

Chapter 671

1974 REPLACEMENT PART

Architects; Landscape Architects; Landscape Contractors

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ARCHITECTS

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

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

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

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

(4) "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 his 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.

(5) "Registered professional engineer" means a person defined by and described in subsection (4) of ORS 672.010.

[Amended by 1957 c.408 §1; 1961 c.585 §1]

671.020 Practice of architecture without certificate of registration prohibited; use of stamp; architect to practice under his 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 he is an architect, without first qualifying before the board or 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 his business 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 issued from the office of a registered architect shall bear his stamp and be countersigned by him.

(4) A licensed architect shall pursue his profession under his own name only, as it appears in his license, except as provided by ORS 671.041.

[Amended by 1955 c.407 §1; 1957 c.408 §2; 1961 c.585 §4; 1971 c.587 §1]

671.025 Certain plans to carry stamp. Any person applying for a license or permit required under the laws of this state or the ordinances of the county or city in which the person proposed 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 and to any applicable laws and ordinances.

[1961 c.585 §3]

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 employe of an architect or registered professional engineer; nor shall it prevent draftsmen, clerks of the work, superintendents and other employes 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.

(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.

(4) Nothing in ORS 671.010 to 671.220 shall prevent a person practicing marine, naval or landscape architecture from designating himself as a marine, naval or landscape architect as long as his work is confined and limited to work coming under those classifications.

[Amended by 1955 c.407 §2; 1957 c.408 §3]

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

671.041 Practice of architecture by corporations, firms and partnerships; application to professional engineers and landscape architects; documents to be stamped. (1) A corporation, firm or partnership may engage in the practice of architecture under a corporate or assumed business name if all of the stockholders of the corporation or all of the members of the firm or partnership are registered as architects or landscape architects under ORS 671.010 to 671.220, 671.310 to 671.455 and 671.990 or as professional engineers under ORS chapter 672; provided, however, that the persons holding a majority of the stock of the corporation, or a majority of the members of the firm or partnership, shall be architects; and provided further that no corporate or assumed busi-

ness name shall include the surname of an individual who is not presently or was not previously associated in the practice of architecture or engineering with the named entity or its members or predecessors.

(2) All professional documents issued by the corporation, firm or partnership which 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, firm or partnership.

[1969 c.596 §2 (671.041 enacted in lieu of 671.040); 1971 c.587 §2]

671.045 Liability of professional corporation. ORS 671.041 to 671.047, 671.140 and 671.150 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 it does not affect the standards of professional conduct of a profession. A shareholder, director, officer, employe or agent of a professional corporation may be held personally liable for negligent or wrongful acts or misconduct committed by him, or by a person under his direct supervision and control, while rendering professional service on behalf of the corporation to a person receiving the service the same as though he were rendering service as an individual and may also be held liable for his own negligent or wrongful acts or misconduct in participation with such acts or misconduct of another shareholder, director, officer, employe or agent 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, employes and agents of the corporation are not personally liable for the debts or other contractual obligations of the corporation. [1969 c.596 §3]

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, 671.140 and 671.150. ORS 671.041 to 671.047, 671.140 and 671.150 takes precedence in the event of any conflict with provisions of the

Oregon Business Corporation Act or other law.

[1969 c.596 §4]

671.050 Application for certificate of registration; qualifications. (1) Any person desiring the right to practice the profession of architecture in this state shall make application to the 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 671.010 to 671.220, each applicant shall be a citizen of the United States, or a person who has declared his intention of becoming a citizen of the United States, and shall be of good moral character and at least 18 years of age.

(2) Each applicant for a certificate of registration shall pay to the board a fee in such amount as prescribed by administrative rule but not to exceed the maximum set by law.

[Amended by 1973 c.827 §62; 1973 c.832 §21; 1974 s.s. c. 36 §20]

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

(2) A certificate of registration shall be granted to all applicants who after the examinations are, in the opinion of a majority of the board, properly qualified. A certificate shall be denied to applicants who, in the opinion of the majority of the board, are not properly qualified.

[Amended by 1973 c.832 §22]

671.070 Reciprocity. Any person who is a registered or certified architect in another state where the qualifications are equal to

those required in this state shall, in the discretion of the board, be entitled to a certificate of registration without examination.

671.080 Annual renewal; time for payment; effect of failure to pay; abandonment of practice. Every person holding a certificate of registration, as provided for in ORS 671.010 to 671.220, who desires to continue to practice his profession in this state, shall annually, during the time he continues to practice, pay to the board during the month of July a fee in such amount as the board may deem necessary to meet the necessary expenses for carrying out the provisions of ORS 671.010 to 671.220; and the secretary thereupon shall issue to such registered architect a certificate of renewal of his registration for a period of one year. Upon failure to have his certificate renewed during the month of July of each year, the holder thereof shall be deemed to have forfeited his right to practice architecture within Oregon, but the failure to renew his registration in proper time shall not deprive him of his right to renew the certificate either before October 1, without penalty, upon payment of renewal fees or after October 1, upon payment of renewal fees plus a penalty of \$5 for each month or fraction thereof during which the default continues after October 1. Any person who fails to pay the renewal fee, with accrued penalties, for a period of one year, shall forfeit the right to practice architecture in this state and may be reinstated as an architect only upon passing the examinations and paying the fees required for securing an original certificate of registration as an architect. A registered architect, giving up his practice in this state while he is in good standing with the board, may resume his practice at any time upon the payment of the annual fee for renewal of registration for the current year.

[Amended by 1957 c.408 §4; 1973 c.832 §23]

671.085 Schedule of maximum fees; fees fixed by administrative rule. The following schedule establishes the maximum fees to be charged individuals and corporations for the practice of architecture in Oregon. Actual fees, not to exceed the maximums, shall be prescribed by the board administrative rule.

	Maximum Fee
Registration Fee	\$ 65
Renewal Fee	65
Examination Fees	
Equivalency Examination..	75
Professional Examination..	75
Reciprocal Application Fee..	100
Duplicate Certificate Fee	30
Corporation Renewal Fee	30
Corporation Registration Fee	45

[1973 c.832 §20]

671.090 Grounds for denial or revocation of certificates. The board 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 holder of the certificate of registration is falsely impersonating a practitioner or former practitioner.

(3) 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 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) For the conviction of a crime involving moral turpitude, or proof of habitual intemperance, the using of morphine, opium, cocaine or other drugs having similar effect, by the holder of the certificate of registration.

(6) Upon proof that the holder of the certificate of registration wilfully evaded or tried to evade any law, ordinance, code or regulation of the state, or counties and cities of this state, governing construction or buildings.

(7) Upon proof that the holder of the certificate of registration permitted his seal to be affixed to any plans, specifications or drawings that were not prepared by him or under his personal supervision by his regularly employed subordinate.

(8) Upon proof that the holder of the certificate of registration received, unbeknown to a party for whom he is doing work,

rebates, commissions, grants of moneys or favors which he is not entitled to or justified in receiving.

(9) Upon proof that the holder of the certificate is practicing contrary to the provisions and requirements of ORS 671.010 to 671.220.

[Amended by 1973 c.832 §24]

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

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

[Amended by 1971 c.734 §105]

671.105 Hearing required in license denial; judicial review of board orders. (1) Where the board 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 183.500.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS 183.310 to 183.500.

[1971 c.734 §107]

Note: ORS 671.105 was added to and made a part of ORS chapter 671 by legislative action, but was not added to and made a part of ORS 671.010 to 671.220.

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

671.120 State Board of Architect Examiners; number of members; qualifications.

There is created in the Department of Commerce the State Board of Architect Examiners. The board shall be composed of five architects who shall be residents of Oregon and shall have resided and practiced the profession of architecture in this state for a period of not less than five years.

[Amended by 1963 c.580 §24; 1971 c.753 §25]

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

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

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

671.160 [Repealed by 1971 c.753 §74]

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

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

671.180 [Repealed by 1961 c.585 §8]

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

671.200 [Repealed by 1971 c.753 §74]

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

671.220 Enforcement of ORS 671.010 to 671.220; maintenance of proceedings relating to professional services. (1) The district attorneys shall prosecute all persons charged with the violation of any of the provisions of ORS 671.010 to 671.220. The secretary of the board shall, under the direction of the board, aid the district attorneys in the enforcement of ORS 671.010 to 671.220.

(2) If the board 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. The board may employ special counsel for the proceeding or, upon request of the board, the district attorney for the county in which the proceeding is to be brought shall enforce this subsection.

(3) No person practicing architecture is entitled to maintain a proceeding in any court of this state relating to his services in practicing architecture unless he alleges and proves that he was licensed to practice architecture under ORS 671.010 to 671.220 at the time his services were rendered.
[Amended by 1961 c.585 §7]

LANDSCAPE ARCHITECTS

671.310 Definitions for ORS 671.310 to 671.455. As used in ORS 671.310 to 671.455, unless the context requires otherwise:

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

(2) "Landscape architecture" or the "practice of landscape architecture" means the preparation of plans and specifications and supervising the execution of projects involving the arranging of land and the ele-

ments used thereon for public and private use and enjoyment, embracing drainage, soil conservation, grading and planting plans and erosion control, in accordance with the accepted professional standards of public health and safety.
[1961 c.431 §1; 1963 c.580 §31]

671.320 Use of title "landscape architect" without registration prohibited; use of stamp. (1) Unless he is a landscape architect registered under the provisions of ORS 671.310 to 671.455 or holds a permit issued under ORS 671.390, an individual shall not use the title of landscape architect, or any title, sign, card or device indicating, or tending to indicate, or represent in any manner that he is a landscape architect.

(2) ORS 671.310 to 671.455 is not intended to restrict or otherwise affect the right of any individual to practice architecture under ORS 671.010 to 671.220, or engineering under ORS chapter 672, or to engage in the occupation of growing and marketing nursery stock, or to use the title "nurseryman" or "landscape nurseryman" provided that no individual shall use the title "landscape architect" unless he has complied with the provisions of ORS 671.310 to 671.455.

(3) Each landscape architect may, upon registration, obtain a stamp of the design authorized by the State Board of Landscape Architect Examiners, bearing the name of the registrant, date of registration, number of certificate and the legend "registered landscape architect." All professional documents, including maps, plans, designs, drawings, specifications, estimates and reports, issued by a registrant may be stamped only while the registrant's certificate is in full force and effect.
[1961 c.431 §2]

671.330 Application for registration; fees; examinations. (1) Any individual desiring to be registered as a landscape architect may apply in writing to the State Board of Landscape Architect Examiners, upon such form and in such manner as provided by the board.

(2) Except as provided in ORS 671.360, each application shall include or be accompanied by evidence, under oath or affirmation and satisfactory to the board, that the applicant possesses the qualifications prescribed by ORS 671.340.

(3) Except as provided in ORS 671.360,

each applicant for registration as a landscape architect shall include in his application a request for examination. Each applicant who requests examination shall pay to the board at the time of filing his application a fee to be determined by the board and uniformly required of all applicants, but not to exceed \$40.

(4) The board shall annually examine, or cause to have examined, at such times and places as it may determine, applicants for registration as landscape architects who request examination under subsection (3) of this section. The examinations shall be designed to ascertain that an applicant is qualified in the theory and practice of landscape architecture.

[1961 c.431 §§4, 5; 1973 c.832 §24a]

671.340 Examination of applicants; qualifications. Except as provided in ORS 671.360, each applicant for registration as a landscape architect shall pass to the satisfaction of the State Board of Landscape Architect Examiners an examination conducted by the board to determine the fitness of the applicant for registration, be 18 years of age or older, and:

(1) Have been graduated from a school of landscape architecture with a four-year curriculum, which school is approved by the board, and have two years of training-experience under the supervision of a landscape architect registered under the provisions of ORS 671.310 to 671.455 or other qualified person approved by the board; or

(2) Have been graduated from a school of landscape architecture with a five-year curriculum, which school is approved by the board, and have one year of training-experience under the supervision of a landscape architect registered under the provisions of ORS 671.310 to 671.455 or other qualified person approved by the board; or

(3) Have completed seven years of work related to the practice of landscape architecture. Such work must have been under the supervision of a landscape architect registered under the provisions of ORS 671.310 to 671.455 or other qualified person approved by the board. Each year of education completed in a school of landscape architecture approved by the board shall be considered to be equivalent to one year of such work.
[1961 c.431 §3; 1973 c.827 §63]

671.360 Reciprocity. (1) The State Board of Landscape Architect Examiners, in

its discretion, may register as a landscape architect, without examination, any individual who is 18 years of age or older, and who:

(a) Applies for such registration as provided in subsection (1) of ORS 671.330; and

(b) 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 his 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 his application.

(2) Each applicant under this section shall pay to the board at the time of filing his application an original registration fee in the amount provided in subsection (2) of ORS 671.370.

[1961 c.431 §7; 1973 c.827 §64]

671.370 Certificate of registration; fees.

(1) The State Board of Landscape Architect Examiners shall register as a landscape architect each applicant who demonstrates to the satisfaction of the board his fitness for such registration as provided in ORS 671.310 to 671.455.

(2) Each applicant under ORS 671.330 shall pay to the board upon his registration as a landscape architect an original registration fee to be determined by the board and uniformly required of all applicants, but not to exceed \$60.

(3) The board shall issue to each individual registered a certificate of registration. The certificate shall be prima facie evidence of the right of the individual to whom it is issued to represent himself as a landscape architect, subject to the provisions of ORS 671.310 to 671.455.

(4) Upon payment to the board of a fee of \$10 the board shall furnish to any landscape architect registered under the provisions of ORS 671.310 to 671.455 a duplicate of his certificate of registration.

[1961 c.431 §§8, 11; 1973 c.832 §24b]

671.380 Renewal of registration; fees; effect of failure to renew. (1) Each landscape architect registered under the provisions of ORS 671.310 to 671.455 shall apply to the State Board of Landscape Architect Examiners on or before February 15 of each year for a renewal of his registration. Each

applicant for renewal of his registration shall pay to the board at the time of filing his application therefor a fee to be determined by the board and uniformly required of all applicants for renewal of registration, but not to exceed \$60.

(2) The board may, in its discretion, suspend the registration of any landscape architect registered under the provisions of ORS 671.310 to 671.455 who fails to renew his registration and pay the fee therefor. The board may reinstate any registration so suspended upon the payment of all past renewal fees.

[1961 c.431 §9; 1973 c.832 §24c]

671.390 Temporary permit; fees; qualifications; duration. (1) The State Board of Landscape Architect Examiners, in its discretion, and without examination, may issue to a landscape architect practicing outside this state a permit to assume or use the title of landscape architect for a specific, designated and described site within this state if the landscape architect:

(a) Applies in writing to the board, upon such form and in such manner as provided by the board, for a permit, and pays to the board at the time of filing his application a fee of \$25.

(b) Is 18 years of age or older.

(c) Presents satisfactory evidence to the board that he is competent to practice landscape architecture.

(2) The board, in its discretion, may designate a specific period for which the permit issued under subsection (1) of this section shall be valid. Upon expiration of the period designated for the permit a new permit may be issued upon application in the manner provided in this section.

[1961 c.431 §10; 1973 c.827 §65]

671.400 Grounds for denial, revocation or suspension of registration. The State Board of Landscape Architect Examiners may refuse to register any applicant, may refuse to renew the registration of any landscape architect registered under the provisions of ORS 671.310 to 671.455, may suspend for a period not exceeding one year or revoke the registration of any landscape architect registered under the provisions of ORS 671.310 to 671.455 or a permit issued under ORS 671.390 to a person who:

(1) Has obtained or attempted to obtain registration, or a permit, under ORS 671.310

to 671.455 by fraud or material misrepresentation.

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

(3) Is found by the board to have been guilty of fraud, deceit or gross negligence in the practice of landscape architecture.

(4) Has affixed his signature to plans, drawings, specifications or other professional documents which have not been prepared by him or under his immediate and responsible direction or has permitted his name to be used for the purpose of assisting any individual, not a landscape architect, to evade the provisions of ORS 671.310 to 671.455.

[1961 c.431 §13]

671.405 Hearing required in license denial; procedure for promulgating rules, holding hearings, issuing and reviewing orders.

(1) Where the State Board of Landscape Architect Examiners proposes to revoke or suspend a registration, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.500.

(2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be in accordance with ORS 183.310 to 183.500.

[1971 c.734 §109]

Note: ORS 671.405 was added to and made a part of ORS chapter 671 by legislative action, but was not added to and made a part of ORS 671.310 to 671.455.

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

671.420 Renewal or reissuance after revocation for gross negligence. After revocation of the registration of a landscape architect registered under the provisions of ORS 671.310 to 671.455 for gross negligence in the practice of landscape architecture as provided in subsection (3) of ORS 671.400 the State Board of Landscape Architect Examiners may not renew or reissue such license without an examination. The individual whose registration is revoked may file a new application for an examination with the board, and upon showing that all loss caused by the gross negligence for which the license was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with, the board may at its discretion issue a new license.

[1961 c.431 §16]

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

671.440 Prohibitions. No person shall:

(1) Obtain or attempt to obtain registration as a landscape architect or a permit under ORS 671.390 by fraud or material misrepresentation.

(2) Wilfully make a false oath or affirmation under subsection (1) or (2) of ORS 671.330, ORS 671.360 or 671.390. [1961 c.431 §12]

671.450 Investigation of violations of ORS 671.310 to 671.455. The State Board of Landscape Architect Examiners may, upon its own motion or upon the verified complaint in writing of any person, investigate any alleged violation of ORS 671.310 to 671.455. The board may, in its discretion, disregard any complaint filed more than two years after the act or omission alleged as a violation of ORS 671.310 to 671.455. [1961 c.431 §21]

671.455 State Board of Landscape Architect Examiners. There is created in the Department of Commerce the State Board of Landscape Architect Examiners. The board shall consist of three members to be appointed by the Director of Commerce with the approval of the Governor. Each of the members shall be a landscape architect registered under the provisions of ORS 671.310 to 671.455, and shall be a resident of this state.

[1963 c.580 §28; 1969 c.314 §74; 1971 c.753 §26]

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

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

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

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

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

LANDSCAPE CONTRACTORS

671.510 Short title. ORS 671.510 to 671.710 may be cited as the Landscape Contractors Law.

[1971 c.764 §1; 1973 c.832 §25]

671.520 Definitions for ORS 671.510 to 671.710. As used in ORS 671.510 to 671.710 and subsection (3) of ORS 671.990, unless the context requires otherwise:

(1) "Committee" means the State Landscape Contractors Advisory Committee.

(2) "Department" means the Department of Commerce.

(3) "Director" means the Director of Commerce.

(4) "Landscape contractor" means any person who solicits or engages in a business requiring the art, ability, experience, knowledge, science and skill to install, plant and repair lawns, shrubs, vines, bushes, trees and other decorative vegetation including the grading and preparation of plots and areas of land for architectural horticulture, decorative treatment and arrangement; construct fountains, drainage and residential irrigation systems; or to do any part or any combination of any thereof.

(5) "Licensee" means a person who is licensed under ORS 671.510 to 671.710 and subsection (3) of ORS 671.990 as a landscape contractor.

(6) "Nursery stock" means nursery stock as defined by ORS 571.005 and as further defined by the department after public hearing. [1971 c.764 §2; 1973 c.832 §26]

671.530 License required; advertising of unlicensed persons restricted. (1) Except as provided in ORS 671.540, 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) Unless a person has a valid landscape contractor's license, he shall not use the title of landscape contractor, or any title, sign, card or device indicating, or tending to indicate, or represent in any manner that he is a landscape contractor. [1971 c.764 §3; 1973 c.832 §27]

671.540 Application of ORS 671.510 to 671.710. ORS 671.510 to 671.710 and subsection (3) of ORS 671.990, do not apply to:

(1) A landscape contractor whose annual gross income from landscape contracting is less than \$5,000. The department may require from such persons a report or other document evidencing gross income. In addition, the department may inspect the books and records of such person.

(2) Any federal or state agency or any political subdivision performing landscaping on property owned or leased by such political subdivision.

(3) Any landscape architect registered

pursuant to ORS 671.310 to 671.455 and practicing as provided therein.
[1971 c.764 §4; 1973 c.832 §28]

671.550 Authority of department to investigate; confidentiality of information. (1) The department may inquire into and inspect:

(a) Any services performed or materials furnished by a licensee.

(b) The financial records of a licensee.

(c) The financial records of a person who it reasonably believes is operating without a license in violation of ORS 671.530.

(d) The services performed or materials furnished by a person who it reasonably believes is operating without a license in violation of ORS 671.530.

(2) Except when used for legal action, the information obtained by an inspection authorized by this section is confidential. However, the department shall furnish copies of any inspection to the person that is subjected to such inspection.

[1971 c.764 §5]

671.560 Issuance of licenses; form of application. (1) Except as provided in ORS 671.590, the department shall issue a "for hire" landscaper's license to an applicant who satisfies the requirements of ORS 671.570.

(2) An applicant shall apply to the department upon a form furnished by the department and give such information as the department considers necessary.

[1971 c.764 §6]

671.570 Qualification for license. (1) Except as provided in ORS 671.590, each applicant for a landscape contractor's license shall:

(a) Pay to the department the fee required by ORS 671.650;

(b) Pass an examination which will be offered at least once each six months by the department to determine the fitness of the applicant for licensing; and

(c) Have, acting as a supervisor or manager, within 10 years before the day the application for a license is made:

(A) Had at least 36 months of employment as a landscape contractor; or

(B) Had at least 24 months of employment as a landscape contractor and one full year of training in an area related to landscaping at an accredited school or college; or

(d) Prove to the satisfaction of the director by test and experience that the applicant is qualified.

(2) A license shall be required for all new landscape contracting businesses which begin operation after July 22, 1973. The requirements shall be the same as established in subsection (1) of this section.

[1971 c.764 §7; 1973 c.832 §29]

671.580 Licenses not transferable. A license issued pursuant to ORS 671.560 is a personal privilege and is not transferable.

[1971 c.764 §8]

671.590 Issuance of licenses to persons acting as landscape contractors on July 1, 1974; reciprocity. (1) The department shall license without examination any person who is operating as a landscape contractor in this state on July 1, 1974, if the person applies for the license not later than the 120th day after July 22, 1973, excluding "for hire" landscapers as defined in ORS 671.530 (1971 Replacement Part). However, any person licensed pursuant to this subsection shall be required to pass the examination referred to in subsection (2) of ORS 671.570 prior to January 1, 1976.

(2) The department may license without examination any person who is a landscape contractor licensed or registered under the laws of any other state of the United States if the requirements for the licensing or registration of landscape contractors in the state in which the applicant is licensed or registered on the date of his licensing or registration in such state were substantially equal to the requirements for licensing of landscape contractors in this state on the date of his application.

[1971 c.764 §9; 1973 c.832 §30]

671.600 New license required upon change of ownership; license expiration date. A new license shall be required whenever there is a change in ownership, irrespective of whether the business name is changed. If prior approval is obtained from the department, a licensee may move to another location without relicensing.

[1971 c.764 §10; 1973 c.832 §31]

671.610 Grounds for license denial. The department may suspend, revoke or refuse to issue or renew the license of any person who:

(1) Has obtained or attempted to obtain a license under ORS 671.510 to 671.710 and subsection (3) of ORS 671.990, by fraud or material misrepresentation;

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

- (3) Has performed defective work;
 - (4) Has furnished defective materials;
 - (5) Has made misleading statements when advertising his services or materials; or
 - (6) Has violated a provision of ORS 671.510 to 671.710 and subsection (3) of ORS 671.990.
- [1971 c.764 §11]

671.620 License posting requirement. A licensee shall post his license in a conspicuous place in the principal office of the business. In addition, the licensee shall post a copy of his license in a conspicuous place in each of his branch offices.

[1971 c.764 §12]

671.630 Establishment of advisory committee; membership; terms; function; compensation. (1) There is established within the Department of Commerce the State Landscape Contractors Advisory Committee. The committee shall consist of five members appointed by the director who shall make appointments from all segments of the landscape contracting industry, at least two of whom shall be public members. The term of each member shall be for three years, beginning on July 1 of the year of appointment. A member shall continue to serve until a successor is appointed. Vacancies in office shall be filled by appointment for the unexpired term.

(2) The function of the committee established by this section shall be to counsel and advise the department in the administration and enforcement of ORS 671.510 to 671.710 and subsection (3) of ORS 671.990.

(3) The members appointed under subsection (1) of this section shall be entitled to compensation and expenses computed as provided in ORS 292.495.

[1971 c.764 §14; 1973 c.832 §32]

671.640 Advisory committee officers; meetings; quorum. (1) The committee shall select one of its members as chairman, who shall have such powers and duties as the committee may require. The committee shall meet at the call of the chairman or the director. A majority of the committee shall constitute a quorum for the transaction of business.

(2) The State Landscape Contractors Advisory Committee shall hold at least one joint meeting each calendar year.

[1971 c.764 §15; 1973 c.832 §33]

671.650 License fees. (1) The landscape contractor's license fees shall be established by the department, after public hearing in accordance with ORS chapter 183. Such fees shall be established on the basis of annual gross dollar volume income from work performed during the calendar year immediately preceding the license period, and shall not exceed four mills per dollar of annual sales, but no such fee shall be less than \$20 nor more than \$300. The fees shall be established on a uniform millage rate, and shall be sufficient to allow the department to administer and enforce the provisions of ORS 671.510 to 671.710 and subsection (3) of ORS 671.990 and to maintain an emergency fund with an unencumbered balance not to exceed the cost of administration and enforcement of such provisions during a representative four-month period.

(2) In addition to the fee required by subsection (1) of this section, the applicant shall pay a separate fee of \$20 for each of his branch offices.

(3) The fee for renewal of a landscape contractor's license shall be established as provided under subsections (1) and (2) of this section.

(4) The fee for a new business shall be \$25.

(5) The license fee for an out-of-state landscape contractor operating in Oregon shall be \$25, unless the business operated during any part of the previous calendar year in Oregon. If so, the fee will be computed the same as for an Oregon landscape contractor as provided in subsection (1) of this section.

[1971 c.764 §17; 1973 c.832 §34]

671.660 Renewal of licenses; applications required for reissuance of expired license; penalty fees. (1) Upon notification from the department, the fee for renewal of a landscape contractor's license shall be paid annually. The director may vary the dates of license renewal by giving to the applicant written notice of the renewal date being assigned and by making prorated adjustments in the renewal fee.

(2) A person who has been previously licensed to operate as a landscape contractor and whose license has expired shall not be issued another license except upon written application to the department accompanied by a penalty fee equal to 10 percent of the fee required by ORS 671.650.

(3) No penalty fee shall be required of a person whose application for renewal of a license is accompanied by a signed statement that he has not operated as a landscape contractor during the 12-month period immediately preceding the application or since the expiration of his last license, whichever is less.

[1971 c.764 §18; 1973 c.832 §35]

671.670 Rulemaking authority. In accordance with any applicable provision of ORS 183.310 to 183.500, the department may promulgate rules for the administration and enforcement of ORS 671.510 to 671.710 and subsection (3) of ORS 671.990.

[1971 c.764 §19]

671.680 Disposition and use of funds received pursuant to ORS 671.510 to 671.710. All funds received by the department under ORS 671.510 to 671.710 and subsection (3) of ORS 671.990 shall be paid into the State Treasury and deposited to the credit of the Commerce Administration Account. Such funds are appropriated continuously to the Department of Commerce and shall be used exclusively for the purpose of the administration of ORS 671.510 to 671.710 and subsection (3) of ORS 671.990.

[1971 c.764 §21]

671.690 Surety bond or deposit required; effect of termination or withdrawal.

(1) A person applying for a landscape contractor's license shall file with the department a surety bond with one or more corporate sureties authorized to do business in this state in the amount of \$1,000, conditioned that the applicant will pay:

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

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

(c) All amounts that may be adjudged against the landscape contractor by reason of negligent or improper work or breach of contract in performing any work subject to this chapter.

(2) In lieu of the surety bond required under subsection (1) of this section, the landscape contractor may file with the department, under the same terms and conditions as when a bond is filed, a deposit in cash or negotiable securities acceptable to the department.

(3) The securities or bond required by this section shall be continuously on file

with the board and upon termination or cancellation of the bond or withdrawal of the securities, the licensee shall immediately surrender his license to the board and cease operating as a landscape contractor.

[1973 c.832 §29b]

671.700 Notice of claim against contractor to department. A person having a claim against a landscape contractor shall give the department notice of the claim by registered or certified mail 90 days before any action on the bond or deposit is commenced.

[1973 c.832 §29c]

671.710 Priority on satisfaction of claims. Claims shall be satisfied from the bond or deposit in the following priority:

(1) If the total claims filed with the department against a landscape contractor within 90 days after the department has received notice of the first claim against the landscape contractor exceed the amount of his bond or deposit:

(a) Labor to one-half of the bond, pro-rated among all labor claimants who file within the 90-day period.

(b) Claims for breach of contract by the owner of the land.

(c) Claims for breach of contract by a contractor.

(d) Material and equipment.

(e) Taxes and contributions due the State of Oregon.

(2) If the total claims filed with the department within 90 days after the first claim is filed do not exceed the amount of the bond or deposit, all claims filed within the 90-day period shall have priority over all claims subsequently filed, and the priorities specified in subsection (1) of this section shall apply to subsequent claims until the amount of the bond or deposit is exhausted but not later than one year following the date of expiration of the license in force at the time the work was completed.

[1973 c.832 §29d]

PENALTIES

671.990 Penalties. (1) Violation of any of the provisions of ORS 671.010 to 671.220 is punishable, upon conviction, by a fine of not more than \$200 or by imprisonment in the county jail for not more than 60 days, or by both.

(2) Violation of any provision of subsection (1) of ORS 671.320 or of ORS 671.440 is a misdemeanor.

(3) Violation of ORS 671.530 is a misdemeanor.

[Subsection (2) enacted as 1961 c.431 §24; subsection (3) enacted as 1971 c.764 §22]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on June 1, 1974.

Thomas G. Clifford
Legislative Counsel