

Chapter 671

1999 EDITION

Architect; Landscape Architect, Contractor and Business

ARCHITECTS

- 671.010 Definitions for ORS 671.010 to 671.220
- 671.020 Practice of architecture without certificate of registration prohibited; use of stamp; architect to practice under own name, exceptions
- 671.025 Certain plans to carry stamp; identification
- 671.030 Activities not considered as “practice of architecture”
- 671.041 Practice of architecture by corporations, limited liability companies and partnerships; exceptions; annual statement of directors or members; documents to be stamped; reciprocity
- 671.045 Liability of professional corporation
- 671.047 Application of general corporation law to professional corporations
- 671.050 Application for certificate of registration; qualifications
- 671.060 Examination of applicants; issuing certificates
- 671.065 Certification of registration without examination
- 671.080 Annual renewal; fee; effect of failure to renew; suspension of practice
- 671.085 Fees
- 671.090 Grounds for denial or revocation of certificates
- 671.100 Revocation of certificates or disciplinary action by board
- 671.105 Hearing required in license denial; judicial review of board orders
- 671.120 State Board of Architect Examiners; members; term; chair
- 671.125 Rulemaking authority of board
- 671.220 Civil penalties; injunction; effect of failure to be licensed; representation of membership in trade or professional organization

LANDSCAPE ARCHITECTS

- 671.310 Definitions for ORS 671.310 to 671.459
- 671.312 Purpose of ORS 671.310 to 671.459

- 671.315 Use of title “registered landscape architect” or “landscape architect” without registration prohibited
- 671.325 Application for registration; fee
- 671.335 Examination; qualifications for registration
- 671.345 Registration without examination; fee
- 671.365 Fees
- 671.376 Renewal; fee; late fee; suspension
- 671.393 Code of professional conduct; publication; effect; revision
- 671.395 Continuing education
- 671.404 Grounds for refusal to register or renew or for suspension
- 671.412 Public contract requirements
- 671.415 Rulemaking authority
- 671.425 Reissuance of revoked registration
- 671.435 Civil penalties
- 671.442 Arbitration; effect; costs
- 671.445 Investigation of complaints
- 671.454 Landscape Architect Account
- 671.459 State Landscape Architect Board; members; chair; term

LANDSCAPE CONTRACTORS AND BUSINESSES

(Generally)

- 671.510 Short title
- 671.520 Definitions for ORS 671.510 to 671.710

(Licensure)

- 671.525 Applicant required to be independent contractor; classes of registration
- 671.530 Contractor or business license required; use of title; scope of contractor's license
- 671.540 Application of ORS 671.510 to 671.710
- 671.550 Authority of board to investigate; confidentiality of information

- 671.555 Investigation of person engaged in landscape business; procedures
- 671.560 Issuance of license; limited license; exemption
- 671.565 Landscape business license requirements; fees; employees; bond; insurance; basis for independent contractor status
- 671.570 Qualifications for contractor license
- 671.572 Alternative licensing standards for person licensed as construction contractor
- 671.575 License required to obtain judicial or administrative remedy; exception
- 671.578 Suit for damages for misrepresentation; attorney fees
- 671.580 Contractor license not transferable
- 671.590 Reciprocal contractor licensing
- 671.600 New license required upon change of ownership; notification of change of address
- 671.605 Effect of change in partners or corporate officers
- 671.610 Grounds for license denial, suspension, revocation or refusal to renew license; injunctive relief; civil penalty
- 671.613 Sanction for failure to comply with certain laws
- 671.615 Installation of irrigation backflow prevention devices
- 671.617 Examination for backflow prevention device installer license
- 671.625 Minimum standards for contracts and billings; compliance; effect of noncompliance
- 671.628 Sanctions for failure to pay amount owed board

(Landscape Contractors Board)

- 671.630 State Landscape Contractors Board; members; function
- 671.650 License fees
- 671.660 Renewal of licenses; effect of lapse; penalty fees
- 671.670 Rulemaking authority

(Claims)

- 671.690 Surety bond, letter of credit or other security
- 671.700 Notice of claim against business
- 671.703 Filing claim against business; hearing; arbitration; board limitations

671.707 Actions following final order of board

671.710 Priority on satisfaction of claims

(Civil Penalty)

671.720 Civil penalty for violations of ORS 671.510 to 671.710

PENALTIES

671.990 Penalties

CROSS-REFERENCES

Administrative procedures and rules of state agencies, 183.310 to 183.550

Construction design professional, liability for certain employee failure, 30.785

Denial, suspension or revocation of license solely because of criminal conviction prohibited, 670.280

Engineering and land surveying law, applicability, 672.060

Extension of licensing or certification period, 670.410

Licensing of occupations and professions by agencies, 670.300 to 670.350

Licensing period, authority to change, 670.410

Military or naval service, exemption from fees, 408.450

Professional corporations, generally, Ch. 58

Provisions applicable to state agencies generally, Ch. 182

671.010

Limitation on liability of architect for emergency relief services, 30.788

671.020

Construction contractors, licensing requirements, exclusion for architects, 701.010, 701.055

671.025

Structures of public assembly, approval of certain plans, 455.645

671.510 to 671.710

Business license tax, city, 701.015

Public contracts, license required, 279.025

Support enforcement, license may be suspended on arrearage, 25.750

Backflow prevention device, certification of installer, 448.279

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) "Council" means the National Council of Architectural Registration Boards (NCARB).
 - (5) "Practice of architecture" means any one or combination of the following practices by a person: The planning, designing or supervision of the erection, enlargement or alteration of any building or of any appurtenance thereto other than exempted buildings. "Practice of architecture" does not include any contractor or duly appointed superintendent or foreman directing the work of erection, enlargement or alteration of any building or any appurtenance thereto, under the supervision of a registered architect or registered professional engineer, as provided by ORS 671.010 to 671.220.
 - (6) "Registered professional engineer" means a person defined by and described in ORS 672.002 to 672.325.
 - (7) "State Building Code" means the State of Oregon Structural Specialty Code and Fire and Life Safety Code.
- [Amended by 1957 c.408 s.1; 1961 c.585 s.1; 1977 c.803 s.1]

671.020 Practice of architecture without certificate of registration prohibited; use of stamp; architect to practice under own name, exceptions. (1) In order to safeguard life, health and property and to eliminate unnecessary loss and waste in this state, no person shall 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 such person is practicing architecture or is an architect, or represent in any manner that such 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) No person shall practice or attempt to practice the profession of architecture, or assume the title of "architect," or use in connection with the business of such person any words, letters or figures indicating the title "architect" without first complying with ORS 671.010 to 671.220.

(3) 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 to be used as construction documents in the practice of architecture shall bear the stamp of a registered architect and shall be signed by the architect. The stamp and signature shall 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 such 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.

(4) 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 s.1; 1957 c.408 s.2; 1961 c.585 s.4; 1971 c.587 s.1; 1977 c.803 s.2; 1979 c.354 s.1]

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 s.3; 1977 c.803 s.3; 1991 c.910 s.1]

671.030 Activities not considered as “practice of architecture.” (1) ORS 671.010 to 671.220 shall not be construed to affect or prevent the practice of naval or landscape architecture or of engineering by a registered professional engineer or to any person engaged in architecture or engineering work as an employee of an architect or registered professional engineer; nor shall it prevent draftsmen, clerks of the work, superintendents and other employees of registered architects and registered professional engineers, under provisions of ORS 671.010 to 671.220, from acting under the instructions, control or supervision of their employers. Such persons shall 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 such designation is provided by rule of the State Board of Architect Examiners.

(2) Nothing contained in ORS 671.010 to 671.220 shall prevent any person from making plans, specifications for, or supervising the erection, enlargement or alteration of a building, or any appurtenance thereto, if the building is to be used for a single family residential building or farm building or is a structure used in connection with or auxiliary to a single family dwelling or farm building, such as a three-car garage, barn, shed, shelter used for the housing of domestic animals, livestock, etc.; nor shall anything in ORS 671.010 to 671.220 prevent any person from making plans, specifications for, or supervising the erection, enlargement or alteration of any building, or any appurtenance thereto, where 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.

(3) Nothing in ORS 671.010 to 671.220 shall prevent a person from planning, designing, specifying or supervising the alterations or repairs to a building when the structural part of a building, i.e., the foundation walls, floors, roof, footings, bearing partitions, beams, columns, joists, etc., is not involved, or when the occupancy or the code-related classification of the building has not been changed.

(4) Nothing in ORS 671.010 to 671.220 shall prevent a person practicing marine, naval or landscape architecture from purporting to be a marine, naval or landscape architect as long as the work is confined and limited to work coming under those classifications. [Amended by 1955 c.407 s.2; 1957 c.408 s.3; 1987 c.158 s.134; 1991 c.910 s.2]

671.040 [Amended by 1961 c.585 s.5; 1965 c.303 s.1; repealed by 1969 c.596 s.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. (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 s.2 (enacted in lieu of 671.040); 1971 c.587 s.2; 1977 c.803 s.4; 1985 c.764 s.2; 1991 c.910 s.3; 1995 c.327 ss. 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 s.3; 1977 c.803 s.5; 1991 c.910 s.4; 1997 c.249 s.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 takes precedence in the event of any conflict with provisions of the Oregon Business Corporation Act or other law. [1969 c.596 s.4; 1977 c.803 s.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 s.62; 1973 c.832 s.21; 1974 s.s. c.36 s.20; 1977 c.803 s.7]

671.060 Examination of applicants; issuing certificates. (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 s.22]

671.065 Certification of registration without examination. (1) Any person not registered to practice architecture in this state but who is certified by the council or has lawfully been issued a license or certificate to practice in another state or territory of the United States, the District of Columbia or another country, the qualifications and licensing examinations of which are substantially similar to those required in this state, may, at the discretion of the State Board of Architect Examiners, be entitled to a certificate of registration without examination.

(2) Any person seeking to practice architecture in this state and who meets the requirements of certification as set forth in subsection (1) of this section may be admitted to this state for the purpose of offering to render architectural services for that purpose only without having been issued a certificate of registration by the board, provided that the architect advises the prospective client and the board in writing and submits an application for registration in this state. Such persons may while offering to render architectural services use the title, "architect," but shall not represent in any manner that the person is qualified to practice under ORS 671.010 to 671.220. [1977 c.803 s.9]

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

671.080 Annual renewal; fee; effect of failure to renew; suspension of practice. (1) Each registrant who desires to continue as an architect in this state shall annually pay to the State Board of Architect Examiners, on or before the anniversary of issuance of the certificate of registration, the fee for renewal of registration required 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 anniversary of issuance of the certificate, the registrant shall be considered 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, shall forfeit 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 examination fees, renewal fee and penalties.

(4) The board may grant a suspension to any registered architect who gives up the practice and while in good standing makes such request in writing to the board. The architect may resume practice within five years if the architect pays the annual fees for the renewal of registration for the current year and complies with any continuing education requirements adopted by the board under ORS 671.125. If the architect fails to renew within the five-year period, the architect may be reinstated 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 examination fees and penalties. [Amended by 1957 c.408 s.4; 1973 c.832 s.23; 1977 c.803 s.10; 1977 c.873 s.2a; 1991 c.910 s.5; 1997 c.643 s.10; 1999 c.802 ss.2,3]

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

- (1) Registration.
- (2) Renewal.
- (3) Architectural Registration Examination, resident and nonresident, which shall not exceed the cost of administering the exam.
- (4) Reciprocal application.
- (5) Duplicate certificate.
- (6) Corporation renewal.
- (7) Corporation registration. [1973 c.832 s.20; 1977 c.803 s.11; 1981 c.121 s.3; 1983 c.50 s.1; 1989 c.795 s.1; 1991 c.703 s.17; 1997 c.643 s.11]

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

- (1) The employment of 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) Upon proof that the applicant or the holder of the certificate of registration is falsely impersonating a practitioner or former practitioner.
- (3) Upon proof that the holder of a certificate is practicing under an assumed, fictitious, or a corporate name contrary to the provisions of ORS 671.010 to 671.220.
- (4) Upon proof that the applicant or the holder of the certificate of registration is guilty of fraud or deceit, or of gross negligence, incompetency or misconduct in the practice of architecture.
- (5) Upon proof that the applicant or the holder of the certificate of registration willfully evaded or tried to evade any law, ordinance, code or regulation of the state, or counties and cities of this state, governing construction of buildings.
- (6) Upon proof that the holder of the certificate of registration stamped and signed any plans, specifications or drawings that were not prepared by the architect or under the architect's direct control and supervision.
- (7) Upon proof that the holder of the certificate of registration, unbeknown to a party for whom the architect is doing work, received rebates, commissions, grants of moneys or favors which the architect is not entitled to or justified in receiving.
- (8) Upon proof that the applicant or the holder of the certificate is practicing contrary to the provisions and requirements of ORS 671.010 to 671.220.
- (9) Failure to comply with any continuing education requirements adopted by the board under ORS 671.125, unless the requirements have been waived by the board. [Amended by 1973 c.832 s.24; 1977 c.803 s.12; 1979 c.354 s.2; 1999 c.802 s.5]

671.100 Revocation of certificates or 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 s.105]

671.105 Hearing required in license denial; 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 183.310 to 183.550.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS 183.310 to 183.550. [1971 c.734 s.107]

671.110 [Amended by 1955 c.407 s.3; repealed by 1971 c.734 s.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 s.24; 1971 c.753 s.25; 1977 c.803 s.13; 1981 c.121 s.2; 1987 c.414 s.41; 1991 c.910 s.6; 1993 c.18 s.144; 1997 c.643 s.12; 1999 c.1084 s.57]

671.125 Rulemaking authority of board. In accordance with any applicable provisions of ORS 183.310 to 183.550, 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 s.15; 1999 c.802 s.1]

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

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

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

671.160 [Repealed by 1971 c.753 s.74]

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

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

671.180 [Repealed by 1961 c.585 s.8]

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

671.200 [Repealed by 1971 c.753 s.74]

671.210 [Amended by 1955 c.407 s.4; repealed by 1971 c.753 s.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 183.090.

(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 s.7; 1977 c.803 s.16; 1983 c.389 s.3; 1989 c.795 ss.2,5; 1991 c.734 s.64; 1995 c.327 s.2; 1995 c.762 s.1; 1997 c.643 s.13; 1999 c.1084 s.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 for the purpose and services described in this section.

(3) "Landscape architecture" or the "practice of landscape architecture" means the performance of professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications and responsible supervision where the dominant purpose of the services is:

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

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

(c) Design for equestrian trails, plantings, landscape irrigation, landscape lighting and landscape grading.

(4) "Registered landscape architect" means a person registered as a landscape architect under ORS 671.310 to 671.459. [1961 c.431 s.1; 1963 c.580 s.31; 1981 c.536 s.1; 1983 c.455 s.1; 1987 c.414 s.42]

671.312 Purpose of ORS 671.310 to 671.459. ORS 671.310 to 671.459 is enacted in order to introduce qualifying criteria in the professional practice of landscape architecture. This action is necessary to safeguard 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 architectural concerns of the people of this state. [1983 c.455 s.3; 1995 c.189 s.1]

671.315 Use of title "registered landscape architect" or "landscape architect" without registration prohibited. (1) Unless an individual is a landscape architect registered under the provisions of ORS 671.310 to 671.459, the individual shall not use the title of registered landscape architect, landscape architect, or any title, designation, words, letters, abbreviations, sign, card or device indicating, or tending to indicate, or represent in any manner that the individual is a registered landscape architect.

(2) ORS 671.310 to 671.459 is not intended to restrict or otherwise affect the right of any individual 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"; or

(d) Operate as a landscape contractor under ORS 671.510 to 671.710 or use the title "landscape contractor."

(3) Each registered landscape architect shall obtain a stamp of the design authorized by the State Landscape

Architect Board, bearing the name of the registrant, date of registration, number of certificate and the legend "registered landscape architect." The registrant shall stamp all professional documents that the registrant issues, including maps, plans, designs, contract documents and reports. [1981 c.536 s.2; 1995 c.189 s.2]

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

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 s.3; 1987 c.414 s.42a; 1995 c.189 s.3]

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

671.335 Examination; qualifications for registration. (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 s.4; 1995 c.189 s.4]

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

671.345 Registration without examination; 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) Has passed a national examination within the five years immediately preceding application.

(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 s.5; 1987 c.414 s.42b; 1987 c.460 s.1; 1993 c.18 s.145; 1995 c.189 s.5; 1997 c.643 s.14]

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

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

671.365 Fees. 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 s.6a; 1993 c.712 s.1; 1995 c.189 s.6; 1997 c.643 s.15]

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

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

671.376 Renewal; fee; late fee; suspension. (1) Each registrant who desires to continue as a landscape architect in this state shall annually pay to the State Landscape Architect Board on or before the renewal date of October 31 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 October 31, the registrant shall be deemed delinquent. However, the registrant may renew the certificate not later than November 30, with a late fee, upon payment of the renewal fee, or after November 30, upon payment of the renewal fee plus a late fee in an amount to be prescribed by the board by rule.

(3) Any person who fails to pay the renewal fee and any late fee for a period of 60 days, forfeits the right to be a registered landscape architect and may be reinstated as a landscape architect 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 a suspension 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 such request in writing to the board. The suspended landscape architect may resume the practice within five years upon payment of the annual fees for the renewal of registration for the current year. If the suspended landscape architect fails to renew the registration within five years, the suspended landscape architect may be reinstated only upon passing examinations required by the board and by paying any required examination fees, renewal fees and late fees. [1995 c.189 s.8 (enacted in lieu of 671.375)]

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

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

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

671.393 Code of professional conduct; 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 publication 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 s.4]

671.395 Continuing education. (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) A program of education established or approved under this section is not required for the issuance or renewal of registration under ORS 671.310 to 671.459. [1981 c.536 s.9]

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

671.404 Grounds for refusal to register or renew or for suspension. Subject to ORS 183.310 to 183.550, the State Landscape Architect Board may refuse to register any applicant, may refuse to renew the registration of any registered landscape architect or may suspend for a period not exceeding one year or revoke the registration of any registered landscape architect if the board finds that the applicant or registrant is a person who:

(1) Has obtained or attempted to obtain registration under ORS 671.310 to 671.459 by fraud or material misrepresentation.

(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) Is found by the board to have used fraud or deceit or to have been grossly 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.

(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 which, if committed or omitted in this state, would be a violation of ethical or professional standards established pursuant to this chapter. A certified copy of the record of suspension or revocation of the state making such suspension or revocation is conclusive evidence thereof. [1981 c.536 s.10; 1987 c.460 s.3; 1995 c.189 s.9]

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

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

671.412 Public contract requirements. When the state or any political subdivision therein contracts for landscape architectural service projects, the contracts shall be with registered landscape architects, as defined in ORS 671.310. [1983 c.455 s.7; 1995 c.189 s.10]

671.415 Rulemaking authority. The State Landscape Architect Board, subject to ORS 183.310 to 183.550, may adopt rules necessary for the board to perform its duties under ORS 671.310 to 671.459. [1981 c.536 s.11; 1987 c.414 s.42d]

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

671.425 Reissuance of revoked registration. If the State Landscape Architect Board revokes the registration of a registered landscape architect for gross negligence in the practice of landscape architecture 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 gross negligence 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 s.12; 1987 c.414 s.42e]

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

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

671.435 Civil penalties. 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 183.090. A civil penalty imposed under this section shall be in an amount determined by the board of not more than \$1,000 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 and shall be used only for the administration and enforcement of ORS 182.456 to 182.472 and 671.310 to 671.459. 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. [1981 c.536 s.13; 1991 c.734 s.65; 1997 c.643 s.16; 1999 c.1084 s.59]

671.440 [1961 c.431 s.12; repealed by 1977 c.842 s.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 s.6; 1997 c.643 s.17]

671.445 Investigation of complaints. The State Landscape Architect Board may:

(1) 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.

(2) Disregard any complaint filed more than two years after the act or omission alleged as a violation of ORS 671.310 to 671.459. [1981 c.536 s.14; 1987 c.414 s.42f]

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

671.454 Landscape Architect Account. The Landscape Architect Account is established as an account in the General Fund of the State Treasury. Except as otherwise provided by law, all moneys received by the State Landscape Architect Board pursuant to ORS 671.315 to 671.459 shall be paid into the State Treasury and credited to the account. All moneys in the account are appropriated continuously to the board to carry out the provisions of ORS 671.315 to 671.459. [1981 c.536 s.14a; 1987 c.414 s.43]

671.455 [1963 c.580 s.28; 1969 c.314 s.74; 1971 c.753 s.26; repealed by 1977 c.842 s.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. The board shall consist of five members to be appointed by the Governor. Three of the members shall be registered landscape architects, two 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 s.15; 1987 c.414 s.44; 1993 c.744 s.238; 1995 c.189 s.11; 1997 c.643 s.18; 1999 c.1084 s.60]

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

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

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

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

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

LANDSCAPE CONTRACTORS AND BUSINESSES

(Generally)

671.510 Short title. ORS 671.510 to 671.710 may be cited as the Landscape Contractors Law. [1971 c.764 s.1; 1973 c.832 s.25]

671.520 Definitions for ORS 671.510 to 671.710. As used in ORS 671.510 to 671.710, unless the context requires otherwise:

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

(2) "Landscape contractor" means any person who for compensation or with the intent to be compensated arranges, undertakes, offers or contracts to undertake, or submits a bid to perform activities requiring the art, ability, experience, knowledge, science and skill to:

(a) Plan and install lawns, shrubs, vines, trees and other decorative vegetation including the preparation of property on which the vegetation is to be installed, and the construction of fountains and drainage and irrigation systems for decorative vegetation;

- (b) Plan and install fences, decks, arbors, driveways, walkways and retaining walls; or
- (c) Do any part or any combination of any activity described in paragraphs (a) and (b) of this subsection.
- (3) "Landscaping business" means any business that offers or provides, for compensation or with the intent to be compensated, the services of a landscape contractor.
- (4) "Licensee" means a person or business who is licensed under ORS 671.510 to 671.710 as a landscape contractor.
- (5) "Nursery stock" means nursery stock as defined by ORS 571.005 and as further defined by the board after public hearing. [1971 c.764 s.2; 1973 c.832 s.26; 1975 c.757 s.1; 1981 c.536 s.22; 1983 c.452 s.1; 1985 c.565 s.91; 1987 c.414 s.45; 1997 c.785 s.1; 1999 c.32 s.1]

(Licensure)

671.525 Applicant required to be independent contractor; classes of registration. (1) An applicant for a landscaping 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 registration:

(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. All partnerships, corporations and limited liability companies must have a federal tax identification number.

(3) If a licensee who qualifies for registration 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 671.720 and must reapply to the board for registration in the correct class.

(4) 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 s.6; 1997 c.337 s.2]

671.530 Contractor or business license required; use of title; scope of contractor's license. (1) No person shall operate as a landscape contractor in this state without a valid landscape contractor's license issued pursuant to ORS 671.560.

(2) No person shall use the title of landscape contractor, or any title, sign, card or device indicating, or tending to indicate, or represent in any manner that the person is a landscape contractor unless the person has a valid landscape contractor's license issued pursuant to ORS 671.560.

(3) No person shall operate as a landscaping business in this state without a valid landscaping business license issued pursuant to ORS 671.560.

(4) No person shall use the title of landscape business, or any title, sign, card or device indicating, or tending to indicate, advertise or represent in any manner that the person is a landscape business unless the person has a valid landscaping business license issued pursuant to ORS 671.560.

(5) A landscape contractor is authorized to perform landscaping work only while in the employ of a landscaping business licensed and bonded as required by ORS 671.510 to 671.710. If the landscape contractor is the sole proprietor, the contractor must also obtain a license as a landscaping business. [1971 c.764 s.3; 1973 c.832 s.27; 1975 c.757 s.2; 1979 c.840 s.1a; 1983 c.452 s.2; 1989 c.944 s.1]

671.540 Application of ORS 671.510 to 671.710. ORS 671.510 to 671.710 and 671.990 (2) do not apply to:

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

(2) Any landscape architect registered pursuant to ORS 671.310 to 671.459 and practicing as provided therein.

(3) Any landscaping work for which the price of all contracts for labor, materials and other items for a given job site in a calendar year is less than \$500 and the work is of a casual, minor or inconsequential nature. This subsection does not apply to a person who advertises or represents through any manner including a sign, card or other device which might indicate to the public that the person is a landscape contractor or a landscaping business or is qualified to

so act.

(4) Any landscaping work that is a casual, minor or inconsequential incident of maintenance of grounds.

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

(6) Grading of plots and areas of land performed in conjunction with new or remodeling construction when performed by a person or business licensed with the Construction Contractors Board.

(7) Any owner of property who contracts for landscaping work to be performed by a landscape contractor. This subsection 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.

(8) Any landscaping work performed by a person on property that the person owns or in which the person has a legal interest. This subsection 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.

(9) A 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 State Landscape Contractors Board shall revise the amount specified in this subsection every five years, beginning in 2003, based on changes in the Portland Consumer Price Index as defined in ORS 316.085. This subsection does not apply to a general contractor performing irrigation work unless the work is performed pursuant to a permit issued by the local building official.

(10) A 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. This subsection does not apply to a general contractor performing irrigation work unless the work is performed pursuant to a permit issued by the local building official. [1971 c.764 s.4; 1973 c.832 s.28; 1979 c.840 s.2; 1981 c.536 s.17; 1983 c.452 s.3; 1997 c.785 s.2; 1999 c.32 s.2; 1999 c.402 s.10]

Note: The amendments to 671.540 by section 10, chapter 402, Oregon Laws 1999, become operative July 1, 2000. See section 43, chapter 402, Oregon Laws 1999. The text that is operative until July 1, 2000, including amendments by section 2, chapter 32, Oregon Laws 1999, is set forth for the user's convenience.

671.540. ORS 671.510 to 671.710 and 671.990 (2) do not apply to:

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

(2) Any landscape architect registered pursuant to ORS 671.310 to 671.459 and practicing as provided therein.

(3) Any landscaping work for which the price of all contracts for labor, materials and other items for a given job site in a calendar year is less than \$500 and the work is of a casual, minor or inconsequential nature. This subsection does not apply to a person who advertises or represents through any manner including a sign, card or other device which might indicate to the public that the person is a landscape contractor or a landscaping business or is qualified to so act.

(4) Any landscaping work that is a casual, minor or inconsequential incident of maintenance of grounds.

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

(6) Grading of plots and areas of land performed in conjunction with new or remodeling construction when performed by a person or business registered with the Construction Contractors Board.

(7) Any owner of property who contracts for landscaping work to be performed by a landscape contractor. This subsection 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.

(8) Any landscaping work performed by a person on property that the person owns or in which the person has a legal interest. This subsection 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.

(9) A general contractor registered 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 State Landscape Contractors Board shall revise the amount specified in this subsection every five years, beginning in 2003, based on changes in the

Portland Consumer Price Index as defined in ORS 316.085. This subsection does not apply to a general contractor performing irrigation work unless the work is performed pursuant to a permit issued by the local building official.

(10) A general contractor registered 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. This subsection does not apply to a general contractor performing irrigation work unless the work is performed pursuant to a permit issued by the local building official.

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 671.710.

(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 by the board to determine negligent or improper work under ORS 671.703, 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 such inspection. [1971 c.764 s.5; 1979 c.840 s.3; 1983 c.452 s.4]

671.555 Investigation of person engaged in landscape business; procedures. (1) The State Landscape Contractors Board may investigate the activities of any person engaged in the landscaping business to determine compliance with ORS 671.510 to 671.710.

(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 authorized by the board to determine compliance with the provisions of ORS 671.510 to 671.710 is authorized to require any person who is engaged in any activity regulated by ORS 671.510 to 671.710 to demonstrate proof of compliance with the registration requirements of ORS 671.510 to 671.710. If a person who is contracting directly with the owner of the property does not demonstrate proof of compliance with the license requirements of ORS 671.510 to 671.710, the inspector shall 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 registration requirements of ORS 671.510 to 671.710 and shall provide that unless the person demonstrates proof of compliance within two days of the date of the notice, the inspector 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 registration requirements of ORS 671.510 to 671.710, the inspector is authorized to 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 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 work stopped immediately if the landscape contractor working on a worksite has never registered with the board or if the contractor cannot demonstrate that the contractor has been registered 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 671.710.

(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 s.5; 1999 c.33 s.1]

671.560 Issuance of license; limited license; exemption. (1) Except as provided in ORS 671.590, the State Landscape Contractors Board shall issue a landscape contractor's license to an applicant who satisfies the requirements of ORS 671.570.

(2) The board shall issue a landscaping 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) The board may issue a limited or specialty license if the applicant is required to have a landscape contractor's license or business license but is not qualified or required to be licensed for all phases of landscape contracting.

(5) A landscaping 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 s.6; 1975 c.757 s.4; 1983 c.452 s.5; 1999 c.535 s.4]

671.565 Landscape business license requirements; fees; employees; bond; insurance; basis for independent contractor status. Each person applying for a landscaping business license shall pay to the State Landscape Contractors Board the fees required by ORS 671.570 and 671.650 and:

(1) Employ at least one person with a landscape contractor's license to supervise the landscaping operation of the business and shall submit the names of all employees who are licensed contractors.

(2) File with the board the surety bond required pursuant to ORS 671.690.

(3) Throughout the license period, have in effect public liability, personal injury and property damage insurance covering the work of that landscaping business which is subject to ORS 671.510 to 671.710 for an amount not less than \$100,000. The landscaping business shall provide satisfactory evidence to the board at the time of application and renewal that the insurance required by this section has been procured and is in effect.

(4) Indicate, as set forth in ORS 670.600, the basis under which the applicant qualifies as an independent contractor. [1983 c.452 s.8; 1991 c.533 s.1]

671.570 Qualifications for contractor license. Each person applying for a landscape contractor's license shall pay to the State Landscape Contractors Board the fee required by ORS 671.650 and:

(1) Pass an examination, which shall be offered at least once each six months by the board to determine the fitness of the applicant for licensing and have:

(a) Within 10 years before the day the application for a license is made, at least:

(A) Twenty-four months of employment with a landscape contractor; or

(B) Twelve months of employment with a landscape contractor and one full year of training in an area related to landscaping at an accredited school or college; or

(b) Proven to the satisfaction of the board by test and experience that the applicant is qualified.

(2) Be employed by a landscaping business if performing landscaping work.

(3) Pay a nonrefundable examination fee not to exceed \$50. [1971 c.764 s.7; 1973 c.832 s.29; 1975 c.757 s.5; 1979 c.840 s.4; 1983 c.452 s.6; 1985 c.565 s.92; 1987 c.414 s.45a; 1997 c.327 s.1]

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 s.5; 1999 c.402 s.11]

Note: The amendments to 671.572 by section 11, chapter 402, Oregon Laws 1999, become operative July 1, 2000. See section 43, chapter 402, Oregon Laws 1999. The text that is operative until July 1, 2000, is set forth for the user's convenience.

671.572. Notwithstanding the provisions of ORS 671.570 regarding experience and employment status, the State Landscape Contractors Board may adopt alternative standards for the licensing of a person registered as a contractor under ORS chapter 701.

671.575 License required to obtain judicial or administrative remedy; exception. (1) A landscaping 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 which is subject to ORS 671.510 to 671.720, unless the landscaping business was:

(a) Licensed under ORS 671.510 to 671.720 at the time the landscaping 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 landscaping business was not aware of the requirement that the contractor be registered, 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 landscaping business.

(3) If a landscaping 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 landscaping 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 which is subject to ORS 671.510 to 671.720. [1991 c.533 s.7]

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 s.8; 1995 c.618 s.119]

671.580 Contractor license not transferable. A landscape contractor's license issued pursuant to ORS 671.560 is a personal privilege and is not transferable. [1971 c.764 s.8; 1983 c.452 s.9]

671.590 Reciprocal contractor licensing. The State Landscape Contractors Board may license without examination any person who is a landscape contractor 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 contractors in this state on the date of application by the person. [1971 c.764 s.9; 1973 c.832 s.30; 1975 c.757 s.6; 1979 c.840 s.5; 1983 c.452 s.10]

671.600 New license required upon change of ownership; notification of change of address. A new license shall be required whenever there is a change in ownership, irrespective of whether the business name is changed. 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 s.10; 1973 c.832 s.31; 1987 c.461 s.1]

671.605 Effect of change in partners or corporate officers. A licensed partnership or corporation shall notify the board immediately upon any change in partners or corporate officers. Upon a change in partners, a licensed partnership immediately shall license again and pay to the board the fee required by ORS 671.650 for an original license. [1983 c.452 s.11]

Note: 671.605 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS 671.510 to 671.710 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

671.610 Grounds for license denial, suspension, revocation or refusal to renew license; injunctive relief; civil penalty. (1) The State Landscape Contractors Board may suspend, revoke or refuse to issue or renew the license of any person who:

(a) Has obtained or attempted to obtain a license under ORS 671.510 to 671.710 by fraud or material misrepresentation;

(b) Has made a material misrepresentation about the quality of any material or service the person provides;

(c) Has performed defective work;

(d) Has furnished defective materials;

(e) Has made misleading statements when advertising services or materials;

(f) Has violated a provision of ORS 671.510 to 671.710;

(g) Has had the bond or deposit required by ORS 671.690 terminated, canceled or reduced or withdrawn; or

(h) Has violated a voluntary compliance agreement entered into under ORS 646.605 to 646.652.

(2) The board may suspend or refuse to license any corporation, partnership or individual if any individual who is an owner or officer of the business is or was the owner or officer of a business that:

(a) Owes any amount pursuant to a final order or arbitration award of the board; or

(b) Owes any amount pursuant to a court order or civil penalty arising from landscaping or construction business activities in this or any other state of the United States.

(3) A person who has been a sole proprietor, partner or corporate officer of a landscaping business the license of

which has been suspended or revoked may be denied a license if the person knowingly participated in the conduct that led to the suspension or revocation.

(4) A person whose license is revoked or not renewed pursuant to this section shall not be eligible to apply for a license under ORS 671.510 to 671.710 until two years after the effective date of the revocation or of the nonrenewal.

(5) In addition to the remedies of license denial, suspension, revocation or refusal to renew a license, when it appears to the board that a person has engaged in, or is engaging in, any act, practice or transaction which violates the provisions of this chapter, the board may direct the Attorney General to apply to the court for an injunction restraining the person from violating the provisions of this chapter.

(6)(a) The board may suspend, revoke or refuse to reissue a license to a landscape contractor if the board determines, after notice and opportunity for a hearing, that the contractor was working with another landscape contractor or landscape contractors on the same task and work site where one of the contractors is registered exempt under ORS 671.525 (2)(b) and the total number of landscape contractors working on the task exceeded:

- (A) Two sole proprietors;
- (B) One partnership;
- (C) One corporation; or
- (D) One limited liability company.

(b) The board may assess a civil penalty as provided under ORS 671.720 (4) for a violation of paragraph (a) of this subsection. [1971 c.764 s.11; 1981 c.536 s.23; 1987 c.461 s.2; 1989 c.944 s.2; 1995 c.645 s.1; 1997 c.337 s.3]

671.613 Sanction for failure to comply with certain laws. (1) The failure of a landscaping business to comply with the provisions of this section, ORS 656.021, 657.665, 670.600, 671.520, 671.525, 671.530 and 671.575 or to be in conformance with the provisions of ORS chapter 316, 571, 656 or 657 is a basis for suspension of the landscaping business license, revocation of the landscaping business license, refusal to issue or reissue a landscaping business license, assessment of a civil penalty as set forth in ORS 671.720 or a combination of these sanctions.

(2) Any action against a landscaping business under this section shall be conducted in conformance with the provisions of ORS 183.413 to 183.497. [1991 c.533 s.9; 1999 c.535 s.5]

671.615 Installation of irrigation backflow prevention devices. A landscape contractor may tap into the potable water supply only after the connection between the water system and the customer, as defined in ORS 448.115, in order to install irrigation backflow prevention devices only if the landscape contractor is licensed by the State Landscape Contractors Board, as set forth by rule, to install irrigation backflow prevention devices. [1987 c.561 s.2; 1989 c.944 s.3; 1995 c.645 s.2]

671.617 Examination for backflow prevention device installer license. The board shall consult with the State Plumbing Board in developing any written and practical examinations for backflow prevention device installer licenses. [1989 c.944 s.4]

Note: 671.617 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.

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

671.625 Minimum standards for contracts and billings; compliance; effect of noncompliance. (1) The State Landscape Contractors Board shall by rule adopt minimum standards for written contracts and billings of the landscaping 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 landscaping businesses.

(2) Work by a landscaping business subject to ORS 671.510 to 671.710 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 landscaping business in any court or other proceedings within this state. [1979 c.840 s.13; 1983 c.452 s.12]

671.628 Sanctions for failure to pay amount owed board. The State Landscape Contractors Board may suspend

the license of or refuse to license any corporation, partnership or individual if any individual who is an owner, shareholder or officer of the business is or was the owner or officer of a business that owes any amount pursuant to a final order of the board. [1991 c.533 s.4]

(Landscape Contractors Board)

671.630 State Landscape Contractors Board; members; function. (1) The State Landscape Contractors Board is established. The board shall consist of seven members appointed by the Governor, who shall make appointments from all segments of the landscape contracting industry, at least two of whom shall be public members.

(2) The function of the board established by this section, in addition to the functions prescribed by law, shall be to counsel and advise the Governor in the administration and enforcement of ORS 671.510 to 671.710. [1971 c.764 s.14; 1973 c.832 s.32; 1975 c.757 s.7; 1981 c.536 s.24; 1987 c.414 s.46; 1993 c.744 s.192]

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

671.650 License fees. (1) The annual landscape contractor's license fees shall be established by the State Landscape Contractors Board and shall not exceed \$50.

(2) The annual landscaping business fee shall not exceed \$125.

(3) The license fee for an out-of-state landscaping business operating in Oregon shall be the same as for an Oregon landscaping business as provided in subsection (2) of this section. [1971 c.764 s.17; 1973 c.832 s.34; 1981 c.536 s.25; 1983 c.452 s.13; 1989 c.450 s.1; 1997 c.327 s.2]

671.660 Renewal of licenses; effect of lapse; penalty fees. (1) The fee for renewal of a license issued under ORS 671.510 to 671.710 shall be paid annually on or before the last day of the month of the anniversary of issuance.

(2) A person who has been previously licensed under ORS 671.510 to 671.710 and whose license has expired shall not be issued another license except upon written application to the State Landscape Contractors Board with the required annual fee plus a penalty fee not to exceed \$25.

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

(4) When a business renews its license it must submit the names of all employees who are licensed contractors.

(5) When a person renews a landscape contractor license, the person must submit the name of the employer if the person is currently performing landscaping work. [1971 c.764 s.18; 1973 c.832 s.35; 1977 c.873 s.5; 1983 c.452 s.14]

671.670 Rulemaking authority. In accordance with any applicable provision of ORS 183.310 to 183.550, the State Landscape Contractors Board may promulgate rules for the administration and enforcement of ORS 671.510 to 671.710 and 671.990 (2). [1971 c.764 s.19; 1981 c.536 s.26]

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

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

(Claims)

671.690 Surety bond, letter of credit or other security. (1) An applicant for a license as a landscaping 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; or

(b) \$10,000 for an applicant who constructs fences, decks, arbors, driveways, walkways or retaining walls not in conjunction with landscaping work.

(2) The bond or letter of credit required under subsection (1) of this section 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 business;

(c) All amounts that may be adjudged against the business by reason of negligent or improper work or breach of contract in performing any work subject to ORS 671.510 to 671.710; and

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

(3) In lieu of the surety bond or letter of credit required under subsection (1) of this section, the landscaping business 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.

(4) The deposit or bond or letter of credit required by this section shall 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 of the board in accordance with ORS 671.510 to 671.710. 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 landscaping business.

(5) The landscaping business is responsible for all landscaping and other work performed. [1973 c.832 s.29b; 1979 c.840 s.6; 1983 c.452 s.15; 1991 c.331 s.103; 1995 c.645 s.3; 1997 c.631 s.520; 1999 c.32 s.3]

671.700 Notice of claim against business. A person having a claim against a landscaping business shall give the State Landscape Contractors Board notice of the claim in writing 90 days before any action on the bond or deposit is commenced. [1973 c.832 s.29c; 1983 c.452 s.16; 1987 c.461 s.3]

671.703 Filing claim against business; hearing; arbitration; board limitations. (1) If any person has a claim against a landscaping business issued a license under ORS 671.560 for negligent or improper work performed by the landscaping business for the person or the person has alleged breach of contract against the landscaping business, the person may file the claim and a request for hearing with the State Landscape Contractors Board.

(2) Upon receipt of a claim and request for hearing that qualifies under this section, the board shall initiate an investigation and, upon completion of the investigation may initiate hearings procedures on the claim. The parties involved in the claim shall have the right to appear and be heard at the hearing. A hearing under this section is subject to the provisions of ORS 183.310 to 183.550.

(3) With the prior agreement of the claimant and the landscaping business, the board may resolve the claim through binding arbitration under rules adopted by the board generally in conformance with ORS 36.300 to 36.365. The board may also use the arbitration procedure to resolve a dispute between a person bringing a claim and any landscaping business that agrees to follow the rules of the board.

(4) If, after investigation and opportunity for hearing as provided in ORS 183.413 to 183.470, the board determines that the landscaping business performed negligent or improper work or breached its contract, the board, after final resolution of any appeals permitted under ORS 183.310 to 183.550, shall order the landscaping business to pay the claim determined by the board within 20 days. If the landscaping business does not pay the claim as required by this subsection, the board shall order the claim paid out of the deposit or bond required under ORS 671.690.

(5) The board may refuse to accept, or refuse at any time to continue processing, a claim if:

(a) The same facts and issues involved in the claim have been submitted to a court of competent jurisdiction for determination or have been submitted to any other entity authorized by law or the parties to effect a resolution and settlement;

(b) The claimant does not permit the person against whom the claim is filed to be present at any inspection made by the board;

(c) 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. However, the board may refuse to accept or further process 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; or

(d) 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 s.8; 1983 c.452 s.17; 1987 c.461 s.4; 1989 c.153 s.1; 1991 c.533 s.2; 1995 c.645 s.4]

671.705 [1979 c.840 s.9; 1981 c.897 s.99; 1983 c.452 s.18; repealed by 1995 c.645 s.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 registrant, the board shall notify the surety on the registrant'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 registrant 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 s.10; 1999 c.153 s.1]

671.710 Priority on satisfaction of claims. (1) Determinations by the State Landscape Contractors Board or judgments against the surety bond or deposit of a landscape contractor shall be satisfied in the priority listed in paragraphs (a) to (d) of this subsection in any 90-day period. A 90-day period shall begin on the date the first claim is filed with the board. A subsequent 90-day period shall begin on the date the first claim is filed with the board after the close of each preceding 90-day period. Within a 90-day period:

(a) Determinations and judgments as a result of claims against a landscape contractor by owners of property upon which landscaping work was performed, or was contracted to perform, shall have payment priority to the full extent of the bond or deposit over all other claims.

(b) If the total of all claims against a landscape contractor does not exhaust the bond or deposit, then amounts due as a result of all other claims filed within that 90-day period may be satisfied from the bond or deposit.

(c) If the total of all claims against a landscape contractor exceeds the amount of the bond or deposit available for such claims, the bond or deposit shall be apportioned as the board determines, subject to the priorities established under this section.

(d) If the total of all claims against a landscape contractor does not exceed the amount of the bond or deposit available for such claims, all amounts due as a result of claims filed within the 90-day period shall have priority over all claims filed after the 90-day period until the amount of the bond or deposit available for such claims is exhausted.

(2) The bond or deposit shall not be used to satisfy claims filed more than one year following the date the work was completed. [1973 c.832 s.29d; 1979 c.840 s.11; 1983 c.452 s.19; 1999 c.34 s.1]

(Civil Penalty)

671.720 Civil penalty for violations of ORS 671.510 to 671.710. (1) Except as provided in subsection (4) of this section, any person who violates any provision of ORS 671.510 to 671.710 or any rule adopted thereunder shall forfeit and pay into the General Fund of the State Treasury a civil penalty in an amount determined by the State Landscape Contractors Board of not more than \$2,000 for each offense. The board may retain 20 percent of the funds collected under this section which shall be continuously appropriated for the board's costs of collection of civil penalties.

(2) Civil penalties under this section shall be imposed as provided in ORS 183.090.

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

(4) Penalties shall be imposed for violation of ORS 671.610 (6) on both the person to whom the contract is awarded and the person who awards the contract as follows:

(a) A fine not less than \$500 nor more than \$1,000 for the first offense;

(b) A fine not less than \$1,000 nor more than \$2,000 for the second offense;

(c) Suspension of license for six months for a third offense; and

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

(5) The board shall provide by rule a process and criteria that must be met for restoration of a license that has been revoked.

(6) If at any time following restoration of the license of a person who has violated ORS 671.610 (6), the person is again found to have violated ORS 671.610 (6), the person's license shall be permanently revoked. [1975 c.757 s.11; 1987 c.461 s.5; 1991 c.734 s.66; 1995 c.645 s.5; 1997 c.337 s.4]

PENALTIES

671.990 Penalties. (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 s.24; subsection (3) enacted as 1971 c.764 s.22; 1977 c.803 s.17; 1981 c.536 s.18]
