of plants or other site features unless the plans or drawings are for the purpose of providing construction details and specifications not otherwise exempted;

(f) Use the title "landscape designer" in connection with activities described under paragraph (e) of this subsection;

(g) Make any plans, drawings or specifications for property owned by that person; or

(h) Provide recommendations or written specifications for soil amendments or planting mediums if the recommendations or specifications are solely for purposes of plant installation and do not significantly alter the stability of the soil profile or surface drainage patterns.

(2) The scope of services described in ORS 671.310 (5) and (6) does not preclude a registered landscape architect from:

(a) Planning the development of land areas and elements used on land areas; or

(b) Performing services described in ORS 671.310 (5) and (6) in connection with the settings, approaches or environment for buildings, structures or facilities in accordance with legally established standards for public health, safety and welfare.

(3) ORS 671.310 to 671.459, 671.992 and 671.995 do not apply to:

(a) The preparation of detailed or shop drawings that a construction contractor is required to furnish or the administration of construction contracts by a person customarily engaged in contracting work.

(b) The preparation of technical submissions or the administration of construction contracts by employees of a landscape architect or a landscape architecture business when acting under the direct supervision of a registered landscape architect.

(c) Employees of the federal government acting within the scope of that employment. [2001 c.950 §5; 2007 c.541 §10; 2009 c.483 §6]

671.325 Application for registration; fee. (1) Any individual desiring to be registered as a landscape architect in this state shall make application to the State Landscape Architect Board 15 days prior to any meeting of the board upon such forms and in such manner as may be provided by the board. In addition to the qualifications required by ORS 671.310 to 671.459, each applicant shall be at least 18 years of age.

(2) Each applicant for a certificate of registration shall pay to the board the fee required under ORS 671.365. [1981 c.536 §3; 1987 c.414 §42a; 1995 c.189 §3; 2003 c.14 §414]

671.330 [1961 c.431 §§4,5; 1973 c.832 §24a; 1975 c.429 §19; repealed by 1977 c.842 §10]

671.335 Examination; qualifications for registration; rules. (1) Examination of an applicant for a certificate of registration shall be made by the State Landscape Architect Board according to the method deemed by it to be the most practicable to test the applicant's qualification. Examinations shall be written or oral or both written and oral and shall cover such subjects and be graded on such basis as the board shall determine by rule. The board may adopt the examination and the recommended grading procedures of the Council of Landscape Architectural Registration Boards or the standards and procedures of any other landscape architect association. The board shall prescribe the minimum education and experience requirements for applicants by administrative rule.

(2) A certificate of registration shall be granted to any applicant who after the examination is, in the opinion of the board, properly qualified as determined by rule by the board. A certificate of registration shall be denied to an applicant who, in the opinion of the board, is not properly qualified as determined by the board by rule. [1981 c.536 §4; 1995 c.189 §4]

671.338 Confidentiality of application, examination and investigatory information. (1) Notwithstanding ORS 192.420:

(a) In addition to any exemption from disclosure provided under ORS 192.501 (4), State Landscape Architect Board examination materials, file records of examination grading and performance, transcripts from educational institutions, letters of inquiry, letters of reference and board inquiry forms concerning applicants or registrants are confidential and may not be disclosed except as provided in paragraph (b) of this subsection or subsection (2) of this section.

(b) Investigatory information developed or obtained by the board is confidential and not subject to disclosure by the board unless a notice is issued for a contested case hearing or the matter investigated is finally resolved by board action or a consent order. The board shall notify the registrant of the investigation. The public may obtain information confirming that an investigation is being conducted and describing the general nature of the matter being investigated.

(2) The board may appoint an advisory committee to conduct an investigation described under subsection (1)(b) of this section on behalf of the board. Investigatory information developed or obtained by an advisory committee is confidential unless a notice is issued for a contested case hearing or the matter investigated is finally resolved by board action or a consent order. The board may discuss in open session matters that are being reviewed by an advisory committee, but may not disclose confidential information into the public record.

(3) Notwithstanding any confidentiality established under subsection (1) or (2) of this section, if the board or an advisory committee meets in executive session to discuss an investigation, the board or committee may permit other public officials and members of the press to attend the executive session. Notwithstanding ORS 192.610 to 192.690, the public officials and members of the press attending the executive session may not disclose information discussed by the board or committee during the session until the information ceases to be confidential under subsection (1) or (2) of this section. [2001 c.950 §6; 2003 c.14 §415]

671.340 [1961 c.431 §3; 1973 c.827 §63; repealed by 1977 c.842 §10]

671.345 Registration based on recognition by other jurisdictions; fee. (1) The State Landscape Architect Board may register as a landscape architect, without examination, any individual who applies for such registration under ORS 671.325, and:

(a) On the date of making application is a landscape architect licensed or registered under the laws of any other state or territory of the United States, if the requirements for the licensing or registration of landscape architects in the state or territory in which the applicant is licensed or registered on the date of licensing or registration in such state or territory were substantially equal to the requirements for the registration of landscape architects in this state on the date of the application; or

(b) Within the five years immediately preceding application has passed a national examination acceptable to the board.

(2) Each applicant under this section shall pay at the time of filing the application an original registration fee for registration of an out-of-state landscape architect as provided in ORS 671.365. [1981 c.536 §5; 1987 c.414 §42b; 1987 c.460 §1; 1993 c.18 §145; 1995 c.189 §5; 1997 c.643 §14; 2001 c.950 §13]

671.355 [1981 c.536 §6; repealed by 1995 c.189 §12]

671.360 [1961 c.431 §7; 1973 c.827 §64; repealed by 1977 c.842 §10]

671.365 Fees; rules. The State Landscape Architect Board may establish by rule the amounts for fees to be charged and collected under ORS 671.310 to 671.459. The fees shall include, but are not limited to:

(1) An examination fee.

(2) A fee for original registration of out-of-state landscape architect under ORS 671.345.

(3) A fee for issuance of original registration under ORS 671.335.

(4) A fee for issuance of a duplicate certificate of registration.

(5) A fee for renewal of registration under ORS 671.376.

(6) A late renewal fee under ORS 671.376. [1981 c.536 §6a; 1993 c.712 §1; 1995 c.189 §6; 1997 c.643 §15; 2003 c.14 §416]

671.370 [1961 c.431 §§8,11; 1973 c.832 §24b; repealed by 1977 c.842 §10]

671.375 [1981 c.536 §7; 1987 c.460 §2; repealed by 1995 c.189 §7 (671.376 enacted in lieu of 671.375)]

671.376 Renewal; fee; late fee; failure to renew; rules; inactive status. (1) Each registrant who desires to continue as a landscape architect or landscape architect in training in this state shall annually pay to the State Landscape Architect Board, on or before the renewal date set by the board by rule, the fee for renewal of registration required under ORS 671.365 (5). Upon payment the board administrator shall issue to the registrant a certificate of renewal of registration for a period of one year.

(2) If a registrant fails to have a certificate renewed on or before the renewal date set by the board by rule, the registrant shall be deemed delinquent. However, the registrant may renew the certificate:

(a) Without a late fee if the registrant pays the renewal fee not later than 30 days after the renewal date; or

(b) With a late fee in the amount prescribed by the board by rule, if the registrant pays the renewal fee and late fee later than 30 days, but not later than 60 days, after the renewal date.

(3) A person who fails to pay the renewal fee and, if applicable, the late fee for a period of 60 days after the renewal date may renew the registration only upon passing examinations required by the board and by paying any required examination fees, renewal fees and late fees.

(4) The board may grant inactive status to any registered landscape architect who gives up the practice of landscape architecture as defined in ORS 671.310 and while in good standing makes a request in writing to the board. The inactive landscape architect may resume practice within five years after approval of the request upon payment of the annual fee for the renewal of registration for the current year, without a late fee. If the inactive landscape architect fails to renew the registration within five years, the registration shall be deemed lapsed. The inactive landscape architect may renew the registration only upon passing examinations required by the board and by paying any required examination fees, renewal fees and late fees. [1995 c.189 §8 (enacted in lieu of 671.375); 2001 c.950 §14; 2005 c.25 §1]

671.379 Stamps. (1) A registered landscape architect shall obtain a stamp of a design authorized by the State Landscape Architect Board. The stamp must bear the name, registration date and registration certificate number of the landscape architect and the legend "registered landscape architect."

(2) A registered landscape architect shall stamp and sign all final drafts of professional documents that the landscape architect issues for obtaining permits, obtaining approvals by agencies other than the board or fulfilling contractual obligations, including maps, plans, designs, contract documents and reports.

(3) The signature and stamp of a registered landscape architect constitute certification that the document was prepared by the landscape architect or under the supervision and control of the landscape architect. [2001 c.950 §4]

671.380 [1961 c.431 §9; 1973 c.832 §24c; 1975 c.429 §8; 1977 c.873 §3; repealed by 1977 c.842 §10]

671.385 [1981 c.536 §8; 1987 c.414 §42c; repealed by 1995 c.189 §12]

671.390 [1961 c.431 §10; 1973 c.827 §65; repealed by 1977 c.842 §10]

671.393 Code of professional conduct; rules; publication; effect; revision. The State Landscape Architect Board shall cause to be prepared and shall by rule adopt a code of professional conduct which shall be known in writing to every landscape architect and applicant for registration under ORS 671.310 to 671.459. This code shall be published in the roster of landscape architects. Such pub-

lication shall constitute due notice to all registrants. The board may revise and amend this code of conduct from time to time and shall promptly notify each registrant in writing of such revisions or amendments. [1983 c.455 §4; 2003 c.14 §417]

671.395 Continuing education; fee. (1) The State Landscape Architect Board may establish or approve programs of continuing education that contribute to the competency of landscape architects. The board may charge a fee for programs of continuing education it establishes.

(2) The board may require completion of a program of continuing education established or approved under this section as a condition for the issuance or renewal of registration as a landscape architect under ORS 671.310 to 671.459. [1981 c.536 §9; 2001 c.950 §15; 2003 c.14 §418]

671.400 [1961 c.431 §13; repealed by 1977 c.842 §10]

671.404 Grounds for refusal to register or renew or for suspension. Subject to ORS chapter 183, the State Landscape Architect Board may refuse to register any applicant, may refuse to renew the registration of any registered landscape architect or landscape architect in training, or may suspend for a period not exceeding one year or revoke the registration of any registered landscape architect or landscape architect in training if the board finds that the applicant or registrant is a person who:

(1) Has used dishonesty, fraud or deceit in obtaining or attempting to obtain registration under ORS 671.310 to 671.459, including but not limited to dishonesty, fraud or deceit in applying for registration, applying to sit for an examination or passing an examination.

(2) Is impersonating or has attempted to impersonate a registered landscape architect or a former registered landscape architect, or is practicing under an assumed or fictitious name.

(3) Has used dishonesty, fraud or deceit or has been negligent, in the practice of landscape architecture.

(4) Has affixed the person's signature to plans, reports or other professional documents that have not been prepared by the person or under the person's immediate and responsible direction or has permitted the use of the person's name for the purpose of assisting any individual, not a registered landscape architect, to evade the provisions of ORS 671.310 to 671.459, 671.992 and 671.995.

(5) Has been found to have violated ethical or professional standards by a court or administrative body in another state for committing or omitting acts that, if committed or omitted in this state, would be a violation of ethical or professional standards established pursuant to ORS 671.310 to 671.459. A certified copy of the record of suspension or revocation of the state making the suspension or revocation is conclusive evidence thereof.

(6) Has willfully evaded or attempted to evade a local or state law, ordinance, code or rule, governing the construction of landscapes or other site features. [1981 c.536 §10; 1987 c.460 §3; 1995 c.189 §9; 2001 c.950 §16; 2003 c.14 §419; 2005 c.22 §474]

671.405 [1971 c.734 §109; repealed by 1977 c.842 §10]

671.408 Disciplinary actions. In addition to any civil penalty imposed by the State Landscape Architect Board or any fine or term of imprisonment imposed by a court, except as otherwise provided in ORS 671.404, the board may impose one or more of the following sanctions against a person violating ORS 671.310 to 671.459:

(1) Revocation of a certificate of registration.

(2) Suspension of a certificate of registration for not more than three years.

(3) Restriction of the scope of a registrant's practice.

(4) Imposition of peer review.

(5) Imposition of specific or additional professional education requirements.

(6) Imposition of probationary registration status and restrictions, including but not limited to requirements designed to protect the public health, safety and welfare and restitution payments to clients or other persons suffering economic loss due to the violation.

(7) Issuance of a written reprimand. [2001 c.950 §9; 2003 c.14 §420]

671.410 [1961 c.431 §14; repealed by 1971 c.734 §21]

671.412 Public contract requirements. (1) The state or a political subdivision may contract for landscape architecture service projects only with registered landscape architects, as defined in ORS 671.310.

(2) Drawings, plans, specifications, estimates and construction observation for public works of the state or a political subdivision that require landscape architecture services must be prepared by, or under the direct supervision of, a landscape architect registered in an appropriate category. [1983 c.455 §7; 1995 c.189 §10; 2001 c.950 §17]

671.415 Rulemaking authority. The State Landscape Architect Board, subject to ORS chapter 183, may adopt rules necessary for the board to perform its duties under ORS 671.310 to 671.459 and 671.995. [1981 c.536 §11; 1987 c.414 §42d; 2003 c.14 §421]

671.420 [1961 c.431 §16; repealed by 1977 c.842 §10]

671.425 Issuance of registration after revocation. If the State Landscape Architect Board revokes the registration of a registered landscape architect under ORS 671.404, the board may issue registration under ORS 671.310 to 671.459 to the individual whose registration is revoked if the individual:

(1) Files a new application for the registration and passes an examination given by the board; and

(2) Establishes to the satisfaction of the board that all loss caused by the acts for which the license was revoked has been fully satisfied and that the individual has complied with all conditions imposed by the decision of revocation. [1981 c.536 §12; 1987 c.414 §42e; 2001 c.950 §18; 2003 c.14 §422]

671.428 [1983 c.455 §5; repealed by 1995 c.189 §12]

671.430 [1961 c.431 §15; repealed by 1971 c.734 §21 and by 1971 c.753 §74]

671.435 [1981 c.536 §13; 1991 c.734 §65; 1997 c.643 §16; 1999 c.1084 §59; 2001 c.950 §19; renumbered 671.950 in 2001]

671.440 [1961 c.431 §12; repealed by 1977 c.842 §10]

671.442 Arbitration; effect; costs. In a dispute arising out of a contractual agreement between a registered landscape architect and a member of the general public of the state, the State Landscape Architect Board or a subcommittee of the board may act as arbiter of the dispute. Upon agreement of all parties to such arbitration, the findings of the board or subcommittee shall be binding on all parties to the dispute. There shall be no costs borne by any party for such arbitration and for the purposes of this section members of the board shall serve without compensation but shall be reimbursed as determined by the board. [1983 c.455 §6; 1997 c.643 §17]

671.445 Investigation of complaints. The State Landscape Architect Board may, upon motion of the board or upon the verified complaint in writing of any person, investigate any alleged violation of ORS 671.310 to 671.459. As part of the investigation, the board may administer oaths, obtain and receive evidence at board proceedings and compel compliance with board subpoenas, all as provided in ORS 670.315. [1981 c.536 §14; 1987 c.414 §42f; 2001 c.950 §20; 2003 c.14 §423]

671.447 Persons supplying information to board or advisory committee. A person that reports or supplies information in good faith to the State Landscape Architect Board or to an advisory committee assisting the board is immune from an action for civil damages as a result thereof. The board or committee shall not disclose the name of a person requesting confidentiality unless the testimony of the person is required as part of a board disciplinary proceeding. [2001 c.950 §7]

671.450 [1961 c.431 §21; repealed by 1977 c.842 §10]

671.454 [1981 c.536 §14a; 1987 c.414 §43; repealed by 2001 c.950 §23]

671.455 [1963 c.580 §28; 1969 c.314 §74; 1971 c.753 §26; repealed by 1977 c.842 §10]

671.459 State Landscape Architect Board; members; chair; term. (1) The State Landscape Architect Board shall operate as a semi-independent state agency subject to ORS 182.456 to 182.472 for the purpose of carrying out ORS 671.310 to 671.459, 671.992 and 671.995. The board shall consist of seven members to be appointed by the Governor. Four of the members shall be registered landscape architects, three shall be public members, and all shall be residents of this state. The chair of the board shall be elected by the board from among the current members.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. [1981 c.536 §15; 1987 c.414 §44; 1993 c.744 §238; 1995 c.189 §11; 1997 c.643 §18; 1999 c.1084 §60; 2001 c.950 §21]

671.460 [1961 c.431 §§17,19,20; repealed by 1963 c.580 §103]

671.465 [1963 c.580 §29; repealed by 1971 c.753 §74]

671.470 [1961 c.431 §22; repealed by 1963 c.580 §103]

671.475 [1963 c.580 §30; repealed by 1971 c.753 §74]

671.480 [1961 c.431 §23; 1967 c.637 §26; repealed by 1971 c.753 §74]

LANDSCAPE CONSTRUCTION PROFESSIONALS AND LANDSCAPE CONTRACTING BUSINESSES

(Generally)

671.510 Short title. ORS 671.510 to 671.760 may be cited as the Landscape Contractors Law. [1971 c.764 §1; 1973 c.832 §25]

671.520 Definitions for ORS 671.510 to 671.760. As used in ORS 671.510 to 671.760, unless the context requires otherwise:

(1) "Landscape construction professional" means an individual who for compensation or with the intent to be compensated performs or supervises activities requiring the art, ability, experience, knowledge, science and skill to:

(a) Plan or install lawns, shrubs, vines, trees or nursery stock;

(b) Prepare property on which lawns, shrubs, vines, trees or nursery stock is to be installed;

(c) Construct or repair ornamental water features, drainage systems or irrigation systems;

(d) Maintain irrigation systems with the use of compressed air; or

(e) Plan or install fences, decks, arbors, patios, landscape edging, driveways, walkways or retaining walls.

(2) "Landscape contracting business" means a business that for compensation or with the intent to be compensated arranges, submits a bid, or otherwise offers or contracts, for the performance of activities described in subsection (1) of this section.

(3) "Licensee" means a person that is licensed under ORS 671.510 to 671.760 as a landscape construction professional or landscape contracting business.

(4) "Nursery stock" means nursery stock:

(a) As defined by ORS 571.005 other than stock grown for commercial resale or reforestation; or

(b) As defined by the State Landscape Contractors Board by rule.

(5) "Ornamental water features" means fountains, ponds, waterfalls, man-made streams and other decorative water-related constructions as identified by the board by rule. [1971 c.764 §2; 1973 c.832 §26; 1975 c.757 §1; 1981 c.536 §22; 1983 c.452 §1; 1985 c.565 §91; 1987 c.414 §45; 1997 c.785 §1; 1999 c.32 §1; 2001 c.48 §1; 2005 c.609 §10; 2007 c.541 §11; 2009 c.483 §1]

(Licensure)

671.525 Applicant for landscape contracting business license required to be independent contractor; classes of licensees. (1) An applicant for a landscape contracting business license must qualify as an independent contractor, under ORS 670.600, to be licensed with the State Landscape Contractors Board.

(2) The board shall establish two classes of independent contractor licensees:

(a) The nonexempt class is composed of the following entities:

(A) Sole proprietorships, partnerships, corporations and limited liability companies with one or more employees; and

(B) Partnerships, corporations and limited liability companies with more than two partners, corporate officers or members if any of the partners, officers or members are not part of the same family and related as parents, spouses, siblings, children, grandchildren, sons-in-law or daughters-in-law.

(b) The exempt class is composed of all sole proprietorships, partnerships, corporations and limited liability companies that do not qualify as nonexempt.

(3) All partnerships, corporations and limited liability companies applying for a landscape contracting business license must have a federal tax identification number.

(4) If a licensee who qualifies under subsection (2)(b) of this section hires one or more employees, or falls into any of the categories set out in subsection (2)(a)(B) of this section, the licensee is subject to penalties under ORS 671.997 and must submit proof that the licensee qualifies under subsection (2)(a) of this section.

(5) The decision of the board that a licensee is an independent contractor applies only when the licensee is performing work of the nature described in ORS 671.520 and 671.530. [1991 c.533 §6; 1997 c.337 §2; 2007 c.541 §12]

671.527 Applicant for landscape contracting business license workers' compensation coverage. (1) An applicant for a landscape contracting business license that qualifies under ORS 671.525 to be classified as a nonexempt independent contractor must provide workers' compensation insurance coverage for all employees of the landscape contracting business.

(2) An applicant for a landscape contracting business license that qualifies under ORS 671.525 to be classified as an exempt independent contractor, and that has entered into a contract with a worker leasing company or temporary service provider for the supplying of workers to the landscaping business, must verify that all leasing company or service provider employees supplied for use by the business are covered by workers' compensation insurance. As used in this subsection, "worker leasing company" and "temporary service provider" have the meanings given those terms under ORS 656.850. [2011 c.283 §2]

Note: Section 6, chapter 283, Oregon Laws 2011, provides:

Sec. 6. Section 2 of this 2011 Act [671.527] applies to license applications filed with the State Landscape Contractors Board on or after the effective date of this 2011 Act [January 1, 2012]. However, section 2 of this 2011 Act does not require a worker leasing company or temporary service provider to alter any rights or duties of the leasing company or service provider under a contract entered into before the effective date of this 2011 Act. [2011 c.283 §6]

671.530 Licensing requirements; use of title; scope of landscape construction professional license. (1) A person may not operate as a landscape construction professional in this state without a valid landscape construction professional license issued pursuant to ORS 671.560.

(2) A person may not represent in any manner that the person is a landscape construction professional unless the person has a valid landscape construction professional license issued pursuant to ORS 671.560. The

prohibition in this subsection includes, but is not limited to:

(a) Using the title of landscape contractor, landscape construction professional, landscape gardener or landscaper or any other title using a form of the word "landscape" that indicates or tends to indicate that the person is a landscape construction professional; and

(b) Using any sign, card or device that indicates or tends to indicate that the person is a landscape construction professional.

(3) A person may not operate as a landscape contracting business in this state unless the person has a valid landscape contracting business license issued pursuant to ORS 671.560.

(4) A person may not advertise or represent in any manner that the person is a landscape contracting business unless the person has a valid landscape contracting business license issued pursuant to ORS 671.560. The prohibition in this subsection includes, but is not limited to:

(a) Using the title of landscape business, landscaping business or landscape contracting business; and

(b) Using any title, sign, card or device that indicates or tends to indicate that the person is a landscape contracting business.

(5) A landscape maintenance business may use a form of the word "landscape" in the title of the business only if the title clearly indicates the maintenance nature of the business. For purposes of this subsection, the term "landscape gardening" does not indicate the maintenance nature of a landscape maintenance business.

(6) A landscape construction professional may perform landscaping work only while in the employ of a landscape contracting business licensed and bonded as required by ORS 671.510 to 671.760. If the landscape construction professional is the sole proprietor, the landscape construction professional must also obtain a license as a landscape contracting business. [1971 c.764 §3; 1973 c.832 §27; 1975 c.757 §2; 1979 c.840 §1a; 1983 c.452 §2; 1989 c.944 §1; 2003 c.659 §1; 2007 c.541 §13]

671.540 Application of ORS 671.510 to 671.760. (1) Except as provided in subsection (2) of this section, ORS 671.510 to 671.760 and 671.990 (2) do not apply to:

(a) Any federal or state agency or any political subdivision performing landscaping work on public property.

(b) Any landscape architect registered under ORS 671.310 to 671.459 and practicing as provided under ORS 671.310 to 671.459.

(c) Landscaping work performed by a landscape maintenance business if:

(A) The landscaping work is performed for a customer that in a calendar year receives primarily landscape maintenance services from the business;

(B) The value of all labor, materials or other items supplied for landscaping work at a job site does not exceed $500 in a calendar year; and

(C) The landscaping work is of a casual, minor or inconsequential nature, as those terms are defined by the State Landscape Contractors Board by rule.

(d) Installation of fences, decks, arbors, driveways, walkways or retaining walls if performed by a person or business licensed with the Construction Contractors Board.

(e) Rough grading of plots and areas of land performed in conjunction with new or remodeling construction if performed by a person or business licensed with the Construction Contractors Board.

(f) Any owner of property, or employee of an owner of property, who contracts for landscaping work on the property to be performed by a person licensed under ORS 671.560. The exception provided by this paragraph does not apply to a person who, in pursuit of an independent business, performs or contracts for the performance of landscaping work with the intent of offering for sale before, upon or after completion of the landscaping work the property upon which the landscaping work is performed.

(g) Any landscaping work performed by a person on property that the person owns or in which the person has a legal interest. The exception provided by this paragraph does not apply to a person who, in pursuit of an independent business, performs or contracts for the performance of landscaping work with the intent of offering for sale before, upon or after completion of the landscaping work the property on which the landscaping work is performed.

(h) A residential general contractor licensed under ORS chapter 701 who performs landscaping work if the total value of the landscaping is less than $2,500 per residential dwelling and the landscaping work is performed on residential property for which the contractor is under contract for the construction of a new dwelling. The exception provided by this paragraph does not apply to the performance of irrigation work by a residential general contractor. The State Landscape Contractors Board shall revise the amount specified in this paragraph every five years, beginning in 2003, based on changes in the Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published by the Bureau of Labor Statis-

tics of the United States Department of Labor.

(i) A residential general contractor licensed under ORS chapter 701 who performs landscaping work on residential property that is directly related to local building code requirements or occupancy ordinances including, but not limited to, the placement of street trees. The exception provided by this paragraph does not apply to the performance of irrigation work by a residential general contractor.

(j) A person engaged in making plans or drawings for the selection, placement or use of plants or other site features, unless the plans or drawings are for the purpose of providing construction details and specifications.

(k) Use by a person other than a landscape construction professional of the title "landscape designer" when engaged in making plans or drawings described in paragraph (j) of this subsection.

(L) A person providing recommendations or written specifications for soil amendments or planting media if the recommendations or specifications are solely for the purpose of plant installation.

(m) A plumbing contractor licensed under ORS 447.010 to 447.156 when engaged in superintending installation work on piping for an irrigation system designed by a landscape contracting business or by a person registered under ORS 671.310 to 671.459.

(n) A plumbing contractor licensed under ORS 447.010 to 447.156 when engaged in superintending repair or maintenance work on piping for an irrigation system.

(o) A journeyman plumber licensed under ORS chapter 693 when performing an installation for a plumbing contractor described in paragraph (m) of this subsection or performing repair or maintenance work on piping for an irrigation system.

(p) An employee, as defined in ORS 657.015, of a residential general contractor licensed under ORS chapter 701 when performing work that the contractor may perform under paragraph (h) or (i) of this subsection.

(q) An employee of a licensed landscape contracting business when performing work for the business under the direct supervision of a licensed landscape construction professional.

(r) An employee of a worker leasing company or temporary service provider, both as defined in ORS 656.850, when performing work for a licensed landscape contracting business under the direct supervision of a licensed landscape construction professional.

(2) ORS 671.530 (2), (4) and (5) apply to a person described under subsection (1) of this section. [1971 c.764 §4; 1973 c.832 §28; 1979 c.840 §2; 1981 c.536 §17; 1983 c.452 §3; 1997 c.785 §2; 1999 c.32 §2; 1999 c.402 §10; 2001 c.49 §1; 2001 c.660 §54; 2003 c.14 §424; 2003 c.659 §2; 2005 c.609 §11; 2007 c.541 §14; 2007 c.836 §50; 2009 c.483 §§2,3]

671.550 Authority of board to investigate; confidentiality of information. (1) The State Landscape Contractors Board may inquire into and inspect:

(a) Any services performed or materials furnished by a licensee under ORS 671.510 to 671.760.

(b) The financial records of a person who it reasonably believes is operating in violation of ORS 671.530.

(c) The services performed or materials furnished by a person who it reasonably believes is operating in violation of ORS 671.530.

(2) Except when used for legal action or to determine a claim described in ORS 671.695, the information obtained by an inspection authorized by this section is confidential. However, the board shall furnish copies of any inspection to the licensee or other person that is subjected to an inspection. [1971 c.764 §5; 1979 c.840 §3; 1983 c.452 §4; 2001 c.198 §1; 2007 c.149 §3]

671.555 Investigation of person engaged in landscape contracting business; procedures; orders to stop work. (1) The State Landscape Contractors Board may investigate the activities of any person engaged in the landscape contracting business to determine compliance with ORS 671.510 to 671.760.

(2) With the approval of the city or county, the board may conduct investigations with city or county inspectors, provided that the city or county is reimbursed by the board for the costs of such investigations.

(3) Any inspector or investigator authorized by the board to determine compliance with ORS 671.510 to 671.760 may require any person who is engaged in any activity regulated by ORS 671.510 to 671.760 to demonstrate proof of compliance with the licensing requirements of ORS 671.510 to 671.760. If a person who is contracting directly with the owner of the property does not demonstrate proof of compliance with the licensing requirements of ORS 671.510 to 671.760, the inspector or investigator may give notice of noncompliance to the person. The notice of noncompliance shall be in writing, shall specifically state that the person is not in compliance with the licensing requirements of ORS 671.510 to 671.760 and shall provide that unless the person demonstrates proof of compliance within two days of the date of the notice, the inspector or investigator may

by order stop all work then being done by the person. The notice of noncompliance shall be served upon the person and shall be served upon or delivered to the owner of each property upon which the person is then performing work under contract. If more than one person is the owner of any such property, a copy of the notice need be given to only one of such persons. If after receipt of the notice of noncompliance the person fails within the two-day period specified in the notice to demonstrate proof of compliance with the licensing requirements of ORS 671.510 to 671.760, the inspector or investigator may order the work stopped by notice in writing served on any persons engaged in the activity. Any person so notified shall stop such work until proof of compliance is demonstrated. However, the inspector or investigator may not order the work stopped until at least two days after the copies of the notice of noncompliance have been served upon or delivered to the owners.

(4) Notwithstanding subsection (3) of this section, the board may order landscaping work stopped immediately if the landscape contracting business working on a worksite cannot demonstrate that the business has been licensed by the board at any time within the two years immediately preceding work on the worksite.

(5) The board has the power to administer oaths, issue notices and subpoenas in the name of the board, compel the attendance of witnesses and the production of evidence, hold hearings and perform such other acts as are reasonably necessary to carry out its duties under ORS 671.510 to 671.760.

(6) If any person fails to comply with a subpoena issued under subsection (5) of this section or refuses to testify on matters on which the person may be lawfully interrogated, the board shall compel obedience in the manner provided in ORS 183.440. [1991 c.533 §5; 1999 c.33 §1; 2007 c.399 §2; 2007 c.541 §15a]

671.557 Injunctive relief. In addition to any other remedy available, if the State Landscape Contractors Board believes that a person has engaged in, is engaging in or is about to engage in any act, practice or transaction that violates ORS 671.510 to 671.760, the board may direct the Attorney General to apply to the court for an injunction to restrain the person from engaging in the act, practice or transaction. [2005 c.609 §5]

671.560 Issuance of license; application form; limited or specialty license; rules; exemption. (1) Except as provided in ORS 671.571 and 671.590, the State Landscape Contractors Board shall issue a landscape construction professional license to an applicant who satisfies the requirements of ORS 671.570.

(2) The board shall issue a landscape contracting business license to an applicant who satisfies the requirements of the board.

(3) An applicant for a license under this section shall apply to the board upon a form furnished by the board and give such information as the board considers necessary.

(4)(a) The board may issue a limited or specialty license if the applicant is required to have a landscape construction professional license or landscape contracting business license but is not qualified or required to be licensed for all phases of landscape work.

(b) The board may adopt rules to limit or restrict the landscape work performed by probationary landscape construction professionals.

(5) A landscape contracting business that qualifies for the exemption described in ORS 571.045 shall indicate on its license application or license renewal application under this section the reasons the business qualifies for the exemption. [1971 c.764 §6; 1975 c.757 §4; 1983 c.452 §5; 1999 c.535 §4; 2007 c.111 §3; 2007 c.541 §16a]

671.562 Landscape contracting business workers' compensation coverage. (1) A landscape contracting business that qualifies under ORS 671.525 to be classified as a nonexempt independent contractor must maintain workers' compensation insurance coverage in effect for all employees of the landscape contracting business.

(2) A landscape contracting business licensee that qualifies under ORS 671.525 to be classified as an exempt independent contractor, and that has entered into a contract with a worker leasing company or temporary service provider for the supplying of workers to the landscaping business, must verify that workers' compensation insurance coverage is maintained in effect for all leasing company or service provider employees supplied for use by the business. As used in this subsection, "worker leasing company" and "temporary service provider" have the meanings given those terms under ORS 656.850. [2011 c.283 §3]

Note: Section 7, chapter 283, Oregon Laws 2011, provides:

Sec. 7. Section 3 of this 2011 Act [671.562] applies to a landscape contracting business that uses worker leasing company or temporary service provider employees on or after the effective date of this 2011 Act [January 1, 2012] under a contract entered into before, on or after the effective date of this 2011 Act. However, section 3 of this 2011 Act does not require a worker leasing company or temporary service provider to alter any rights or duties of the leasing company or service provider under a contract entered into before the effective date of this 2011 Act. [2011 c.283 §7]

671.563 Applicant notice of unpaid judgments, awards and orders; rules. An applicant for the issuance or renewal of a landscape construction professional license or landscape contracting business license shall include in the application to the State Landscape Contractors Board notice of any unpaid court judgment, arbitration award or administrative agency final order entered or issued in any jurisdiction that requires the applicant to pay damages arising out of the performance of, or a contract for, landscaping work. The board may adopt rules that require an applicant to provide additional information regarding a judgment, arbitration award or agency final order described in this section and the status of any appeal or exceptions. [2007 c.151 §2; 2007 c.541 §28a]

671.565 Landscape contracting business license application process and information requirements. (1) Each person applying for a landscape contracting business license must:

(a) Pay to the State Landscape Contractors Board the applicable landscape contracting business license fee established by the board under ORS 671.650.

(b) Have a landscape construction professional license or employ at least one person with a landscape construction professional license to supervise the landscaping operation of the business.

(c) Submit the names of all employees who are licensed landscape construction professionals.

(d) File with the board a form of security acceptable under ORS 671.690.

(e) File with the board a certificate of public liability, personal injury and property damage insurance covering the work of the landscape contracting business that is subject to ORS 671.510 to 671.760 for an amount not less than $100,000.

(f) Indicate, as set forth in ORS 670.600, the basis under which the applicant qualifies as an independent contractor and the class of independent contractor described in ORS 671.525 for which the applicant qualifies.

(2)(a) If an applicant for licensing under this section qualifies to be classified as a nonexempt independent contractor, the applicant shall provide the employer identification number of the applicant and evidence satisfactory to the board that the applicant provides workers' compensation insurance coverage for all employees of the landscape contracting business.

(b) If an applicant for licensing under this section qualifies to be classified as an exempt independent contractor and has entered into a contract with a worker leasing company or temporary service provider for the supplying of workers to the landscape contracting business, the applicant shall provide evidence satisfactory to the board that the applicant has verified the maintenance of workers' compensation insurance coverage for all leasing company or service provider employees supplied for use by the business. As used in this paragraph, "worker leasing company" and "temporary service provider" have the meanings given those terms in ORS 656.850.

(3) At the time of application for a license, for renewal of a license in active status or for return of a license to active status, the applicant shall provide evidence satisfactory to the board that the public liability, personal injury and property damage insurance required by this section and any workers' compensation required of the applicant under ORS 671.527 or 671.562 is in effect. During a license period, the licensee shall provide, to the extent required by the board, satisfactory evidence of continued public liability, personal injury and property damage insurance coverage and, if required under ORS 671.562, workers' compensation insurance coverage. [1983 c.452 §8; 1991 c.533 §1; 2005 c.609 §12; 2007 c.399 §3; 2007 c.541 §17a; 2011 c.283 §4]

671.568 Inactive status for landscape contracting business license. (1) If a licensed landscape contracting business is not operating as a landscape contracting business, the State Landscape Contractors Board may, upon request, place the license of the landscape contracting business in inactive status.

(2) A landscape contracting business in inactive status remains subject to board jurisdiction and is required to comply with the requirements for a landscape contracting business other than the security requirement under ORS 671.690 and the insurance requirements under ORS 671.565.

(3) A landscape contracting business that is in inactive status may not:

(a) Perform work as a landscape contracting business;

(b) Offer or provide for the performance of landscaping work as a landscape contracting business; or

(c) Obtain a building permit for work involving landscaping work by the landscape contracting business.

(4) A landscape contracting business license may not be placed or maintained in inactive status more than once during a licensing period. [2005 c.609 §2; 2007 c.541 §18]

671.570 Qualifications for landscape construction professional license; fee; rules. (1) Each person applying for a landscape construction professional license must:

(a) Pay a nonrefundable application fee.

(b) Pay an examination fee.

(c) Pay to the State Landscape Contractors Board the landscape construction professional license fee required by ORS 671.650.

(d) Pass an examination, which the board shall offer at least once each six months, to determine the fitness of the applicant for licensing and within 10 years before the day the application for a license is made:

(A) Have at least 24 months of employment with a landscape contracting business; or

(B) Have at least 12 months of employment with a landscape contracting business and one full year of training in an area related to landscaping at an accredited school or college.

(e) Be employed by, or own, a landscape contracting business if performing landscaping work.

(2) Notwithstanding subsection (1) of this section, the board may adopt rules allowing a person who does not meet the education and experience requirements in subsection (1)(d) of this section to substitute other education and experience that demonstrate the fitness of the person for licensing as a landscape construction professional. [1971 c.764 §7; 1973 c.832 §29; 1975 c.757 §5; 1979 c.840 §4; 1983 c.452 §6; 1985 c.565 §92; 1987 c.414 §45a; 1997 c.327 §1; 2001 c.409 §5; 2007 c.111 §4; 2007 c.399 §6; 2007 c.541 §19b]

671.571 Probationary license. (1) Notwithstanding ORS 671.570, the State Landscape Contractors Board may issue a probationary landscape construction professional license to a person who does not meet the training and experience qualifications set forth in ORS 671.570. To obtain a probationary landscape construction professional license, the person must:

(a) Pay a nonrefundable application fee;

(b) Pay an examination fee;

(c) Pay to the board the landscape construction professional license fee required by ORS 671.650; and

(d) Pass all sections of the examination described in ORS 671.570 within 12 months after first taking the examination.

(2) Two or more years after receiving a probationary landscape construction professional license, a probationary landscape construction professional may obtain removal from probationary status and issuance of a landscape construction professional license if the probationary landscape construction professional presents the board with proof that the probationary landscape construction professional has done any of the following:

(a) Completed at least 24 months of employment with a licensed landscape contracting business under the direct supervision of a landscape construction professional.

(b) Provided supervision described in ORS 671.540 (1)(q) or 671.565 (1)(b) for at least 24 months as the owner or employee of a licensed landscape contracting business that, during that period:

(A) Filed and maintained with the board a bond, letter of credit or deposit in the amount of $15,000; and

(B) Performed landscaping work only on landscaping projects where the amount charged by the landscape contracting business for work on the project during any 12-month period did not exceed $15,000.

(c) Actively operated for at least 24 months as a construction contractor licensed under ORS chapter 701.

(3) Except as provided in this section and ORS 671.560 and as the board may provide by rule, a probationary landscape construction professional licensed under this section is for all purposes a landscape construction professional licensed under ORS 671.560. [2007 c.111 §2; 2007 c.399 §5; 2007 c.541 §19d; 2009 c.483 §4]

671.572 Alternative licensing standards for person licensed as construction contractor. Notwithstanding the provisions of ORS 671.570 regarding experience and employment status, the State Landscape Contractors Board may adopt alternative standards for licensure with the board for a person who is already licensed as a contractor under ORS chapter 701. [1997 c.785 §5; 1999 c.402 §11]

671.574 Inactive status for landscape construction professional license. (1) If a landscape construction professional is not operating as a landscape construction professional, the State Landscape Contractors Board may, upon request, place the license of the landscape construction professional in inactive status.

(2) A landscape construction professional in inactive status remains subject to board jurisdiction, licensing requirements and fees.

(3) A landscape construction professional that is in inactive status may not perform or supervise work as a landscape construction professional.

(4) A landscape construction professional license may not be placed or maintained in inactive status more than once during a licensing period. [2005 c.609 §3; 2007 c.541 §20]

671.575 License required to obtain judicial or administrative remedy; exception. (1) A landscape contracting business may not file a lien, file a claim with the State Landscape Contractors Board or bring or maintain in any court of this state a suit or action for compensation for the performance of any work or for the breach of any contract for work that is subject to ORS 671.510 to 671.760 and 671.997, unless the landscape contracting business was:

(a) Licensed under ORS 671.510 to 671.760 at the time the landscape contracting business bid or entered into the contract for performance of the work; and

(b) Licensed continuously while performing the work for which compensation is sought.

(2) If the court determines that the landscape contracting business was not aware of the requirement that the business be licensed, a court may choose not to apply subsection (1) of this section if the court finds that to do so would result in a substantial injustice to the unlicensed landscape contracting business.

(3) If a landscape contracting business falsely swears to information provided under ORS 671.560 or 671.565 or knowingly violates the provisions of ORS 656.029, 670.600, 671.560 or 671.565, the landscape contracting business may not file a lien, file a claim with the State Landscape Contractors Board or bring or maintain in any court of this state a suit or action for compensation for the performance of any work or for the breach of any contract for work that is subject to ORS 671.510 to 671.760 and 671.997. [1991 c.533 §7; 2007 c.541 §21]

671.578 Suit for damages for misrepresentation; attorney fees. If any person suffered costs or damages as a result of an individual providing a false or invalid State Landscape Contractors Board number or otherwise misleading a person with respect to licensing with the board, that person may bring suit in a court of competent jurisdiction to recover damages. The court may award reasonable attorney fees to the prevailing party in an action under this section. [1991 c.533 §8; 1995 c.618 §119]

671.580 Landscape construction professional license not transferable. A landscape construction professional license issued pursuant to ORS 671.560 is a personal privilege and is not transferable. [1971 c.764 §8; 1983 c.452 §9; 2007 c.541 §22]

671.590 Reciprocal landscape construction professional licensing. The State Landscape Contractors Board may license without examination any person who is a landscape construction professional licensed, certified or registered under the laws of another state, territory of the United States, the District of Columbia or another country where the requirements on the date the applicant was licensed, certified or registered were substantially equal to the requirements for licensing of landscape construction professionals in this state on the date of application by the person. [1971 c.764 §9; 1973 c.832 §30; 1975 c.757 §6; 1979 c.840 §5; 1983 c.452 §10; 2007 c.541 §23]

671.595 Coursework and examination requirements for noncontractor owners and managing employees; notice of duty changes; rules. (1) As used in this section:

(a) "Managing employee" means a person who, at the time of an application for the issuance or renewal of a landscape contracting business license:

(A) Is employed in landscaping work only by the applicant; and

(B) Manages or shares in the management of the applicant, as defined by the State Landscape Contractors Board by rule.

(b) "Owner" means a person who at the time of an application for the issuance or renewal of a landscape contracting business license:

(A) Has an ownership interest in the applicant; and

(B) Manages or shares in the management of the applicant, as defined by the board by rule.

(2) If an applicant for a landscape contracting business license does not have at least one owner or managing employee who is licensed as a landscape construction professional under ORS 671.560, the applicant shall provide the board with proof that an owner or managing employee has completed required courses described in subsection (4) of this section and passed an examination on the subject of those courses.

(3) The board may adopt rules to require a landscape contracting business and any owner or managing employee to provide the board with notice of any change in the employment or duties of the owner or managing employee.

(4) The board shall adopt rules establishing required courses for an owner or managing employee who seeks to qualify the business for a landscape contracting business license, but who is not licensed as a landscape construction professional. The courses required by the board shall be designed to educate the owner or managing employee regarding business practices and Oregon laws affecting landscape contracting businesses. The board may not require an owner or managing employee to take a total of more than 16 hours of instruction.

(5) When adopting rules to carry out subsection (4) of this section, the board shall consider the availability of courses in the regions of this state. The board shall encourage course providers to use the most up-to-date technology to make courses widely available.

(6) A course provider may submit information regarding course materials, examinations and instructor qualifications to the board for approval. The board shall approve courses if the course materials, examinations and instructors meet board requirements. The board shall periodically review approved courses to ensure continuing compliance with board requirements. The board shall develop and make available a list of providers that offer courses that will enable an owner or managing employee to comply with the requirements of subsection (2) of this section. [2007 c.249 §2; 2009 c.11 §84]

671.600 New landscape contracting business license required upon change of ownership; notification of change of address. (1) A new landscape contracting business license shall be required whenever there is a change in ownership, irrespective of whether the business name is changed. As used in this subsection, "change in ownership" does not include a change in the holders of corporate stock.

(2) If a licensee moves to another location, relicensing is not required but the licensee must notify the State Landscape Contractors Board promptly of the new address. [1971 c.764 §10; 1973 c.832 §31; 1987 c.461 §1; 2007 c.541 §24]

671.603 Persons required to give notification of change of address; communications delivered to last-known address. (1) A landscape construction professional or person operating as a landscape contracting business shall notify the State Landscape Contractors Board of a change of address for the professional or business that occurs while the professional or business is licensed by the board or within one year after a license expires. The landscape construction professional or landscape contracting business shall ensure that the board receives notice of the change of address no later than the 10th day after the change of address occurs.

(2) Initial notice of a contested case or arbitration directed by the board to the last-known address of record for a landscape construction professional or landscape contracting business is considered delivered to the professional or business when deposited in the United States mail and sent registered, certified or post office receipt secured. Any other communication directed by the board to the last-known address of record for a landscape construction professional or landscape contracting business is considered delivered to the professional or business when deposited in the United States mail, regular mail. [2001 c.409 §14; 2005 c.609 §13; 2007 c.541 §25]

671.605 Effect of change in partners or corporate owners; fee. A partnership or corporation licensed as a landscape contracting business shall notify the State Landscape Contractors Board immediately upon any change in partners or corporate owners or in the percentage of an ownership interest in the landscape contracting business. Upon a change in partners, a licensed partnership immediately shall apply for a new license and pay to the board the fee required by ORS 671.650 for an original license. [1983 c.452 §11; 2007 c.541 §26]

671.607 License refusal or suspension for landscape contracting business debt; rules. (1) As used in this section:

(a) "Landscape contracting business debt" means an amount owed under:

(A) A final order or arbitration award issued under ORS 671.703; or

(B) A judgment or civil penalty arising from landscape contracting business activities in any state.

(b) "Landscape contracting business license" means a license issued within the United States to engage in a landscape contracting business.

(c) "Officer" means any of the following persons:

(A) A president, vice president, secretary, treasurer or director of a corporation.

(B) A general partner in a limited partnership.

(C) A manager in a manager-managed limited liability company.

(D) A member of a member-managed limited liability company.

(E) A trustee.

(F) A person qualifying as an officer under board rules. The definition of officer adopted by board rule may include persons not listed in this paragraph who may exercise substantial control over a business.

(d) "Owner" means a sole proprietor of, general partner in or holder of a controlling interest in a business, or a person defined as an owner by board rule.

(2) The board shall adopt rules defining an owner for purposes of subsection (1) of this section. The rules may not define an owner in a manner that includes an investor who has no right to manage a business, including but not limited to:

(a) A person who is solely a minority shareholder in a corporation;

(b) A member of a manager-managed limited liability company; or

(c) A limited partner in a limited partnership who does not participate in the control of the business of the limited partnership.

(3) The board may suspend or refuse to issue a landscape contracting business license if:

(a) The business owes a landscape contracting business debt or has had a landscape contracting business license revoked;

(b) An owner or officer of the landscape contracting business owes a landscape contracting business debt or has had a landscape contracting business license revoked; or

(c) An owner or officer of the landscape contracting business was an owner or officer of another business at the time the other business incurred a landscape contracting business debt that is owing or at the time of an event that resulted in the revocation of the other business's landscape contracting business license.

(4) The board may hold the suspension or refusal of a license under subsection (3) of this section in abeyance if the person owing a landscape contracting business debt is adhering to a board-approved plan for restitution of the amount owed. [2005 c.609 §7; 2007 c.149 §4; 2007 c.541 §27]

671.610 Grounds for sanctions against licensee; suspension or refusal of license without prior hearing; hearing; effect of revocation; civil penalty; rules. (1) In addition to any civil penalty assessed under ORS 671.997, the State Landscape Contractors Board may suspend, revoke or refuse to issue or renew the license of a landscape construction professional or landscape contracting business that does any of the following:

(a) Obtains or attempts to obtain a license under ORS 671.510 to 671.760 by fraud or material misrepresentation.

(b) Makes a material misrepresentation about the quality of any material or service the person provides.

(c) Performs defective work.

(d) Furnishes defective materials.

(e) Makes misleading statements when advertising services or materials.

(f) Violates a provision of ORS 671.510 to 671.760.

(g) Fails to have a replacement bond, letter of credit or deposit on file at the time of a termination, cancellation, reduction or withdrawal of the bond, letter of credit or deposit required by ORS 671.690.

(h) Fails to maintain public liability, personal injury and property damage insurance as required by ORS 671.565 throughout a licensing period.

(i) Fails to comply with ORS 671.527 or 671.562.

(j) Fails to provide evidence of workers' compensation coverage as described in ORS 671.565.

(k) Violates a voluntary compliance agreement entered into under ORS 646.605 to 646.652.

(L) Performs work for which a permit is required under the state building code without obtaining the required permit, if the work results in the filing of a claim with the board.

(m) Violates a rule or order of the board.

(n) Refuses to comply with a subpoena issued by the board.

(o) Fails to pay in full any amount owed to a claimant under a final order of the board or an arbitration award, or under a judgment rendered in this or any other state.

(p) Does not make payment, including any interest due, for labor or materials contracted for by the person pursuant to a contract for a public improvement within 90 days after the date the person receives payment from a public contracting agency or, if the person is a subcontractor, from the contractor.

(q) Engages in conduct as a landscape construction professional or landscape contracting business that is dishonest or fraudulent or that the board finds injurious to the welfare of the public.

(r) Fails to comply with the requirements of ORS 652.120.

(s) Is convicted of a crime under ORS 163.115, 163.185, 163.225, 163.235, 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.415, 163.425, 163.427, 164.055, 164.075, 164.325 or 164.415, provided that the facts supporting the conviction and all intervening circumstances make the determination to suspend, revoke or refuse to issue or renew the license consistent with ORS 670.280.

(2) The board may suspend or refuse to renew the license of a landscape construction professional or landscape contracting business without prior hearing if, after investigating and setting forth in writing the facts supporting the action, the board determines that continued activity by the landscape construction professional or landscape contracting business poses an imminent

threat of serious harm to the public welfare. Facts sufficient to support a suspension or refusal to renew under this subsection include, but are not limited to:

(a) The lack of a surety bond, letter of credit or deposit required under ORS 671.690;

(b) The lack of public liability, personal injury or property damage insurance required under ORS 671.565;

(c) The lack of workers' compensation insurance that is required of the licensee under ORS 671.562;

(d) The hiring of employees while licensed as exempt under ORS 671.525;

(e) Conduct as a landscape construction professional or a landscape contracting business that is dishonest;

(f) Operation of a landscape contracting business that does not employ at least one licensed landscape construction professional; or

(g) The failure to notify the board of any unpaid court judgment, arbitration award or administrative agency final order as required by ORS 671.563.

(3) A person whose license is suspended or refused renewal under subsection (2) of this section may request a hearing within 90 days after receiving the notice of the suspension or refusal to renew. Except as provided in this subsection, the board shall give a contested case hearing requested under this subsection priority over other hearings and schedule the hearing for the earliest practicable date. If a citation is issued to the person and the order of suspension or refusal to renew will terminate by its terms if a court renders a final judgment regarding the citation in favor of the person, the person may request that the board hold the requested contested case hearing in abeyance until after the court has rendered a final judgment.

(4) A person whose license is revoked under this section is not eligible to apply for a license under ORS 671.510 to 671.760 until two years after the effective date of the revocation.

(5) The board may suspend, revoke or refuse to reissue the license of a landscape contracting business, and may impose a civil penalty, all as provided under ORS 671.997 (4), if the board determines, after notice and opportunity for a hearing, that the landscape contracting business was working with other landscape contracting businesses on the same task and work site where one of the landscape contracting businesses is licensed as an exempt independent contractor under ORS 671.525 (2)(b) and the total number of landscape contracting businesses working on the task exceeded:

(a) Two sole proprietors;

(b) One partnership;

(c) One corporation; or

(d) One limited liability company.

(6) The board shall provide by rule a process and criteria that must be met for restoration of a license that has not been permanently revoked. [1971 c.764 §11; 1981 c.536 §23; 1987 c.461 §2; 1989 c.944 §2; 1995 c.645 §1; 1997 c.337 §3; 2001 c.924 §26; 2005 c.609 §14; 2007 c.151 §4; 2007 c.541 §28; 2009 c.11 §87; 2011 c.283 §5]

671.613 Sanction for failure to comply with certain laws; civil penalty. (1) The failure of a landscape contracting business to comply with the provisions of this section and ORS 279C.800 to 279C.870, 656.021, 657.665, 670.600, 671.525, 671.530 and 671.575 or to be in conformance with the provisions of ORS 279.835 to 279.855 or ORS chapter 279A, 279B, 279C, 316, 571, 656 or 657 is a basis for suspension of the landscape contracting business license, revocation of the landscape contracting business license, refusal to issue or reissue a landscape contracting business license, assessment of a civil penalty as set forth in ORS 671.997 or a combination of these sanctions.

(2) Any action against a landscape contracting business under this section shall be conducted in conformance with the provisions of ORS 183.413 to 183.497. [1991 c.533 §9; 1999 c.535 §5; 2001 c.108 §2; 2003 c.794 §315; 2007 c.541 §29]

671.614 Placement on probation; conditions; failure to fulfill conditions. (1) The State Landscape Contractors Board may issue an order placing a landscape contracting business, or any landscape construction professional that is employed by the landscape contracting business or is a landscape contracting business owner or officer as defined in ORS 671.607, on probation if three or more claims are filed against the landscape contracting business's bond, letter of credit or deposit within a 12-month period.

(2) The board may place a landscape contracting business or landscape construction professional on probation under this section only if the board determines after investigation of the complaints that a significant likelihood exists that continued activity by the landscape contracting business or landscape construction professional without board supervision will result in additional claims against the landscape contracting business.

(3) The board may require as a condition of probation imposed under this section that the landscape construction professional take a board-approved education course in one or

more subjects relating to landscape operations.

(4) The board may require as a condition of probation imposed under this section that the owner or officer of the landscape contracting business take a board-approved education course in one or more subjects relating to landscape contracting business or general business practices.

(5) The board may take action to suspend, revoke or refuse to renew the license of the landscape contracting business or landscape construction professional if the business or professional fails to fulfill the conditions of the probation. [2005 c.609 §4; 2007 c.541 §30; 2009 c.11 §88]

671.615 Installation of backflow assemblies; qualification rules. The State Landscape Contractors Board may license a landscape construction professional to install backflow assemblies for irrigation systems and ornamental water features. The board, by rule, shall establish qualifications for issuance of a license under this section. A landscape construction professional may install a backflow assembly only if the landscape construction professional is licensed under this section and is the owner of, or employed by, a licensed landscape contracting business. A landscape construction professional installing a backflow assembly may tap into the potable water supply only at a point after the connection between the water system and the customer, as that connection is defined in ORS 448.115. [1987 c.561 §2; 1989 c.944 §3; 1995 c.645 §2; 2001 c.181 §2; 2005 c.609 §15; 2007 c.541 §31]

671.617 Examination for backflow assembly installer license. The State Landscape Contractors Board shall consult with the State Plumbing Board in developing any written and practical examinations for backflow assembly installer licenses. [1989 c.944 §4; 2005 c.609 §16]

671.620 [1971 c.764 §12; repealed by 1987 c.461 §9]

671.625 Minimum standards for contracts and billings; rules; compliance; effect of noncompliance. (1) The State Landscape Contractors Board shall by rule adopt minimum standards for written contracts and billings of the landscape contracting businesses. The standards shall set forth requirements for information that must be contained in contracts and billings. The information required shall be any information the board determines is necessary to provide protection for consumers of the services and materials provided by landscape contracting businesses.

(2) Work by a landscape contracting business subject to ORS 671.510 to 671.760 shall only be performed subject to a written contract. Any contract or billing for such work must conform to the standards adopted under subsection (1) of this section.

(3) A contract that does not substantially comply with this section may not be enforced by a landscape contracting business in any court or other proceedings within this state. [1979 c.840 §13; 1983 c.452 §12; 2007 c.541 §32]

671.628 [1991 c.533 §4; repealed by 2001 c.108 §4]

(Landscape Contractors Board)

671.630 State Landscape Contractors Board; members. The State Landscape Contractors Board shall operate as a semi-independent state agency subject to ORS 182.456 to 182.472 for purposes of carrying out the provisions of ORS 671.510 to 671.760, 671.990 (2) and 671.997. The board shall consist of seven members appointed by the Governor. The Governor shall make appointments to the board from all segments of the landscape contracting industry. At least two board members must be public members. [1971 c.764 §14; 1973 c.832 §32; 1975 c.757 §7; 1981 c.536 §24; 1987 c.414 §46; 1993 c.744 §192; 2001 c.409 §6]

671.640 [1971 c.764 §15; 1973 c.832 §33; repealed by 1975 c.757 §8]

671.650 License fees. (1) The State Landscape Contractors Board shall establish fees, including but not limited to annual landscape construction professional license fees and annual landscape contracting business license fees.

(2) The license fee for an out-of-state landscape contracting business operating in Oregon must be the same as for an Oregon landscape contracting business. [1971 c.764 §17; 1973 c.832 §34; 1981 c.536 §25; 1983 c.452 §13; 1989 c.450 §1; 1997 c.327 §2; 2001 c.409 §7; 2007 c.541 §33]

671.655 Deposit of moneys. Except as the State Landscape Contractors Board may otherwise provide under ORS 182.462 (1)(e), the board shall deposit moneys received as fees or civil penalties into the account created by the board pursuant to ORS 182.470. [2005 c.609 §6; 2011 c.110 §5]

671.660 Renewal of licenses; effect of lapse; penalty fees. (1) The fee for renewal of a license issued under ORS 671.510 to 671.760 shall be paid annually on or before the last day of the month of the anniversary of issuance.

(2) The State Landscape Contractors Board may not issue a new license to a person who has been previously licensed under ORS 671.510 to 671.760 and whose license has expired, unless the person makes written application on a form approved by the board and pays the required annual fee. The board may require the person to also pay a penalty fee.

(3) If a license lapses for two years or more, the person must reapply as for initial issuance of the license.

(4) When a landscape contracting business renews its license, the business must submit the names of all employees who are licensed landscape construction professionals.

(5) When a person renews a landscape construction professional license, the person must:

(a) Submit the name of the employer if the person is currently performing landscaping work; and

(b) Demonstrate that the person has complied with the continuing education requirement adopted by the board. [1971 c.764 §18; 1973 c.832 §35; 1977 c.873 §5; 1983 c.452 §14; 2001 c.409 §8; 2007 c.550 §§3,6]

671.670 Rulemaking authority. In accordance with any applicable provision of ORS chapter 183, the State Landscape Contractors Board may adopt rules the board considers reasonable for the administration and enforcement of ORS 671.510 to 671.760 and 671.997. [1971 c.764 §19; 1981 c.536 §26; 2005 c.609 §17]

671.675 [1987 c.461 §7; repealed by 1995 c.645 §6]

671.676 Continuing education; rules. (1) The State Landscape Contractors Board shall adopt rules establishing continuing education requirements for landscape construction professionals. The board may not require landscape construction professionals to take more than 10 hours of continuing education every year.

(2) The board may approve programs for purposes of continuing education for landscape construction professionals and determine the number of hours to be credited to the programs. The board shall ensure that continuing education opportunities for landscape construction professionals are readily available.

(3) Programs approved by the board for continuing education purposes must be designed to directly contribute to the professional competency of landscape construction professionals. Approved programs may include, but need not be limited to:

(a) Professional development programs and technical meetings of professional associations for landscape contracting businesses or for related industries such as pesticide application or irrigation auditing;

(b) University or college courses related to landscaping or horticulture;

(c) Professional staff training programs by associations of landscape construction professionals; and

(d) Online or other forms of educational programs.

(4) The board may adopt rules establishing grounds for obtaining a waiver of the continuing education requirements for landscape construction professionals. The board may not allow a waiver for more than two consecutive years except for a waiver due to military service, retirement, disability, absence from the state, inactive status or extreme hardship. [2007 c.550 §2; 2007 c.550 §5]

671.680 [1971 c.764 §21; repealed by 1975 c.757 §8]

671.681 Advisory and technical committees. (1) To aid and advise the State Landscape Contractors Board in the performance of the functions of the board, the board administrator may establish such advisory and technical committees as the administrator considers necessary. These committees may be continuing or temporary. The administrator shall determine the representation, membership, terms and organization of the committees and shall appoint their members. The administrator is an ex officio member of each committee.

(2) Members of the committees are not entitled to compensation, but the board may fix and pay to the committee members from the funds available to the board per diem and actual and necessary travel and other expenses incurred by the committee members in the performance of their official duties. [2007 c.399 §1]

Note: 671.681 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 671 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Claims)

671.690 Surety bond, letter of credit or other security. (1) An applicant for a license as a landscape contracting business shall file with the State Landscape Contractors Board a surety bond with one or more corporate sureties authorized to do business in this state, or an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008. The amount of the bond or letter of credit shall be:

(a) $3,000 for an applicant, unless the applicant is described in paragraph (b), (c) or (d) of this subsection.

(b) $10,000 for an applicant who, not in conjunction with the performance of landscaping work, constructs fences, decks, arbors, patios, landscape edging, driveways, walkways or retaining walls, unless the applicant is made subject to paragraph (d) of this subsection by work on other jobs performed by the applicant.

(c) $10,000 for an applicant who charges more than $10,000, but less than $25,000, for a landscape job.

(d) $15,000 for an applicant who charges $25,000 or more for a landscape job.

(2) The bond or letter of credit shall be conditioned that the applicant pays:

(a) All taxes and contributions due to the State of Oregon;

(b) All persons furnishing labor or material, or renting or supplying equipment to the landscape contracting business;

(c) All amounts that may be adjudged against the landscape contracting business by reason of negligent or improper work or breach of contract in performing any work subject to ORS 671.510 to 671.760; and

(d) All amounts from the bond, letter of credit or deposit the board orders paid under ORS 671.703.

(3) In addition to providing the applicant with coverage for the activities described in ORS 671.520 (1), the bond or letter of credit must provide the applicant with coverage for:

(a) Backflow assembly testing services provided by employees of the landscape contracting business who are certified under ORS 448.279;

(b) The installation, repair or maintenance by the landscape contracting business of backflow assemblies for irrigation systems and ornamental water features as described in ORS 447.060; and

(c) The installation by the landscape contracting business of landscape irrigation control wiring and outdoor landscape lighting as described in ORS 479.940.

(4) In lieu of the surety bond or letter of credit, the applicant may file with the board, under the same terms and conditions as when a bond is filed, a deposit in cash or negotiable securities acceptable to the board.

(5) The bond, letter of credit or deposit must be continuously on file with the board in the amount required by this section and is for the exclusive purpose of payment of final orders and arbitration awards in accordance with ORS 671.703. Upon termination or cancellation of the bond, withdrawal of the deposit or reduction of the bond, letter of credit or deposit to less than the required amount, the licensee shall immediately:

(a) File a replacement bond, letter of credit or deposit; or

(b) Surrender the license to the board and cease operating as a landscape contracting business.

(6) If the cost of a project makes, or foreseeably will make, a licensee subject to a higher bond or letter of credit requirement under subsection (1) of this section, the licensee shall immediately file additional bonds, letters of credit or deposits to meet the higher requirements.

(7) The landscape contracting business is responsible for all work subject to ORS 671.510 to 671.760 that is performed or contracted for by the business. [1973 c.832 §29b; 1979 c.840 §6; 1983 c.452 §15; 1991 c.331 §103; 1995 c.645 §3; 1997 c.631 §520; 1999 c.32 §3; 2001 c.198 §2; 2005 c.609 §18; 2007 c.149 §5; 2007 c.541 §35; 2011 c.104 §1]

671.695 Types of claims. A claim against a licensed landscape contracting business is payable from the bond, letter of credit or deposit required of the landscape contracting business under ORS 671.690 only if the claim arises from the performance, or a contract for the performance, of work that is subject to ORS 671.510 to 671.760. The claim must be of one or more of the following types:

(1) A claim against the landscape contracting business by the property owner or the owner's agent for any of the following:

(a) Negligent work.

(b) Improper work.

(c) Breach of contract.

(2) A claim against the landscape contracting business by the property owner or the owner's agent to discharge, or to recoup funds expended in discharging, a lien established under ORS 87.010 to 87.060 or 87.075 to 87.093. The State Landscape Contractors Board may reduce a claim described in this subsection by any amount the claimant owes the landscape contracting business. The board shall process claims described in this subsection only if:

(a) The owner paid the landscape contracting business for work subject to ORS 671.510 to 671.760; and

(b) A lien established against the property of the owner under ORS 87.010 to 87.060 or 87.075 to 87.093 is filed because the landscape contracting business failed to pay the person claiming the lien for that person's contribution toward completion of the improvement.

(3) A claim against a licensed subcontractor by a licensed landscape contracting business or by a construction contractor licensed under ORS chapter 701, for any of the following:

(a) Negligent work.

(b) Improper work.

(c) Breach of contract.

(4) A claim by a person furnishing labor to a landscape contracting business.

(5) A claim, as limited by rule of the board, by a person furnishing material or

renting or supplying equipment to the landscape contracting business. The minimum limit set by the board may not be more than $150.

(6) A claim by a subcontractor against the landscape contracting business for unpaid labor or materials arising out of a contract. [2007 c.149 §2; 2007 c.541 §37b]

671.700 Notice of claim; timeliness; board authority over dispute. (1) If a claim is filed with the State Landscape Contractors Board against a licensed landscape contracting business for payment from the bond, letter of credit or deposit required of the business under ORS 671.690, the board may resolve the dispute involving the landscape contracting business.

(2) A person having a claim against a landscape contracting business shall give the board notice of the claim in writing 90 days before any action on the bond, letter of credit or deposit is commenced.

(3) The board may not accept a claim against a landscape contracting business for processing if the claim is not filed with the board within one year after the business substantially completed work. The board may not issue an order for the payment of a court judgment or arbitration award from the bond, letter of credit or deposit of a landscape contracting business unless the person has timely filed with the board a claim against the business regarding the same matter that resulted in the judgment or award. [1973 c.832 §29c; 1983 c.452 §16; 1987 c.461 §3; 2007 c.149 §6; 2007 c.541 §36a]

671.703 Investigation of claim; resolution processes; dismissal of claim; rules. (1) Upon acceptance of a claim described in ORS 671.695, the State Landscape Contractors Board shall initiate an investigation. Upon completion of the investigation, if the board determines that facts exist supporting an order for payment, the board may order the landscape contracting business to pay the claim. A party to the claim may request a hearing on the order issued by the board.

(2) Subject to subsection (5) of this section, if the resolution of the claim requires a hearing, the board may require that the hearing be conducted as a binding arbitration under rules adopted by the board under subsection (4) of this section.

(3) The board may use arbitration, mediation or other forms of dispute resolution to resolve a landscaping dispute between any parties who agree to follow the rules of the board, including parties to a dispute that is not a claim described in ORS 671.695.

(4) Except as provided in this subsection, rules adopted by the board to regulate arbitration under subsections (2) and (3) of this section must substantially conform with the provisions of ORS 36.600, 36.610 to 36.630, 36.635 (2), 36.640, 36.645 (2), 36.650 to 36.680, 36.685 (1) and 36.690 to 36.740. The rules may:

(a) Require that a hearing under ORS 183.413 to 183.470 be conducted for issues for which a petition could be filed under ORS 36.615, 36.620, 36.625 and 36.640;

(b) Limit orders and awards made by the arbitrator as necessary to comply with ORS 671.510 to 671.760;

(c) Require that a request that an arbitrator modify or correct an award under ORS 36.690 be submitted in a form specified by the rule;

(d) Require that a petition under ORS 36.705 (2) or 36.710 (1) be filed in a shorter period of time than provided by ORS 36.705 and 36.760; and

(e) Include any other provision necessary to conform the arbitration to ORS 671.510 to 671.760.

(5) A party to a claim that is subject to a board order of binding arbitration under subsection (2) of this section may avoid the arbitration if the party requests to have the claim resolved through a contested case hearing or files a complaint in a court. A party making a request or filing a complaint under this subsection is subject to the following provisions:

(a) If the party requests to have a claim resolved through a contested case hearing, the party must, within the time specified in paragraph (c) of this subsection, deliver the request in writing to the board and to all parties entitled by board rule to receive a copy of the request.

(b) If the party files a complaint in a court, the party must, within the time specified in paragraph (c) of this subsection, deliver a copy of the complaint to the board and to all parties entitled by the board rule to receive a copy of the complaint. If the party filing the complaint is the claimant, the claimant must allege all elements of the claim in the complaint. If the complaint is filed by the licensed landscape contracting business against whom a claim is alleged, the complaint may be a complaint for damages, a complaint for declaratory judgment or other complaint that allows the claimant to file a response alleging the elements of the claim. The claimant has the burden of proving the elements of the claim in any action described in this paragraph.

(c) A party that is subject to paragraph (a) or (b) of this subsection must deliver a request or complaint to the board as described in paragraphs (a) and (b) of this subsection no later than the 30th day after the

board sends notice that an arbitration hearing has been scheduled. Failure to timely deliver a request or complaint under this paragraph constitutes consent to the binding arbitration.

(d) If a party makes a timely request under paragraph (a) of this subsection for a contested case hearing and another party timely files a complaint in compliance with paragraph (b) of this subsection, the filing of the complaint supersedes the request for a contested case hearing.

(e) A party may not withdraw a request made in compliance with paragraph (a) of this subsection unless all parties agree to the withdrawal.

(f) The provisions of paragraph (b) of this subsection are in addition to any other requirements imposed by law regarding the filing of a complaint.

(6) An arbitration conducted under subsection (2) or (3) of this section must be held before an administrative law judge acting as arbitrator. The administrative law judge assigned to act as arbitrator of the case on behalf of the board must be from the Office of Administrative Hearings established under ORS 183.605. The assignment of an administrative law judge to act as arbitrator is subject to a request for a different arbitrator under ORS 183.645 or a rule adopted pursuant to ORS 183.645.

(7) If a party to a claim described in ORS 671.695 requests a contested case hearing, the board shall schedule the hearing. If a party files a court action to determine the matter described in the claim, the board shall suspend further processing of the claim until the action is resolved by an appropriate court.

(8) If the matter described in a claim is submitted for determination by a court, the board may require that the claimant provide status reports on the pending action. The board may dismiss or close a claim described in ORS 671.695 as established by rule of the board if the claimant fails to submit status reports on a pending action.

(9) If a final order or arbitration award is issued under this section and the landscape contracting business does not pay the claim on or before the 30th day after receiving the order, the board shall order the claim paid out of the bond, letter of credit or deposit filed under ORS 671.690.

(10) The board may dismiss or close a claim as established by rule of the board if:

(a) The claimant does not permit the person against whom the claim is filed to be present at any on-site investigation made by the board; or

(b) The board determines that the person against whom the claim is filed is capable of complying with recommendations made by the board relative to the claim, but the claimant does not permit the person to comply with the recommendations. The board may dismiss or close a claim under this paragraph only if the person was licensed at the time the work was first performed and is licensed at the time the board makes its recommendations.

(11) The board may suspend processing a claim if the board determines that the nature or complexity of the claim is such that a court is the appropriate forum for the adjudication of the claim. [1979 c.840 §8; 1983 c.452 §17; 1987 c.461 §4; 1989 c.153 §1; 1991 c.533 §2; 1995 c.645 §4; 2001 c.198 §§3,4; 2003 c.75 §56; 2003 c.598 §§48,49; 2007 c.149 §7; 2007 c.541 §37a]

671.705 [1979 c.840 §9; 1981 c.897 §99; 1983 c.452 §18; repealed by 1995 c.645 §6]

671.707 Actions following final order of board. (1) If a final order of the State Landscape Contractors Board is not paid by the landscape contracting business, the board shall notify the surety on the business's bond.

(2) An order of the board that determines a claim under ORS 671.703 that becomes final by operation of law or on appeal and remains unpaid for 20 days after the order becomes final is an order in favor of the claimant against the landscape contracting business and may be recorded with the county clerk in any county of this state.

(3) Upon receipt, the clerk shall record the order in the County Clerk Lien Record. In addition to any other remedy provided by law, recording an order in the County Clerk Lien Record pursuant to this section has the effect provided for in ORS 205.125 and 205.126, and the order may be enforced as provided in ORS 205.125 and 205.126. [1979 c.840 §10; 1999 c.153 §1; 2007 c.149 §8; 2007 c.541 §38a]

671.710 Priority on satisfaction of claims. (1) Determinations by the State Landscape Contractors Board or judgments against the surety bond, letter of credit or deposit of a landscape contracting business for claims filed during a 90-day period shall be satisfied in the priority listed in subsections (2) to (4) of this section. The payment of a claim filed during a 90-day period has priority over any claim filed during a subsequent 90-day period. A 90-day period begins on the date the first claim is filed with the board. A subsequent 90-day period begins on the date the first claim is filed with the board after the close of the preceding 90-day period.

(2) Determinations and judgments as a result of claims filed within a 90-day period against a landscape contracting business by

owners of property upon which landscaping work was performed or was contracted to perform, or by the agents of the owner, have payment priority to the full extent of the bond, letter of credit or deposit over all other claims filed within the same 90-day period.

(3) If the total of all claims filed against a landscape contracting business by property owners or their agents under subsection (2) of this section within a 90-day period does not exhaust the bond, letter of credit or deposit, amounts due as a result of all other claims filed within the same 90-day period may be satisfied from the remainder of the bond, letter of credit or deposit, except that the total amount paid from any one bond to nonowner claimants may not exceed $3,000.

(4) If the total of all claims against a landscape contracting business within a single 90-day period exceeds the amount of the bond, letter of credit or deposit available for payment of those claims, payment from the bond, letter of credit or deposit shall be apportioned as the board determines, subject to the claim payment priorities established under this section.

(5) The total amount paid from any one bond for recovery of dispute resolution costs, interest and attorney fees may not exceed $3,000. [1973 c.832 §29d; 1979 c.840 §11; 1983 c.452 §19; 1999 c.34 §1; 2005 c.609 §19; 2007 c.149 §9; 2007 c.541 §39]

671.720 [1975 c.757 §11; 1987 c.461 §5; 1991 c.734 §66; 1995 c.645 §5; 1997 c.337 §4; 2001 c.108 §3; 2001 c.409 §9a; renumbered 671.955 in 2001]

(Local Business Licenses)

671.750 Portland metropolitan area business licenses. The Legislative Assembly intends to reduce the number of city business licenses that a landscape contracting business must obtain to conduct business in the Portland metropolitan area. The purpose of this section and ORS 671.755 is to enable a landscape contracting business to secure from the metropolitan service district one business license that will permit the landscape contracting business to conduct business in cities in which the landscape contracting business performs a limited amount of work and in which it does not have a principal place of business. The Legislative Assembly also intends that this section and ORS 671.755 apply only to landscape contracting businesses without regard to any subsequent expansion of the jurisdiction of the State Landscape Contractors Board over other businesses. It is the policy of this state that, to the maximum extent possible consistent with the requirements of this section and ORS 671.755, the cities within the boundaries of the metropolitan service district be allowed to control the imposition of business license taxes and to maintain the level of revenues obtained from those taxes. The amount and trends of revenue produced or distributed to each city is intended to reflect the landscape contracting business activity within the participating cities. [2007 c.541 §46]

671.755 Issuance of business license by metropolitan service district; city business license tax. (1) As used in this section:

(a) "Business license tax" means any fee paid by a person to a city or county for any form of license that is required by the city or county in order to conduct business in that city or county. "Business license tax" does not mean a franchise fee or privilege tax imposed by a city upon a public utility under ORS 221.420 or 221.450 or under a city charter.

(b) "Conducting business" means engaging directly, or through officers, agents and employees, in an activity in pursuit of gain.

(c) "Principal place of business" means the location in this state of the central administrative office of a person conducting business in this state.

(d) "Within a metropolitan service district" means that city limits are wholly or partially inside district boundaries.

(2) A landscape contracting business shall pay directly to any city within a metropolitan service district any business license tax imposed by the city if:

(a) The landscape contracting business has its principal place of business within the city; or

(b) The landscape contracting business does not have its principal place of business within the city but derives gross receipts of $250,000 or more from conducting business within the city during the calendar year for which the tax is owed.

(3) A landscape contracting business may apply for a business license from a metropolitan service district if the business conducts business in a city that is within the district but that is not a city to which the business directly pays a business license tax for that year.

(4) The metropolitan service district shall issue a business license to a landscape contracting business if:

(a) The business proves to the district that the business has directly paid the business license tax imposed by each city within the district to which the business must directly pay a business license tax; and

(b) The business pays a license fee to the district.

(5) The license fee charged under subsection (4) of this section shall be twice the av-

erage business license tax charged to landscape contracting businesses by cities located within the metropolitan service district plus an amount that is sufficient to reimburse the district for the administrative expenses of the district incurred in carrying out its duties under this section.

(6) If a landscape contracting business is issued a business license by the metropolitan service district under subsection (4) of this section, and a city within the district other than a city described in subsection (2) of this section demands that the business pay a business license tax, the demanding city shall waive payment of the tax if the business proves by possession or otherwise that the business has a business license issued by the metropolitan service district for the calendar year for which the tax is owed.

(7) The metropolitan service district shall distribute the business license fees collected by the district under this section, less administrative expenses, to the cities within the district that collect a business license tax. In any year, each of the cities shall receive a share of the license fees based upon the proportion that the number of residential building permits the city issued during the year bears to the total number of residential building permits issued during the year by all of the cities within the district. The district shall determine the number of residential building permits issued by cities within the district from statistics and other data published by the State Housing Council. A district shall distribute moneys under this subsection at least once each year. [2007 c.541 §47]

671.760 Business income tax. (1) As used in this section, "business license tax" has the meaning given that term in ORS 671.755.

(2) A city that imposes a business license tax based on or measured by adjusted net income earned by conducting business within the city is exempt from ORS 671.755. [2007 c.541 §48]

PENALTIES

671.950 [Formerly 671.435; 2003 c.14 §425; renumbered 671.995 in 2005]

671.955 [Formerly 671.720; 2005 c.609 §20; renumbered 671.997 in 2005]

671.990 Penalties for violations of ORS 671.010 to 671.220 or 671.530. (1) Violation of any of the provisions of ORS 671.010 to 671.220 is subject to the provisions of ORS 671.220.

(2) Violation of ORS 671.530 is a misdemeanor. [Subsection (2) enacted as 1961 c.431 §24; subsection (3) enacted as 1971 c.764 §22; 1977 c.803 §17; 1981 c.536 §18]

671.992 Criminal penalties for violations of ORS 671.310 to 671.459. Violation of any provision of ORS 671.310 to 671.459, or any rule of the State Landscape Architect Board adopted thereunder, is a Class A misdemeanor. [2001 c.950 §8; 2003 c.14 §426; 2011 c.597 §276]

671.995 Civil penalties for violations of ORS 671.310 to 671.459. (1) The State Landscape Architect Board may impose a civil penalty against any person who violates any provision of ORS 671.310 to 671.459 or any rule adopted thereunder. The penalty shall be imposed in the manner provided by ORS 183.745. The board shall determine the amount of a civil penalty imposed under this section, not to exceed $5,000 for each offense. Notwithstanding ORS 670.335, civil penalties recovered under this section shall be deposited into an account established by the board as provided under ORS 182.470. Moneys deposited are appropriated continuously to the board for the administration and enforcement of ORS 182.456 to 182.472, 671.310 to 671.459 and 671.995. The Attorney General shall bring an action in the name of the State of Oregon in a court of appropriate jurisdiction to enforce any civil penalty imposed under this section.

(2) In determining the amount of a civil penalty imposed under this section, the board may consider:

(a) The seriousness of the violation;

(b) The economic benefit to the violator resulting from the violation;

(c) Whether the violator has previously committed violations; and

(d) Other factors that the board finds appropriate. [Formerly 671.950]

671.997 Civil penalties for violations of ORS 671.510 to 671.760. (1) Except as provided in subsection (4) of this section, a person who violates any provision of ORS 671.510 to 671.760 or a rule adopted pursuant to ORS 670.310, 670.605 or 671.670 shall forfeit and pay to the State Landscape Contractors Board a civil penalty in an amount determined by the board of not more than $2,000 for each offense.

(2) The board shall impose civil penalties under this section as provided in ORS 183.745.

(3) The provisions of this section are in addition to and not in lieu of any other penalty or sanction provided by law.

(4) If a landscape contracting business commits an act described under ORS 671.610 (5), the board shall impose penalties and sanctions on both the landscape contracting business to which the contract is awarded

and the landscape contracting business that awards the contract as follows:

(a) A civil penalty of not less than $500 nor more than $1,000 for a first offense;

(b) A civil penalty of not less than $1,000 nor more than $2,000 for a second offense;

(c) Suspension of license or refusal to reissue license for six months for a third offense;

(d) Revocation of license for three years for a fourth offense; and

(e) Permanent revocation of the landscape contracting business's license for a fifth offense. [Formerly 671.955; 2007 c.541 §40; 2009 c.11 §89]