

B-Engrossed
House Bill 2097

Ordered by the House August 4
Including House Amendments dated March 24 and August 4

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for State Landscape Contractors Board)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Consolidates licensing of persons practicing arboriculture under State Landscape Contractors Board. [*Eliminates residential-only contractor authority to perform work involving trees, tree limbs and stumps.*] **Specifies conditions to be met by person providing tree services.** Provides that person who does not meet education and experience requirements for arborist or landscape contractor license may obtain license by passing required examination on first attempt and complying with other specified requirements. **Allows qualifying residential-only contractor to obtain, without examination, limited landscaping business license allowing provision of tree services.** Expands board authority to suspend, refuse to issue or refuse to renew license. Expands requirement that landscaping business provide evidence of insurance coverage. Deletes references to landscape contractor from insurance and financial responsibility provisions and from restrictions on exempt businesses.

A BILL FOR AN ACT

1
2 Relating to landscaping; creating new provisions; and amending ORS 447.060, 671.520, 671.530,
3 671.540, 671.555, 671.560, 671.565, 671.570, 671.572, 671.575, 671.580, 671.590, 671.603, 671.610,
4 671.650, 671.660, 671.703, 671.707, 671.710, 671.955 and 701.005.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1. Sections 2 to 5b of this 2005 Act are added to and made a part of ORS 671.510**
7 **to 671.710.**

8 **SECTION 2. (1) An applicant for an arborist license shall pay the fee established by the**
9 **State Landscape Contractors Board under ORS 671.650 and must:**

10 **(a) Pass an examination approved by the board and, except as provided in subsection (2)**
11 **of this section:**

12 **(A) Have three or more years of practical experience in arboriculture obtained within 10**
13 **years prior to the license application date;**

14 **(B) Have two or more years of practical experience in arboriculture and a two-year de-**
15 **gree in arboriculture or a related field; or**

16 **(C) Have one or more years of practical experience in arboriculture and a four-year de-**
17 **gree in arboriculture or a related field; or**

18 **(b) Obtain certification from an organization recognized by the board by rule as having**
19 **certification requirements sufficient to ensure the competency of the person to perform**
20 **arboriculture.**

21 **(2) A person who does not meet the requirements for experience and education described**
22 **under subsection (1)(a) of this section may take the examination to qualify for an arborist**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 license. If the person passes the examination on the first attempt and pays the fee estab-
2 lished by the board under ORS 671.650, the person may obtain an arborist license without
3 meeting the requirements for experience and education described under subsection (1)(a) of
4 this section. If the person fails the examination on the first attempt, the person may not
5 retake the examination unless the person waits at least one year after the first attempt and
6 meets the requirements for experience and education described under subsection (1)(a) of
7 this section.

8 **SECTION 3. (1) As used in this section:**

9 (a) "Landscaping business debt" means an amount owed under:

10 (A) A final order or arbitration award issued by the State Landscape Contractors Board
11 for a claim filed under ORS 671.703; or

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

13 (b) "Landscaping business license" means a license issued within the United States to
14 engage in a landscaping business.

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

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

17 (B) A general partner in a limited partnership.

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

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

20 (E) A trustee.

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

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

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

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

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

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

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

34 (a) The business owes a landscaping business debt or has had a landscaping business li-
35 cense revoked;

36 (b) An owner or officer of the landscaping business owes a landscaping business debt or
37 has had a landscaping business license revoked; or

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

42 (4) The board may hold the suspension or refusal of a license under subsection (3) of this
43 section in abeyance if the person owing a landscaping business debt is adhering to a board-
44 approved plan for restitution of the amount owed.

45 **SECTION 4. In addition to any other remedy available, if the State Landscape Contrac-**

1 tors Board believes that a person has engaged in, is engaging in or is about to engage in any
2 act, practice or transaction that violates ORS 671.510 to 671.710, the board may direct the
3 Attorney General to apply to the court for an injunction to restrain the person from engag-
4 ing in the act, practice or transaction.

5 **SECTION 5.** Except as the State Landscape Contractors Board may otherwise provide
6 under ORS 182.462 (5), the board shall deposit moneys received as fees or civil penalties into
7 the account created by the board pursuant to ORS 182.470.

8 **SECTION 5a.** A person who does not qualify as described under ORS 671.570 (1)(a) or (b)
9 may take the examination to qualify for a landscape contractor's license. If the person
10 passes the examination on the first attempt and complies with the employment and fee re-
11 quirements in ORS 671.570, the person may obtain a landscape contractor's license without
12 qualifying as described under ORS 671.570 (1)(a) or (b). If the person fails the examination
13 on the first attempt, the person may not retake the examination unless the person waits at
14 least one year after the first attempt and qualifies as described under ORS 671.570 (1)(a) or
15 (b).

16 **SECTION 5b.** (1) A person may not engage commercially in providing tree services unless
17 the person:

18 (a) Has a limited landscaping business license issued under ORS 671.560 that authorizes
19 the person to provide tree services;

20 (b) Is licensed as a landscaping business and employs an arborist licensed under ORS
21 671.560 to supervise the work described in this subsection; or

22 (c)(A) Is licensed as a landscaping business under ORS 671.565;

23 (B) In addition to paying the applicable landscaping business license fee established under
24 ORS 671.650, pays the license fee for a limited landscaping business authorized to provide tree
25 services; and

26 (C) Notwithstanding the insurance amount specified in ORS 671.565 and bond amount
27 specified in ORS 671.690, meets the insurance and security requirements under subsection
28 (2) of this section.

29 (2) A person providing tree services must:

30 (a) Have in effect public liability, personal injury and property damage insurance covering
31 the provision of tree services for an amount not less than \$300,000;

32 (b) File with the State Landscape Contractors Board a surety bond with one or more
33 corporate sureties authorized to do business in this state, an irrevocable letter of credit is-
34 sued by an insured institution as defined in ORS 706.008 or a deposit of cash or negotiable
35 securities acceptable to the board; and

36 (c) Pass an examination approved by the board testing the person's knowledge of land-
37 scaping business standards and practices.

38 (3) The security required under subsection (2)(b) of this section shall be in the amount
39 of \$10,000, except that the board may reduce the required amount to \$5,000 upon a showing
40 that the person does not provide tree services exceeding \$40,000 in gross annual volume and
41 does not enter into contracts exceeding \$5,000.

42 **SECTION 6.** ORS 447.060 is amended to read:

43 447.060. (1) [Nothing in] ORS 447.010 to 447.156 [and 447.992 prevents] **do not prevent** a person
44 from:

45 (a) Engaging in plumbing work when not so engaged for hire.

1 (b) Using the services of regular employees in performing plumbing work for the benefit of
2 property owned, leased or operated by *[such]* **the** employer.

3 (c) Using the services of an employee or contractor of a utility company, energy service provider
4 or water supplier to install an approved low-flow showerhead or faucet aerator in existing plumbing
5 fixtures. The devices installed under this paragraph are exempt from the certification, permit and
6 inspection requirements of this chapter and ORS chapter 693.

7 (2) For purposes of subsection (1) of this section, a “regular employee” means a person who is
8 subject to the provisions of ORS 316.162 to 316.219 and who has completed a withholding exemptions
9 certificate required by the provisions of ORS 316.162 to 316.219.

10 (3) A *[licensee under ORS 671.560 (2)]* **landscaping business licensed under ORS 671.560** is not
11 required to be registered under ORS 447.010 to 447.156 *[and 447.992]* to install backflow prevention
12 devices for irrigation systems and ornamental water features if the installer is licensed as required
13 by ORS 671.615 **and is an owner or employee of the landscaping business.** The *[exemptions]*
14 **registration exemption** established under this subsection *[do]* **does** not exempt the *[person]* **land-**
15 **scaping business** from the inspection and permit requirements of this chapter.

16 (4) This section applies to any person, including but not limited to, individuals, corporations,
17 associations, firms, partnerships, joint stock companies, public and municipal corporations, political
18 subdivisions, this state, *[and any agencies thereof, and]* the federal government and *[any agencies*
19 *thereof]* **state or federal agencies.**

20 **SECTION 7.** ORS 671.520 is amended to read:

21 671.520. As used in ORS 671.510 to 671.710, unless the context requires otherwise:

22 *[(1) “Board” means the State Landscape Contractors Board.]*

23 (1) **“Arborist”:**

24 (a) **Means a person who for compensation or with the intent to be compensated performs**
25 **or supervises activities requiring the art, ability, experience, knowledge, science and skill to**
26 **remove, prune, brace, guy, cable or transplant trees, plant replacement trees, remove or guy**
27 **tree limbs or remove tree stumps.**

28 (b) **Does not mean:**

29 (A) **A person engaged in the commercial harvesting of forest products;**

30 (B) **A contractor licensed under ORS 701.055 who performs or supervises activities de-**
31 **scribed in paragraph (a) of this subsection while removing trees or clearing land, in prepa-**
32 **ration for construction; or**

33 (C) **A person who is not subject to licensing under ORS 701.055 who performs or super-**
34 **vises activities described in paragraph (a) of this subsection while removing trees or clearing**
35 **land, in preparation for infrastructure development.**

36 (2) “Landscape contractor” means any person who for compensation or with the intent to be
37 compensated *[arranges, undertakes, offers or contracts to undertake, or submits a bid to perform]*
38 **performs or supervises** activities requiring the art, ability, experience, knowledge, science and
39 skill to:

40 (a) Plan *[and]* **or** install lawns, shrubs, vines, trees and other decorative vegetation *[including*
41 *the preparation of];*

42 (b) **Prepare** property on which *[the]* vegetation is to be installed, *[and the construction of];*

43 (c) **Construct** ornamental water features and drainage and irrigation systems for decorative
44 vegetation*[.]; or*

45 *[(b)]* (d) Plan *[and]* **or** install fences, decks, arbors, driveways, walkways and retaining walls.*;*

1 or]

2 [(c) Do any part or any combination of any activity described in paragraphs (a) and (b) of this
3 subsection.]

4 [(3) "Landscaping business" means any business that offers or provides, for compensation or with
5 the intent to be compensated, the services of a landscape contractor.]

6 [(4) "Licensee" means a person or business who is licensed under ORS 671.510 to 671.710 as a
7 landscape contractor.]

8 **(3) "Landscaping business" means a business that for compensation or with the intent
9 to be compensated arranges for or submits a bid or otherwise offers or contracts to provide
10 the services of an arborist or landscape contractor.**

11 **(4) "Licensee" means a person that is licensed under ORS 671.510 to 671.710 as an
12 arborist, landscape contractor or landscaping business.**

13 (5) "Nursery stock" means nursery stock as defined by ORS 571.005 and as further defined by
14 the **State Landscape Contractors** Board after public hearing.

15 (6) "Ornamental water features" means fountains, ponds, waterfalls, man-made streams and other
16 decorative water-related constructions as identified by **the board by rule.**

17 **(7) "Tree services" means the removal or pruning of trees, the removal of tree limbs or
18 stumps and the guying of trees or tree limbs.**

19 **SECTION 8.** ORS 671.530 is amended to read:

20 671.530. (1) A person may not operate as a landscape contractor in this state without a valid
21 landscape [contractor's] **contractor** license issued [pursuant to] **under** ORS 671.560.

22 (2) A person may not represent in any manner that the person is a landscape contractor unless
23 the person has a valid landscape [contractor's] **contractor** license issued [pursuant to] **under** ORS
24 671.560. The prohibition in this subsection includes, but is not limited to:

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

28 (b) Using any [title,] sign, card or device that indicates or tends to indicate that the person is
29 a landscape contractor.

30 **(3) A person may not operate as an arborist in this state without a valid arborist license
31 issued under ORS 671.560.**

32 **(4) A person may not represent in any manner that the person is an arborist unless the
33 person has a valid arborist license issued under ORS 671.560. The prohibition in this sub-
34 section includes, but is not limited to:**

35 **(a) Using the title of arborist or any other title that indicates or tends to indicate that
36 the person is an arborist; and**

37 **(b) Using any sign, card or device that indicates or tends to indicate that the person is
38 an arborist.**

39 [(3)] **(5) A person may not operate as a landscaping business in this state unless the person has
40 a valid landscaping business license issued [pursuant to] under ORS 671.560.**

41 [(4)] **(6) A person may not advertise or represent in any manner that the person is a
42 [landscape] landscaping business unless the person has a valid landscaping business license issued
43 [pursuant to] under ORS 671.560. The prohibition in this subsection includes, but is not limited to:**

44 **(a) Using the title of landscape business or landscaping business or any other title that indi-
45 cates or tends to indicate that the person is a landscaping business; and**

1 (b) Using any *[title,]* sign, card or device that indicates or tends to indicate that the person is
2 a landscaping business.

3 [(5)] (7) A landscape maintenance business may use a form of the word “landscape” in the title
4 of the business only if the title clearly indicates the maintenance nature of the business. For pur-
5 poses of this subsection, the term “landscape gardening” does not indicate the maintenance nature
6 of a landscape maintenance business.

7 [(6)] (8) A landscape contractor is authorized to perform landscaping work only while in the
8 employ of a landscaping business licensed and bonded as required by ORS 671.510 to 671.710. **An**
9 **arborist is authorized to perform arboriculture only while in the employ of a landscaping**
10 **business licensed and bonded as required by ORS 671.510 to 671.710.** If the **arborist or land-**
11 **scape contractor** is the sole proprietor, the **arborist or landscape** contractor must also obtain a
12 license as a landscaping business.

13 **(9) A person may not advertise or represent in any manner that the person is a provider**
14 **of tree services unless the person qualifies under section 5b of this 2005 Act to provide tree**
15 **services.**

16 **SECTION 9.** ORS 671.540 is amended to read:

17 671.540. [(1)] ORS 671.510 to 671.710 and 671.990 (2) do not apply to:

18 [(a)] (1) Any federal or state agency or any political subdivision performing **arboriculture or**
19 landscaping **work** on public property.

20 [(b)] (2) Any landscape architect registered *[pursuant to]* **under** ORS 671.310 to 671.459 and
21 practicing as provided *[therein]* **under ORS 671.310 to 671.459.**

22 [(c)] (3) **Arboriculture or** landscaping work performed by a landscape maintenance business if:

23 [(A)] (a) The **arboriculture or landscaping** work is performed for a customer that in a calendar
24 year receives primarily landscape maintenance services from the business;

25 [(B)] (b) The **total** value of all labor, materials or other items supplied for **arboriculture and**
26 landscaping work at a job site does not exceed \$500 in a calendar year; and

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

29 [(d)] (4) Installation of fences, decks, arbors, driveways, walkways or retaining walls *[when]* **if**
30 performed by a person or business licensed with the Construction Contractors Board.

31 [(e)] (5) **Stump removal and** grading of plots and areas of land, performed in conjunction with
32 new or remodeling construction *[when]* **if** performed by a person or business licensed with the Con-
33 struction Contractors Board.

34 [(f)] (6) Any owner of property who contracts for **arboriculture or** landscaping work to be
35 performed by a person licensed under ORS 671.560. *[This paragraph]* **The exception provided by**
36 **this subsection** does not apply to a person who, in pursuit of an independent business, performs
37 or contracts for the performance of **arboriculture or** landscaping work with the intent of offering
38 for sale before, upon or after completion of the **arboriculture or** landscaping work[,] the property
39 upon which the **arboriculture or** landscaping work is performed.

40 [(g)] (7) Any **arboriculture or** landscaping work performed by a person on property that the
41 person owns or in which the person has a legal interest. *[This paragraph]* **The exception provided**
42 **by this subsection** does not apply to a person who, in pursuit of an independent business, performs
43 or contracts for the performance of **arboriculture or** landscaping work with the intent of offering
44 for sale before, upon or after completion of the **arboriculture or** landscaping work[,] the property
45 on which the **arboriculture or** landscaping work is performed.

1 [(h)] (8) A general contractor licensed under ORS chapter 701 who performs **arboriculture or**
2 landscaping work, if the total value of the [*landscaping*] **labor, materials and other items supplied**
3 **for the arboriculture and landscaping work** is less than \$2,500 per residential dwelling and the
4 **arboriculture or** landscaping work is performed on residential property for which the contractor
5 is under contract for the construction of a new dwelling. The State Landscape Contractors Board
6 shall revise the amount specified in this [*paragraph*] **subsection** every five years, beginning in 2003,
7 based on changes in the Portland-Salem, OR-WA Consumer Price Index **for All Urban Consumers**
8 **for All Items as published by the Bureau of Labor Statistics of the United States Department**
9 **of Labor.** [*This paragraph*] **The exception provided by this subsection** does not apply to a gen-
10 eral contractor performing irrigation work unless the work is performed pursuant to a permit issued
11 by the local building official.

12 [(i)] (9) A general contractor licensed under ORS chapter 701 who performs **arboriculture or**
13 landscaping work on residential property that is directly related to local building code requirements
14 or occupancy ordinances including, but not limited to, the placement of street trees. [*This*
15 *paragraph*] **The exception provided by this subsection** does not apply to a general contractor
16 performing irrigation work unless the work is performed pursuant to a permit issued by the local
17 building official.

18 [(j)] (10) A person engaged in making conceptual plans or drawings for the selection, general
19 placement or use of plants or other site features, unless the plans or drawings are for sites:

20 [(A)] (a) That include natural drainage channels, streams, wetlands, marshes or other sensitive
21 natural areas regulated by the local, state or federal government or that encroach on designated
22 buffer zones for those areas; or

23 [(B)] (b) Where slopes of 10 percent or greater comprise at least 25 percent of the total site area
24 or directly contribute storm water to natural drainage channels, streams, wetlands, marshes or other
25 sensitive natural areas regulated by the local, state or federal government.

26 [(k)] (11) A person, other than a licensed landscape contractor, using the title “landscape de-
27 signer” in connection with making conceptual plans or drawings for the selection, general placement
28 or use of plants or other site features, provided the person clearly notes on all contracts for ser-
29 vices, plans and drawings that the implementation of, or consultation about the implementation of,
30 the plans or drawings may require the services of a professional authorized by law to perform the
31 implementation or offer the consultation.

32 [(2) *As used in this section, “Portland-Salem, OR-WA Consumer Price Index” means the*
33 *Portland-Salem, OR-WA Consumer Price Index for All Urban Consumers for All Items as published*
34 *by the Bureau of Labor Statistics of the United States Department of Labor.*]

35 (12) **An employee of a licensed landscaping business when performing work for the busi-**
36 **ness under the direct supervision of a licensed landscape contractor or performing tree ser-**
37 **vices work for a person described in section 5b of this 2005 Act.**

38 (13) **An employee of a worker leasing company or temporary service provider, both as**
39 **defined in ORS 656.850, when performing work for a licensed landscaping business under the**
40 **direct supervision of a licensed landscape contractor or performing tree services work for a**
41 **person described in section 5b of this 2005 Act.**

42 **SECTION 10.** ORS 671.555 is amended to read:

43 671.555. (1) The State Landscape Contractors Board may investigate the activities of any person
44 engaged in the landscaping business to determine compliance with ORS 671.510 to 671.710.

45 (2) With the approval of the city or county, the board may conduct investigations with city or

1 county inspectors, provided that the city or county is reimbursed by the board for the costs of
2 *[such]* **the** investigations.

3 (3) Any inspector authorized by the board to determine compliance with the provisions of ORS
4 671.510 to 671.710 is authorized to require any person who is engaged in any activity regulated by
5 ORS 671.510 to 671.710 to demonstrate proof of compliance with the *[registration]* **licensing** re-
6 quirements of ORS 671.510 to 671.710. If a person who is contracting directly with the owner of the
7 property does not demonstrate proof of compliance with the *[license]* **licensing** requirements of ORS
8 671.510 to 671.710, the inspector shall give notice of noncompliance to the person. The notice of
9 noncompliance shall be in writing, shall specifically state that the person is not in compliance with
10 the *[registration]* **licensing** requirements of ORS 671.510 to 671.710 and shall provide that unless the
11 person demonstrates proof of compliance within two days of the date of the notice, the inspector
12 may by order stop all work then being done by the person. The notice of noncompliance shall be
13 served upon the person and shall be served upon or delivered to the owner of each property upon
14 which the person is then performing work under contract. If more than one person is the owner of
15 *[any such]* **a** property, a copy of the notice need be given to only one of *[such]* **the** persons. If after
16 receipt of the notice of noncompliance the person fails within the two-day period specified in the
17 notice to demonstrate proof of compliance with the *[registration]* **licensing** requirements of ORS
18 671.510 to 671.710, the inspector is authorized to order the work stopped by notice in writing served
19 on any persons engaged in the activity. Any person so notified shall stop *[such]* work **that is sub-**
20 **ject to the notice** until proof of compliance is demonstrated. However, the inspector may not order
21 the work stopped until at least two days after the copies of the notice of noncompliance have been
22 served upon or delivered to the owners.

23 *[(4) Notwithstanding subsection (3) of this section, the board may order work stopped immediately*
24 *if the landscape contractor working on a worksite has never registered with the board or if the con-*
25 *tractor cannot demonstrate that the contractor has been registered at any time within the two years*
26 *immediately preceding work on the worksite.]*

27 **(4) Notwithstanding subsection (3) of this section, the board may order work stopped**
28 **immediately if the arborist or landscape contractor working on a work site has never been**
29 **licensed by the board or if the arborist or landscape contractor cannot demonstrate that the**
30 **arborist or landscape contractor has held a license within the two years immediately pre-**
31 **ceding work on the work site.**

32 (5) The board has the power to administer oaths, issue notices and subpoenas in the name of the
33 board, compel the attendance of witnesses and the production of evidence, hold hearings and per-
34 form *[such]* other acts *[as]* **that** are reasonably necessary to carry out *[its]* duties **of the board** un-
35 der ORS 671.510 to 671.710.

36 (6) If any person fails to comply with a subpoena issued under subsection (5) of this section or
37 refuses to testify on matters on which the person may be lawfully interrogated, the board shall
38 compel obedience in the manner provided in ORS 183.440.

39 **SECTION 11.** ORS 671.560 is amended to read:

40 671.560. (1) Except as provided in ORS 671.590, the State Landscape Contractors Board shall
41 issue a landscape *[contractor's]* **contractor** license to an applicant who satisfies the requirements
42 of ORS 671.570.

43 **(2) The board shall issue an arborist license to a person who satisfies the requirements**
44 **of section 2 of this 2005 Act.**

45 *[(2)]* **(3)** The board shall issue a landscaping business license to an applicant who satisfies the

1 requirements of the board.

2 [(3)] (4) An applicant for a license under this section shall apply to the board upon a form fur-
3 nished by the board and *[give such information as]* **provide any information** the board considers
4 necessary.

5 [(4) *The board may issue a limited or specialty license if the applicant is required to have a land-*
6 *scape contractor's license or business license but is not qualified or required to be licensed for all*
7 *phases of landscape contracting.*]

8 (5) **The board may issue a limited or specialty license to an applicant that is required to**
9 **have an arborist, landscape contractor or landscaping business license but is not qualified**
10 **or required to be licensed for all phases of arboriculture or landscape contracting. The board**
11 **shall make available for issuance to any person complying with section 5b of this 2005 Act a**
12 **limited landscaping business license that authorizes the person to provide tree services.**

13 [(5)] (6) A landscaping business that qualifies for the exemption described in ORS 571.045 shall
14 indicate on *[its]* **the** license application or license renewal application *[under this section the*
15 *reasons]* **of the business the basis under which** the business qualifies for the exemption.

16 **SECTION 12.** ORS 671.565 is amended to read:

17 671.565. (1) Each person applying for a landscaping business license **or for the reinstatement**
18 **of a landscaping business license** shall:

19 (a) Pay to the State Landscape Contractors Board the *[fees required by ORS 671.570 and 671.650*
20 *and:]* **applicable landscaping business license fee established by the board under ORS 671.650.**

21 [(1)] (b) Employ at least one person with *[a landscape contractor's]* **an arborist license or**
22 **landscape contractor** license to supervise the landscaping operation of the business. *[and shall]*

23 (c) Submit the names of all employees who are licensed **arborists or landscape** contractors.

24 [(2)] (d) File with the board *[the surety bond required pursuant to]* **a form of security accept-**
25 **able under** ORS 671.690.

26 [(3)] (e) *[Throughout the license period, have in effect]* **File with the board a certificate of**
27 **public liability, personal injury and property damage insurance covering the work of [that] the**
28 **landscaping business [which] that** is subject to ORS 671.510 to 671.710 for an amount not less than
29 \$100,000. *[The landscaping business shall provide satisfactory evidence to the board at the time of ap-*
30 *plication and renewal that the insurance required by this section has been procured and is in effect.]*

31 [(4)] (f) Indicate, as set forth in ORS 670.600, the basis under which the applicant qualifies as
32 an independent contractor.

33 (2) **At the time of application for a license, for renewal of a license in active status or**
34 **for return of a license to active status, the landscaping business shall provide evidence sat-**
35 **isfactory to the board that the public liability, personal injury and property damage insur-**
36 **ance required by subsection (1)(e) of this section is in effect. During a license period, the**
37 **landscaping business shall provide, to the extent required by the board, satisfactory evidence**
38 **of continued public liability, personal injury and property damage insurance coverage.**

39 **SECTION 12a.** ORS 671.570 is amended to read:

40 671.570. Each person applying for a landscape contractor's license shall pay to the State Land-
41 scape Contractors Board the fee required by ORS 671.650 and:

42 (1) Pass an examination, which shall be offered at least once each six months by the board to
43 determine the fitness of the applicant for licensing and, **except as provided in section 5a of this**
44 **2005 Act**, have:

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

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

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

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

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

6 (3) Pay a nonrefundable examination fee.

7 **SECTION 13.** ORS 671.572 is amended to read:

8 671.572. Notwithstanding the provisions of ORS 671.570 or section 2 of this 2005 Act regarding
9 experience and employment status, the State Landscape Contractors Board may adopt alternative
10 standards for licensure with the board for a person who is already licensed as a contractor under
11 ORS chapter 701.

12 **SECTION 14.** ORS 671.575 is amended to read:

13 671.575. (1) A landscaping business may not file a lien, file a claim with the State Landscape
14 Contractors Board or bring or maintain in any court of this state a suit or action for compensation
15 for the performance of any work or for the breach of any contract for work which is subject to ORS
16 671.510 to 671.710 and 671.955, unless the landscaping business was:

17 (a) Licensed under ORS 671.510 to 671.710 and 671.955 at the time the landscaping business bid
18 or entered into the contract for performance of the work; and

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

20 (2) If the court determines that the landscaping business was not aware of the requirement that
21 the [*contractor be registered*] **landscaping business be licensed**, a court may choose not to apply
22 subsection (1) of this section if the court finds that to do so would result in a substantial injustice
23 to the unlicensed landscaping business.

24 (3) If a landscaping business falsely swears to information provided under ORS 671.560 or
25 671.565 or knowingly violates the provisions of ORS 656.029, 670.600, 671.560 or 671.565, the land-
26 scaping business may not file a lien, file a claim with the [*State Landscape Contractors*] board or
27 bring or maintain in any court of this state a suit or action for compensation for the performance
28 of any work or for the breach of any contract for work which is subject to ORS 671.510 to 671.710
29 and 671.955.

30 **SECTION 15.** ORS 671.580 is amended to read:

31 671.580. [*A landscape contractor's*] **An arborist or landscape contractor** license issued pursu-
32 ant to ORS 671.560 is a personal privilege and is not transferable.

33 **SECTION 16.** ORS 671.590 is amended to read:

34 671.590. The State Landscape Contractors Board may license without examination any person
35 who is [*a*] **an arborist or** landscape contractor licensed, certified or registered under the laws of
36 another state, territory of the United States, the District of Columbia or another country where the
37 requirements on the date the applicant was licensed, certified or registered **as an arborist or**
38 **landscape contractor** were substantially equal to the requirements for licensing [*of landscape con-*
39 *tractors*] in this state on the date of application by the person.

40 **SECTION 17.** ORS 671.603 is amended to read:

41 671.603. (1) [*A landscape contractor or person operating as a landscaping business shall notify the*
42 *State Landscape Contractors Board of a change of address for the contractor or business that occurs*
43 *while the contractor or business is licensed by the board or within one year after a license becomes*
44 *inactive.*] **An arborist, a landscape contractor or a person operating as a landscaping business**
45 **shall notify the State Landscape Contractors Board in writing of a change of address for the**

1 **arborist, landscape contractor or landscaping business that occurs while the arborist, land-**
2 **scape contractor or landscaping business is a licensee or within one year after a license ex-**
3 **pires.** The **arborist, landscape contractor or person operating as a landscaping business** shall
4 ensure that the board receives **written** notice of the change of address no later than the 10th day
5 after the change of address occurs.

6 (2) Initial notice of a contested case or arbitration directed by the board to the last-known ad-
7 dress of record for [a] **an arborist, landscape contractor or landscaping business** is considered de-
8 livered to the **arborist, landscape contractor or landscaping business** when deposited in the United
9 States mail and sent registered, certified or post office receipt secured. Any other communication
10 directed by the board to the last-known address of record for [a] **an arborist, landscape contractor**
11 **or landscaping business** is considered delivered to the **arborist, landscape contractor or land-**
12 **scaping business** when deposited in the United States mail, regular mail.

13 **SECTION 18.** ORS 671.610 is amended to read:

14 671.610. (1) In addition to any civil penalty assessed under ORS 671.955, the State Landscape
15 Contractors Board may suspend, revoke or refuse to issue or renew the license of [*any person that*]
16 **an arborist, landscape contractor or landscaping business that does any of the following:**

17 (a) [*Has obtained or attempted*] **Obtains or attempts** to obtain a license under ORS 671.510 to
18 671.710 by fraud or material misrepresentation.[:]

19 (b) [*Has made*] **Makes** a material misrepresentation about the quality of any material or service
20 the person provides.[:]

21 (c) [*Has performed*] **Performs** defective work.[:]

22 (d) [*Has furnished*] **Furnishes** defective materials.[:]

23 (e) [*Has made*] **Makes** misleading statements when advertising services or materials.[:]

24 (f) [*Has violated*] **Violates** a provision of ORS 671.510 to 671.710.[:]

25 [*(g) Has had the bond or deposit required by ORS 671.690 terminated, canceled or reduced or*
26 *withdrawn; or*]

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

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

32 [*(h)*] (i) [*Has violated*] **Violates** a voluntary compliance agreement entered into under ORS
33 646.605 to 646.652.

34 [(2) *The board may suspend the license of or refuse to license a person if the person, or the owner*
35 *or holder of a direct or indirect interest in the person, is a business or the owner or holder of a direct*
36 *or indirect interest in a business that:*]

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

38 [(b) *Owes any amount pursuant to a court order or civil penalty arising from landscaping or con-*
39 *struction business activities in this or any other state of the United States;*]

40 [(c) *Owes any amount to a surety company that has paid money from the surety bond of a land-*
41 *scaping business; or*]

42 [(d) *Has had a license to operate as a landscaping business revoked by the landscape contractor*
43 *licensing agency of any state.*]

44 [(3) *The board shall adopt rules defining the ownership or holding of a direct or indirect interest*
45 *for purposes of subsection (2) of this section.*]

1 [(4) *The board may hold the suspension or refusal of a license under subsection (2) of this section*
2 *in abeyance if the person is adhering to a board-approved plan for restitution of the amount owed.*]

3 [(5) *An individual who has been a sole proprietor, partner, limited liability company member, lim-*
4 *ited liability partnership member or corporate officer of a landscaping business the license of which*
5 *has been suspended or revoked may be denied a license if the individual knowingly participated in the*
6 *conduct that led to the suspension or revocation.*]

7 [(6) **(2)** A person whose license is revoked [or not renewed pursuant to] **under** this section is
8 not eligible to apply for a license under ORS 671.510 to 671.710 until two years after the effective
9 date of the revocation [or of the nonrenewal].

10 [(7) *In addition to the remedies of license denial, suspension, revocation or refusal to renew a li-*
11 *cence, when it appears to the board that a person has engaged in, or is engaging in, any act, practice*
12 *or transaction that violates the provisions of this chapter, the board may direct the Attorney General*
13 *to apply to the court for an injunction restraining the person from violating the provisions of this*
14 *chapter.*]

15 [(8)(a) *The board may suspend, revoke or refuse to reissue a license to a landscape contractor if*
16 *the board determines, after notice and opportunity for a hearing, that the contractor was working with*
17 *another landscape contractor or landscape contractors on the same task and work site where one of the*
18 *contractors is registered exempt under ORS 671.525 (2)(b) and the total number of landscape contrac-*
19 *tors working on the task exceeded.*]

20 **(3) The board may suspend, revoke or refuse to reissue the license of a landscaping**
21 **business, and may impose a civil penalty, all as provided under ORS 671.955 (4), if the board**
22 **determines, after notice and opportunity for a hearing, that the landscaping business was**
23 **working with other landscaping businesses on the same task and work site where one of the**
24 **landscaping businesses is registered as an exempt independent contractor under ORS 671.525**
25 **(2)(b) and the total number of landscaping businesses working on the task exceeded:**

26 [(A) **(a)** Two sole proprietors;

27 [(B) **(b)** One partnership;

28 [(C) **(c)** One corporation; or

29 [(D) **(d)** One limited liability company.

30 [(b) *The board may assess a civil penalty as provided under ORS 671.955 (4) for a violation of*
31 *paragraph (a) of this subsection.*]

32 **SECTION 19.** ORS 671.650 is amended to read:

33 671.650. (1) The State Landscape Contractors Board shall establish fees, including but not lim-
34 ited to annual [*landscape contractor's*] license fees [*and annual landscaping business license fees*] **for**
35 **arborists, landscape contractors and landscaping businesses.**

36 (2) The license fee for an out-of-state landscaping business operating in Oregon must be the same
37 as for an Oregon landscaping business.

38 **SECTION 20.** ORS 671.660 is amended to read:

39 671.660. (1) The fee for renewal of a license issued under ORS 671.510 to 671.710 shall be paid
40 annually on or before the last day of the month of the anniversary of issuance.

41 (2) A person who has been previously licensed under ORS 671.510 to 671.710 and whose license
42 has expired [*shall*] **may** not be issued another license except upon written application to the State
43 Landscape Contractors Board with the required annual fee. The board may require the person to
44 also pay a penalty fee.

45 (3) If a license lapses for two years or more, the individual or business must reapply as for ini-

1 tial issuance of the license.

2 (4) When a **landscaping** business renews its license, the **landscaping** business must submit the
3 names of all employees who are licensed **arborists or licensed** landscape contractors. **This sub-**
4 **section does not apply to a landscaping business that has only a limited landscaping business**
5 **license authorizing the provision of tree services.**

6 (5) When a person renews [*a landscape contractor's*] **an arborist or landscape contractor** li-
7 cense, the person must submit the name of the employer if the person is currently performing
8 **arboriculture or** landscaping work.

9 **SECTION 21.** ORS 671.703 is amended to read:

10 671.703. (1) If a person has a claim against a licensed landscaping business for negligent or im-
11 proper work performed by the landscaping business, or for alleged breach of contract by the land-
12 scaping business, the person may file the claim with the State Landscape Contractors Board.

13 (2) Upon receipt of a claim that qualifies under subsection (1) of this section, the board shall
14 initiate an investigation. Upon completion of the investigation, if the board determines that facts
15 exist supporting an order for payment, the board may order the landscaping business to pay the
16 claim. A party to the claim may request a hearing on the order issued by the board.

17 (3) Subject to subsection (6) of this section, if the resolution of a claim under this section re-
18 quires a hearing, the board may require that the hearing be conducted as a binding arbitration un-
19 der rules adopted by the board under subsection (5) of this section.

20 (4) The board may use arbitration to resolve [*a*] **an arboriculture or** landscaping dispute be-
21 tween any parties who agree to follow the rules of the board, including parties to a dispute not
22 described under subsection (1) of this section.

23 (5) Except as provided in this subsection, rules adopted by the board to regulate arbitration
24 under subsections (3) and (4) of this section must substantially conform with the provisions of ORS
25 36.600, 36.610 to 36.630, 36.635 (2), 36.640, 36.645 (2), 36.650 to 36.680, 36.685 (1) and 36.690 to 36.740.
26 The rules may:

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

29 (b) Limit orders and awards made by the arbitrator as necessary to comply with ORS 671.510
30 to 671.710;

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

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

35 (e) Include any other provision necessary to conform the arbitration to ORS 671.510 to 671.710.

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

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

43 (b) If the party files a complaint in a court, the party must, within the time specified in para-
44 graph (c) of this subsection, deliver a copy of the complaint to the board and to all parties entitled
45 by the board rule to receive a copy of the complaint. If the party filing the complaint is the claim-

1 ant, the claimant must allege all elements of the claim in the complaint. If the complaint is filed
2 by the licensed landscaping business against whom a claim is alleged, the complaint may be a com-
3 plaint for damages, a complaint for declaratory judgment or other complaint that allows the claim-
4 ant to file a response alleging the elements of the claim. The claimant has the burden of proving the
5 elements of the claim in any action described in this paragraph.

6 (c) A party that is subject to paragraph (a) or (b) of this subsection must deliver a request or
7 complaint to the board as described in paragraphs (a) and (b) of this subsection no later than the
8 30th day after the board sends notice that an arbitration hearing has been scheduled. Failure to
9 timely deliver a request or complaint under this paragraph constitutes consent to the binding arbi-
10 tration.

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

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

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

18 (7) An arbitration conducted under subsection (3) or (4) of this section must be held before an
19 administrative law judge acting as arbitrator. The administrative law judge assigned to act as
20 arbitrator of the case on behalf of the board must be from the Office of Administrative Hearings
21 established under ORS 183.605. The assignment of an administrative law judge to act as arbitrator
22 is subject to a request for a different arbitrator under ORS 183.645 or a rule adopted pursuant to
23 ORS 183.645.

24 (8) If a party to a claim under subsection (1) of this section requests a contested case hearing,
25 the board shall schedule the hearing. If a party requests that the claim be resolved by a court, the
26 board shall suspend further processing of the claim until the claim is resolved by an appropriate
27 court.

28 (9) If the claim is submitted for determination by a court, the board may require that the
29 claimant provide status reports on the pending action. The board may dismiss or close a claim filed
30 under subsection (1) of this section as established by rule of the board if the claimant fails to submit
31 status reports on a pending action.

32 (10) The board shall [*issue a final order or arbitration award in a form that indicates the maxi-*
33 *mum amount payable*] **determine how much of the final order or arbitration award amount is**
34 **recoverable** from the deposit, bond or letter of credit. If the landscaping business does not pay the
35 claim on or before the 30th day after receiving the [*board order or award, the board shall order the*
36 *claim paid out of*] **final order or arbitration award, subject to ORS 671.710 the board shall order**
37 **payment of the amount determined by the board to be recoverable from** the deposit, bond or
38 letter of credit filed under ORS 671.690.

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

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

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

1 at the time the board makes its recommendations.

2 (12) The board may suspend processing a claim if the board determines that the nature or
3 complexity of the claim is such that a court is the appropriate forum for the adjudication of the
4 claim.

5 **SECTION 22.** ORS 671.707 is amended to read:

6 671.707. (1) If a final order of the State Landscape Contractors Board is not paid by the [*regis-*
7 *trant*] **landscaping business**, the board shall notify the surety on the [*registrant's*] **landscaping**
8 **business's** bond.

9 (2) An order of the board that determines a claim under ORS 671.703 that becomes final by op-
10 eration of law or on appeal and remains unpaid for 20 days after the order becomes final is an order
11 in favor of the claimant against the [*registrant*] **landscaping business** and may be recorded with the
12 county clerk in any county of this state.

13 (3) Upon receipt, the clerk shall record the order in the County Clerk Lien Record. In addition
14 to any other remedy provided by law, recording an order in the County Clerk Lien Record pursuant
15 to this section has the effect provided for in ORS 205.125 and 205.126, and the order may be enforced
16 as provided in ORS 205.125 and 205.126.

17 **SECTION 23.** ORS 671.710 is amended to read:

18 671.710. [*(1) Determinations by the State Landscape Contractors Board or judgments against the*
19 *surety bond or deposit of a landscape contractor shall be satisfied in the priority listed in paragraphs*
20 *(a) to (d) of this subsection in any 90-day period. A 90-day period shall begin on the date the first claim*
21 *is filed with the board. A subsequent 90-day period shall begin on the date the first claim is filed with*
22 *the board after the close of each preceding 90-day period. Within a 90-day period.:*]

23 (1) **Determinations by the State Landscape Contractors Board or judgments against the**
24 **surety bond, letter of credit or deposit of a landscaping business for claims filed during a**
25 **90-day period shall be satisfied in the priority listed in subsections (2) to (4) of this section.**
26 **The payment of a claim filed during a 90-day period has priority over any claim filed during**
27 **a subsequent 90-day period. A 90-day period begins on the date the first claim is filed with**
28 **the board. A subsequent 90-day period begins on the date the first claim is filed with the**
29 **board after the close of the preceding 90-day period.**

30 [(a)] (2) **Determinations and judgments as a result of claims [*against a landscape contractor*] filed**
31 **within a 90-day period against a landscaping business** by owners of property upon which
32 **arboriculture or landscaping work** was performed, or was contracted to perform, [*shall*] have pay-
33 ment priority to the full extent of the bond, **letter of credit** or deposit over all other claims **filed**
34 **within that 90-day period.**

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

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

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

45 (3) **If the total of all claims against a landscaping business by owners of property under**

1 subsection (2) of this section does not exhaust the bond, letter of credit or deposit, amounts
2 due as a result of all other claims filed within that 90-day period may be satisfied from the
3 remainder of the bond, letter of credit or deposit.

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

8 [(2)] (5) The bond, letter of credit or deposit [shall] may not be used to satisfy claims filed
9 more than one year following the date the work was completed.

10 **SECTION 24.** ORS 671.955 is amended to read:

11 671.955. (1) Except as provided in subsection (4) of this section, a person who violates any pro-
12 vision of ORS 671.510 to 671.710 or a rule adopted pursuant to subsection (5) of this section or ORS
13 670.310, 670.605 or 671.670 shall forfeit and pay to the State Landscape Contractors Board a civil
14 penalty in an amount determined by the board of not more than \$2,000 for each offense.
15 [Notwithstanding ORS 670.335, except as the board may otherwise provide under ORS 182.462 (5), the
16 board shall deposit moneys received as fees or civil penalties into the account created by the board
17 pursuant to ORS 182.470.]

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

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

21 (4) **If a landscaping business commits an act described under ORS 671.610 (3)**, the board
22 shall impose penalties and sanctions [for violation of ORS 671.610 (8)] on both the [person to whom]
23 **landscaping business to which** the contract is awarded and the [person who] **landscaping busi-**
24 **ness that** awards the contract as follows:

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

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

27 (c) Suspension of license **or refusal to reissue license** for six months for a third offense;
28 [and]

29 (d) Revocation of license for three years for a fourth offense[.]; **and**

30 (e) **Permanent revocation of the landscaping business license for a fifth offense.**

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

33 [(6) If at any time following restoration of a license revoked under subsection (4)(d) of this section,
34 the person is again found to have violated ORS 671.610 (8), the board shall revoke the person's license
35 permanently.]

36 **SECTION 25.** ORS 701.005 is amended to read:

37 701.005. As used in this chapter:

38 (1) "Board" means the Construction Contractors Board.

39 (2) "Contractor" means a person who, for compensation or with the intent to sell, arranges or
40 undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from,
41 improve, inspect, move, wreck or demolish, for another, any building, highway, road, railroad, exca-
42 vation or other structure, project, development or improvement attached to real estate or to do any
43 part thereof. "Contractor" includes general contractors, residential-only contractors and specialty
44 contractors as defined in this section.

45 (3) "General contractor" means a contractor whose business operations require the use of more

1 than two unrelated building trades or crafts that the contractor supervises or performs in whole or
2 part, whenever the sum of all contracts on any single property, including materials and labor, ex-
3 ceeds an amount established by rule by the board. "General contractor" does not include specialty
4 contractors or limited contractors, as described in ORS 701.085.

5 (4) "Home inspector" means a person who, for a fee, inspects and provides written reports on
6 the overall physical condition of a residential structure and the appurtenances thereto. "Home in-
7 spector" does not include persons certified under ORS chapter 455 to inspect new, repaired or al-
8 tered structures for compliance with the state building code.

9 (5) "Inspector" means a contractor registered with the board who inspects or otherwise provides
10 services to a property owner or other contractor but does not substantively add to or subtract from
11 a structure. "Inspector" includes but is not limited to a home inspector certified or licensed under
12 ORS 701.350, a lead-based paint inspector licensed under ORS 701.515 and a cross connection and
13 backflow prevention device inspector certified under ORS 448.279. "Inspector" does not include city
14 or county inspectors acting under ORS 701.225 or an inspector as defined in ORS 455.715.

15 (6) "Large commercial structure" means a structure that is not a residential structure or small
16 commercial structure.

17 (7) "Licensed developer" means a contractor who owns property or an interest in property and
18 arranges for construction work, if the contractor:

19 (a) Engages in the business of arranging for construction work and performing other activities
20 associated with the improvement of real property, with the intent to sell the property;

21 (b) Acts in association with one or more licensed general contractors and the general contractor
22 or combination of general contractors have sole responsibility for overseeing all phases of con-
23 struction activity on the property; and

24 (c) Does not perform any construction work on the property.

25 (8) "Residential-only contractor" means a general contractor or specialty contractor who per-
26 forms work exclusively in connection with residential structures and small commercial structures,
27 and the appurtenances thereto. "Residential-only contractor" includes, but is not limited to:

28 (a) A person who purchases or owns property and constructs or for compensation arranges for
29 the construction of one or more residential structures or small commercial structures with the in-
30 tent of selling the structures;

31 (b) A school district, as defined in ORS 332.002, that permits students to construct a residential
32 structure or small commercial structure as an educational experience to learn building techniques
33 and sells the completed structure; **or**

34 (c) A community college district, as defined in ORS 341.005, that permits students to construct
35 a residential structure or small commercial structure as an educational experience to learn building
36 techniques and sells the completed structure. [; or]

37 [(d) Any person except a landscape contractor, nurseryman, gardener or person engaged in the
38 commercial harvest of forest products who is engaged as an independent contractor to remove trees,
39 prune trees, remove tree limbs or stumps or to engage in tree or limb guying.]

40 (9) "Residential structure" means a residence, including a site-built home, modular home con-
41 structed off-site, floating home as defined in ORS 830.700, condominium unit, manufactured dwelling
42 or duplex, or a multiunit residential building consisting of four units or less that is not part of a
43 multistructure complex of buildings.

44 (10) "Small commercial structure" means a nonresidential structure that has a ground area of
45 4,000 square feet or less, including exterior walls, and a height of not more than 20 feet from the

1 top surface of the lowest flooring to the highest interior overhead finish of the structure.

2 (11) "Specialty contractor" means a contractor who performs work on a structure, project, de-
3 velopment or improvement and whose operations as such do not fall within the definition of "general
4 contractor." "Specialty contractor" includes a person who performs work regulated under ORS
5 chapter 446.

6 **SECTION 26. Notwithstanding the amendments to ORS 671.530 and 701.005 by sections 8
7 and 25 of this 2005 Act, a person who holds a valid residential-only contractor license issued
8 by the Construction Contractors Board may continue to remove, prune or guy trees, remove
9 or guy tree limbs or remove stumps under authority of the residential-only contractor li-
10 cense until the earlier of:**

11 (1) **The first renewal, revocation or termination date for the residential-only contractor
12 license that occurs after January 1, 2008; or**

13 (2) **June 30, 2008.**

14 **SECTION 27. (1) Subject to subsection (2) of this section, a residential-only contractor
15 may, without taking the examination described in section 5b of this 2005 Act, obtain a limited
16 landscaping business license under ORS 671.565 authorizing the provision of tree services.
17 Upon proof that the contractor has complied with the insurance and security requirements
18 under section 5b of this 2005 Act, the State Landscape Contractors Board shall issue the
19 contractor the limited license.**

20 (2) **A residential-only contractor may apply for a limited license under subsection (1) of
21 this section only if, at the time of the application, the contractor is authorized under section
22 26 of this 2005 Act to remove, prune or guy trees, remove or guy tree limbs or remove
23 stumps.**