Chapter 671

1985 REPLACEMENT PART

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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) "Council" means the National Council of Architectural Registration Boards (NCARB).

(5) "Practice of architecture" means any one or combination of the following practices by a person: The planning, designing or supervision of the erection, enlargement or alteration of any building or of any appurtenance thereto other than exempted buildings. "Practice of architecture" does not include any contractor or duly appointed superintendent or foreman directing the work of erection, enlargement or alteration of any building or any appurtenance thereto, under the supervision of a registered architect or registered professional engineer, as provided by ORS 671.010 to 671.220.

(6) "Registered professional engineer" means a person defined by and described in ORS 672.002 to 672.310.

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

671.020 Practice of architecture without certificate of registration prohibited; use of stamp; architect to practice under own name, exceptions. (1) In order to safeguard life, health and property and to eliminate unnecessary loss and waste in this state, no person shall practice the profession of architecture or assume or use the title of architect, or any title, sign, cards or device indicating, or tending to indicate, that such person is practicing architecture or is an architect, or represent in any manner that such person is an architect, without first qualifying before the board and obtaining a certificate of registration as provided by ORS 671.010 to 671.220.

(2) No person shall practice or attempt to practice the profession of architecture, or assume the title of "architect," or use in connection with the business of such person any words, letters or figures indicating the title "architect" without first complying with ORS 671.010 to 671.220.

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

(4) A licensed architect shall pursue the profession under the architect's own name only, as it appears in the architect's license, except as provided by ORS 671.041. [Amended by 1955 c.407 §1, 1957 c 408 §2, 1961 c 585 §4; 1971 c.587 §1, 1977 c.803 §2; 1979 c 354 §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 proposes to erect, construct, enlarge, alter, repair, move, improve, remove or convert a building shall submit an original or reproduction of the plans and specifications for the work proposed. The plans and specifications shall bear the stamp of a registered architect, or of a registered professional engineer, where the services of a registered architect or of a registered professional engineer are required by the provisions of ORS 671.010 to 671.220, and shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed and that the work proposed conforms to ORS 671.010 to 671.220, State Building Code and to any other applicable laws and ordinances. [1961 c.585 §3; 1977 c.803 §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 the 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 the stockholders owning a majority of the stock of the corporation or a majority 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 671.459 and 671.990 or as professional engineers under ORS 672.002 to 672.310; provided, however:

(a) That the persons serving as a majority of the board of directors of the corporation, or a majority of the members of the firm or partnership, shall be architects;

(b) That no corporate or assumed business 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; and

(c) That the corporate or assumed business name identifies the corporation, firm or partnership as being engaged in the practice of architecture.

(2) The president of a corporation or senior principal of a firm or partnership practicing architecture under an assumed name must file annually during the month of January with the board the names of all stockholders of the corporation or all principals or partners of the firm or partnerships.

(3) 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 (enacted in lieu of 671.040); 1971 c.587 §2; 1977 c.803 §4; 1985 c 764 §2]

671.045 Liability of professional corporation. ORS 671.041 to 671.047 do not affect the law applicable to the professional relationship and liabilities between a person rendering professional service and a person receiving the service, and 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 that person, or by a person under the direct supervision and control of that person, while rendering professional service on behalf of the corporation to a person receiving the service the same as though the service was being rendered by an individual and may also be held liable for 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, 1977 c.803 §5]

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

671.050 Application for certificate of registration; qualifications. (1) Any person desiring the right to practice architecture in the State of Oregon shall make application to the 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 at least 18 years of age.

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

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]

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

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

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

671.080 Annual renewal; time for payment; effect of failure to pay; abandonment of practice. (1) Every person holding a certificate of registration, as provided for in ORS 671.010 to 671.220, who desires to continue to practice the profession in this state, shall annually, while practicing, pay to the board on or before the anniversary of issuance of the certificate the required fee; and the board administrator thereupon shall issue to such registered architect a certificate of renewal of the registration for a period of one year. Upon failure to have the certificate renewed on or before the anniversary of issuance of the certificate, the certificate holder shall be deemed to be delinquent; but such person may renew the certificate not later than the 60th day after the renewal date, without penalty, upon payment of renewal fees or after the 60th day after the renewal date, upon payment of renewal fees plus a penalty in an amount to be prescribed by board rule, not to exceed $10 for each month of delinquency.

(2) 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 examinations required by the board and by paying any required examination fees, renewal fee and penalties.

(3) The board may grant a suspension to any registered architect who gives up the practice and while in good standing makes such request in writing to the board. The architect may resume practice within five years upon payment of the

annual fees for the renewal of registration for the current year provided, however, that where a license suspension has been in effect for more than two years the board may require the architect to take and pass an examination on the State of Oregon Structural Specialty Code and Fire and Life Safety Code. [Amended by 1957 c 408 §4; 1973 c.832 §23; 1977 c.803 §10, 1977 c.873 §2a]

671.085 Fees. (1) The board may impose fees for the following:

(a) Registration.

(b) Renewal.

(c) Architectural Registration Examination, resident and nonresident.

(d) Reciprocal Application.

(e) Duplicate Certificate.

(f) Corporation Renewal.

(g) Corporation Registration.

(2) Subject to the review of the Executive Department and the prior approval of the appropriate legislative review agency, the amounts of fees authorized by subsection (1) of this section shall be adjusted by the board to finance costs as defined by the legislatively approved budget, as it may be modified by the Emergency Board. [1973 c.832 §20; 1977 c.803 §11; 1981 c.121 §3, 1983 c.50 §1]

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 applicant or the holder of the certificate of registration is falsely impersonating a practitioner or former practitioner.

(3) Upon proof that the holder of a certificate is practicing under an assumed, fictitious, or a corporate name contrary to the provisions of ORS 671.010 to 671.220.

(4) Upon proof that the applicant or the holder of the certificate of registration is guilty of fraud or deceit, or of gross negligence, incompetency or misconduct in the practice of architecture.

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

(6) Upon proof that the holder of the certificate of registration stamped and signed any plans, specifications or drawings that were not prepared by the architect or under the architect's direct control and supervision.

(7) Upon proof that the holder of the certificate of registration, unbeknown to a party for whom the architect is doing work, received rebates, commissions, grants of moneys or favors which the architect is not entitled to or justified in receiving.

(8) Upon proof that the applicant or the holder of the certificate is practicing contrary to the provisions and requirements of ORS 671.010 to 671.220. [Amended by 1973 c.832 §24; 1977 c.803 §12; 1979 c.354 §2]

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 183.550.

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

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 seven members appointed by the Governor. The board shall have as members:

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

(2) Two shall be members of the general public. [Amended by 1963 c.580 §24; 1971 c.753 §25; 1977 c.803 §13; 1981 c.121 §2]

671.125 Rulemaking authority of board. In accordance with any applicable provisions of ORS 183.310 to 183.550, the board may:

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

(2) Promulgate reasonable rules prescribing standards of professional conduct for architects. The board may give consideration to national practices as well as local practices when promulgating such rules. [1977 c 803 §15]

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

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

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

671.160 [Repealed by 1971 c 753 §74]

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

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

671.180 [Repealed by 1961 c.585 §8]

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

671.200 [Repealed by 1971 c 753 §74]

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

671.220 Civil penalties; effect of failure to be licensed. (1) Any person who violates any provision of ORS 671.010 to 671.220 or any rule promulgated thereunder shall forfeit and pay to the State Board of Architect Examiners a civil penalty in an amount determined by the board of not more than $1,000 for each offense. Such civil penalty may be recovered by the Attorney General in an action brought in the name of the State of Oregon in any court of appropriate jurisdiction. The provisions of this section are in addition to and not in lieu of any other penalty or sanction provided by law.

(2) If the 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.

(3) No person, firm, partnership or corporation practicing architecture is entitled to maintain a proceeding in any court of this state relating to services in practicing architecture unless it is alleged and proven that the person, firm, partnership or corporation was licensed to practice architecture under ORS 671.010 to 671.220 at the time services were rendered. [Amended by 1961 c.585 §7, 1977 c 803 §16; 1983 c.389 §3]

LANDSCAPE ARCHITECTS

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

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

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

(3) "Design" means layout, form and establishment of grades for the purpose and services described in this section.

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

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

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

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

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

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

671.312 Purpose of ORS 671.310 to 671.459. ORS 671.310 to 671.459 is enacted in order to introduce qualifying criteria in the professional field of landscape architecture. This action is necessary to safeguard the health, safety, welfare and property of the people of the State of Oregon. These safeguards are in the field of landscape architecture as it relates to engineering, architecture, ground water, land use planning, landscape hazards, the further development of the field of landscape architecture and the landscape architectural concerns of the people of this state. [1983 c.455 §3]

671.315 Use of title "registered landscape architect" or "landscape architect"

without registration prohibited. (1) Unless an individual is a landscape architect registered under the provisions of ORS 671.310 to 671.459 or holds a permit issued under ORS 671.385, the individual shall not use the title of registered landscape architect, landscape architect, or any title, designation, words, letters, abbreviations, sign, card or device indicating, or tending to indicate, or represent in any manner that the individual is a registered landscape architect.

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

(a) Practice architecture under ORS 671.010 to 671.220;

(b) Practice engineering under ORS 672.002 to 672.325;

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

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

(3) Each registered landscape architect shall obtain a stamp of the design authorized by the department, bearing the name of the registrant, date of registration, number of certificate and the legend "registered landscape architect." The registrant shall stamp all professional documents that the registrant issues, including maps, plans, designs, contract documents and reports. [1981 c.536 §2]

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

671.325 Application; content; fee; examination. (1) Any individual desiring to be registered as a landscape architect may apply in writing to the department, upon such form and in such manner as provided by the department.

(2) Except as provided in ORS 671.345, each application shall include or be accompanied by evidence, under oath or affirmation and satisfactory to the department, that the applicant possesses the qualifications prescribed by ORS 671.335.

(3) Except as provided in ORS 671.345, each applicant for registration as a landscape architect shall include in the application a request for examination. Each applicant who requests examination shall pay to the department at the time of filing the application a fee to be established under ORS 671.365.

(4) The department 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 this section. The examinations shall be designed to ascertain that an applicant is qualified in the theory and practice of landscape architecture. [1981 c.536 §3]

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

671.335 Qualifications for registration. Except as provided in ORS 671.345, each applicant for registration as a landscape architect shall pass to the satisfaction of the department an examination conducted by the department to determine the fitness of the applicant for registration and:

(1) Have been graduated from a school of landscape architecture with a four-year curriculum, which school is approved by the department, and have one year of training-experience under the supervision of a registered landscape architect or other qualified person approved by the department;

(2) Have been graduated from a school of landscape architecture that is approved by the department and that has a five-year curriculum; or

(3) Have completed six years of work related to the practice of landscape architecture. The work must have been under the supervision of a registered landscape architect or other qualified person approved by the department. Each year of education completed in a school of landscape architecture approved by the department shall be considered to be equivalent to one year of such work, but no more than four years of education may be substituted for work related to the practice of landscape architecture. [1981 c 536 §4]

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

671.345 Registration without examination. (1) The department, in its discretion, may register as a landscape architect, without examination, any individual who:

(a) Applies for such registration under ORS 671.325; 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 licensing or registration in such state or territory were substantially equal to the requirements for the registration of landscape architects in this state on the date of the application.

(2) Each applicant under this section shall pay to the department at the time of filing the application an original registration fee for registration of an out-of-state landscape architect in the amount provided in ORS 671.365. [1981 c.536 §5]

671.355 Registration; fee; certificate; duplicate. (1) The department shall register as a landscape architect each applicant who demonstrates to the satisfaction of the department fitness for such registration as provided in ORS 671.310 to 671.459.

(2) Each applicant under ORS 671.325 shall pay to the department upon registration as a landscape architect an original registration fee established under ORS 671.365 and uniformly required of all applicants.

(3) The department shall issue to each individual registered a certificate of registration. The certificate shall be prima facie evidence that the individual to whom it is issued is a registered landscape architect and of the right of that individual to purport to be a registered landscape architect, subject to the provisions of ORS 671.310 to 671.459.

(4) Upon payment to the department of a fee established under ORS 671.365, the department shall furnish to any registered landscape architect a duplicate certificate of registration. [1981 c.536 §6]

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

671.365 Fees. The department shall establish by rule the amounts for fees to be charged and collected under ORS 671.310 to 671.459. The amounts for fees established by the department under this section shall not exceed the following maximum amounts for fees:

(1) Examination fee, $200.

(2) Fee for original registration of out-of-state landscape architect under ORS 671.345, $200.

(3) Fee for issuance of original registration under ORS 671.355, $200.

(4) Fee for issuance of a duplicate certificate of registration under ORS 671.355, $10.

(5) Fee for renewal of registration under ORS 671.375, $200.

(6) Late renewal fee under ORS 671.375, $15.

(7) Temporary permit fee under ORS 671.385, $100. [1981 c.536 §6a]

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

671.375 Renewal; fees; late fee. (1) Registration issued under ORS 671.310 to 671.459 is valid for one year from the date of issuance.

(2) A registered landscape architect may renew the registration annually by payment of the renewal fee established under ORS 671.365 on or before the date the registration expires.

(3) A landscape architect whose registration has expired may renew the registration after the date the registration expires by payment of both the renewal fee and the late renewal fee established under ORS 671.365.

(4) Notwithstanding any other provision of this section, a landscape architect whose registration has expired for more than two years may not renew the registration but shall only obtain registration by making application and becoming registered in the same manner as an individual not previously registered. [1981 c.536 §7]

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

671.385 Temporary permit; qualifications; duration. (1) The department, in its discretion, and without examination, may issue to an individual practicing outside this state a temporary permit allowing the individual to represent that the individual is a landscape architect who meets the qualifications under ORS 671.310 to 671.459 for a specific, designated and described site within this state if the individual:

(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 the permit application a fee established under ORS 671.365; and

(b) Presents satisfactory evidence to the department that the individual is competent to practice landscape architecture.

(2) The department, in its discretion, may designate a specific period for which the permit issued under 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. [1981 c 536 §8]

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

671.393 Code of professional conduct; publication; effect; revision. The board shall cause to be prepared and shall by rule adopt a code of professional conduct which shall be known in writing to every landscape architect and applicant for registration under ORS 671.310 to 671.459. This code shall be published in the roster of landscape architects. Such publication shall constitute due notice to all registrants. The board may revise and amend this code of conduct

from time to time and shall promptly notify each registrant in writing of such revisions or amendments. [1983 c.455 §4]

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

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

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

671.404 Grounds for refusal to register or renew or for suspension. Subject to ORS 183.310 to 183.550, the department may refuse to register any applicant, may refuse to renew the registration of any registered landscape architect, may suspend for a period not exceeding one year or revoke the registration of any registered landscape architect or may suspend or revoke a permit issued under ORS 671.385 if the applicant, registrant or permittee is a person who:

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

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

(3) Is found by the department to have used fraud or deceit or to have been grossly negligent in the practice of landscape architecture.

(4) Has affixed the person's signature to plans, reports or other professional documents that have not been prepared by the person or under the person's immediate and responsible direction or has permitted the use of the person's name for the purpose of assisting any individual, not a registered landscape architect, to evade the provisions of ORS 671.310 to 671.459. [1981 c.536 §10]

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

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

671.412 Public contract requirements; effect on employment. When the state or any political subdivision therein contracts for landscape architectural service projects, the contracts shall be with registered landscape architects, as defined in ORS 671.310. However, nothing in this section prevents the state or a political subdivision from employing a registered landscape architect or other individual to perform the duties that are part of the practice of landscape architecture. [1983 c.455 §7]

671.415 Rulemaking authority; personnel. (1) The director, subject to ORS 183.310 to 183.550, may adopt rules necessary for the department to perform its duties under ORS 671.310 to 671.459.

(2) The department shall provide the personnel, supplies and space necessary to perform the duties of the department under ORS 671.310 to 671.459 and necessary for the board to perform its duties. [1981 c.536 §11]

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

671.425 Reissuance of revoked registration. If the department revokes the registration of a registered landscape architect for gross negligence in the practice of landscape architecture under ORS 671.404, the department may only issue registration under ORS 671.310 to 671.459 to the individual whose registration is revoked if the individual:

(1) Files a new application for and passes an examination with the department; and

(2) Establishes to the satisfaction of the department that all loss caused by the gross negligence for which the license was revoked has been fully satisfied and that the individual has complied with all conditions imposed by the decision of revocation. [1981 c 536 §12]

671.428 Minimum standards for contracts and billings; compliance; effect of noncompliance. (1) The department shall by rule adopt minimum standards for written contracts and billings of landscape architects. The standards shall set forth requirements for information that must be contained in contracts and billings. The information required will be any information the department determines is necessary to provide protection for consumers of the services and materials provided by landscape architects.

(2) Work subject to this section and ORS 671.312, 671.393, 671.412 and 671.442 shall only be performed subject to a written contract. Any contract or billing for such work must conform to the standards adopted under subsection (1) of this section.

(3) A contract that does not substantially comply with this section may not be enforced by a landscape architect in any court or other proceedings within this state. [1983 c.455 §5]

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

671.435 Civil penalties. The department, after hearing and any review under ORS

183.310 to 183.550, may impose a civil penalty against any person who violates any provision of ORS 671.310 to 671.459 or any rule adopted thereunder. A civil penalty imposed under this section shall be in an amount determined by the department of not more than $1,000 for each offense. Moneys received from any civil penalty under this section shall be deposited in the State Treasury to be available for general governmental purposes. The Attorney General shall bring an action in the name of the State of Oregon in a court of appropriate jurisdiction to enforce any civil penalty imposed under this section. [1981 c 536 §13]

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

671.442 Arbitration; effect; costs. In a dispute arising out of a contractual agreement between a registered landscape architect and a member of the general public of the state, the board or subcommittee of the board may act as arbiter of the dispute. Upon agreement of all parties to such arbitration, the findings of the board or subcommittee shall be binding on all parties to the dispute. There shall be no costs borne by any party for such arbitration and for the purposes of this section members of the board shall serve without compensation but shall be reimbursed for expenses as provided in ORS 292.495. [1983 c.455 §6]

671.445 Investigation of complaints. The department may:

(1) Upon its own motion or upon the verified complaint in writing of any person, investigate any alleged violation of ORS 671.310 to 671.459.

(2) 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 671.459. [1981 c 536 §14]

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

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

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

671.459 State Landscape Architect Board; membership; term; duties; compensation and expenses. (1) There is created in the Department of Commerce the State Landscape Architect Board. The board shall consist of five members to be appointed by the director with the approval of the Governor. Three of the members shall be registered landscape architects, two shall be public members, and all shall be residents of this state.

(2) The term of office of each member is three years, but a member serves at the pleasure of the director. Before the expiration of the term of a member, the director shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment.

(3) The board shall advise the director and the department on the administration and enforcement of ORS 671.310 to 671.459 and shall perform any other duties in relation to those sections that the director determines appropriate.

(4) A member is entitled to compensation and expenses as provided in ORS 292.495. [1981 c.536 §15]

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 AND BUSINESSES

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, unless the context requires otherwise:

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

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

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

(4) "Landscape contractor" means any person who engages for compensation in activities requiring the art, ability, experience, knowledge, science and skill to:

(a) Plan and install lawns, shrubs, vines, trees and other decorative vegetation including the grading and preparation of plots and areas of land and constructing fountains, drainage and irriga-

tion systems for architectural horticulture, decorative treatment and arrangement;

(b) Plan and install fences, decks, walkways and retaining walls; or

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

(5) "Landscaping business" means any business that offers the services of a landscape contractor for compensation.

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

(7) "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; 1975 c.757 §1; 1981 c 536 §22, 1983 c.452 §1, 1985 c.565 §91]

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

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

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

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

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

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

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

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

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

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

(6) Preparation of plots and areas of land in conjunction with new or remodeling construction when performed by a person or business registered with the Builders Board. [1971 c.764 §4; 1973 c.832 §28; 1979 c.840 §2, 1981 c.536 §17; 1983 c.452 §3]

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 under ORS 671.510 to 671.710.

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

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

(2) Except when used for legal action or by the department to determine negligent or improper work under ORS 671.703, the information obtained by an inspection authorized by this section is confidential. However, the department shall furnish copies of any inspection to the licensee or other person that is subjected to such inspection. [1971 c.764 §5; 1979 c 840 §3, 1983 c.452 §4]

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

(2) The department shall issue a landscaping business license to an applicant who satisfies the requirements of the department.

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

(4) The department may issue a limited or specialty license if the applicant is required to have a landscape contractor's license or business license but is not qualified or required to be

licensed for all phases of landscape contracting. [1971 c 764 §6; 1975 c.757 §4; 1983 c 452 §5]

671.565 Landscape business license requirements; fees; employes; advertising. Each person applying for a landscaping business license shall pay to the department the fees required by ORS 671.570 and 671.650 and:

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

(2) Shall not advertise landscape contracting services unless the business complies with ORS 671.510 to 671.710. [1983 c 452 §8]

671.570 Qualification for contractor license. Each person applying for a landscape contractor's license shall pay to the department the fee required by ORS 671.650 and:

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

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

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

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

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

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

(3) Pay a nonrefundable examination fee not to exceed $25. [1971 c.764 §7; 1973 c.832 §29, 1975 c.757 §5; 1979 c.840 §4; 1983 c.452 §6; 1985 c.565 §92]

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

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

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]

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

Note: 671.605 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS 671 510 to 671.710 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

671.610 Grounds for license denial, suspension, revocation or refusal to renew license. 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 671.990 (2), by fraud or material misrepresentation;

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

(3) Has performed defective work;

(4) Has furnished defective materials;

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

(6) Has violated a provision of ORS 671.510 to 671.710 and 671.990 (2). [1971 c 764 §11, 1981 c.536 §23]

671.620 License posting requirement. A licensee shall post the license in a conspicuous place in the principal office of the business. In addition, the licensee shall post a copy of the license in a conspicuous place in each of the branch offices of the licensee. [1971 c.764 §12]

671.625 Minimum standards for contracts and billings; compliance; effect of noncompliance. (1) The department shall by rule adopt minimum standards for written contracts and billings of the landscaping businesses. The standards shall set forth requirements for information that must be contained in contracts

and billings. The information required shall be any information the department determines is necessary to provide protection for consumers of the services and materials provided by landscaping businesses.

(2) Work by a landscaping business subject to ORS 671.510 to 671.710 shall only be performed subject to a written contract. Any contract or billing for such work must conform to the standards adopted under subsection (1) of this section.

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

671.630 Establishment of advisory board; membership; function. (1) There is established within the Department of Commerce the State Landscape Contractors Advisory Board. The board shall consist of seven 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.

(2) The function of the board 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 671.990 (2). [1971 c.764 §14; 1973 c 832 §32; 1975 c.757 §7; 1981 c.536 §24]

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

671.650 License fees. (1) The annual landscape contractor's license fees shall be established by the department and shall not exceed $25.

(2) The annual landscaping business fee shall not exceed $65.

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

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

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

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

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

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

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

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

671.690 Business surety bond or deposit required. (1) An applicant for a license as a landscaping business shall file with the department a surety bond with one or more corporate sureties authorized to do business in this state. The amount of the bond shall be $3,000.

(2) The bond required under subsection (1) of this section shall be conditioned that the applicant pays:

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

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

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

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

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

(4) The deposit or bond required by this section shall be continuously on file with the department in the amount required by this section. Upon termination or cancellation of the bond, withdrawal of the deposit or reduction of the bond or deposit to less than the required amount, the licensee shall immediately:

(a) File a replacement bond or deposit; or

(b) Surrender the license to the department and cease operating as a landscaping business.

(5) The landscaping business is responsible for all landscape work performed. [1973 c.832 §29b; 1979 c.840 §6; 1983 c.452 §15]

671.700 Notice of claim against business. A person having a claim against a landscaping business 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; 1983 c.452 §16]

671.703 Filing claim against business; hearing by department. (1) If any person has a claim against a landscaping business issued a license under ORS 671.560 for negligent or improper work performed by the landscaping business for the person, the person may file the claim and a request for hearing with the department if the claim:

(a) Does not exceed the amount of the bond or deposit required under ORS 671.690;

(b) Has not been determined by proceedings in any court or is not the subject of proceedings pending in any court; and

(c) Has not been removed from the department under ORS 671.705.

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

(3) If the department determines that the landscaping business performed negligent or improper work, the department, after final resolution of any appeals permitted under ORS 183.310 to 183.550, shall order the landscaping business to pay the claim determined by the department within 20 days. If the landscaping business does not pay the claim as required by this subsection, the department shall order the claim paid out of the deposit or bond required under ORS 671.690.

(4) The department shall not:

(a) Determine damages under this section in excess of the amount of the bond or deposit of the landscaping business required under ORS 671.690.

(b) Accept for filing or hold hearings under this section on any claim that does not meet the qualifications under subsection (1) of this section.

(c) Hold hearings under this section on any claim if the amount of the bond or deposit is not sufficient to pay the claim after payment of other claims under ORS 671.710. [1979 c.840 §8; 1983 c 452 §17]

671.705 Appeal of claim for more than $200; award of costs and fees by court. (1) If any claim in an amount of more than $200 is filed with the department against a landscaping business under ORS 671.703, the landscaping business may appeal the decision of the department to a court.

(2) If a court of this state awards damages on a claim against a landscaping business, the court shall award reasonable costs, expert witness fees and attorney fees at trial and on appeal to the person who made the claim to the department if the same claim has been filed with the department under ORS 671.703 and damages were awarded to the person making the claim. [1979 c.840 §9; 1981 c.897 §99; 1983 c 452 §18]

671.707 Effect of final determination on claim against landscape contractor by department. A final determination on a claim under ORS 671.703 shall have the effect of a final determination given by a court of this state in any subsequent proceeding or action. [1979 c.840 §10]

671.710 Priority on satisfaction of claims. (1) Claims shall be satisfied from the bond or deposit required by ORS 671.690 in the order the claims are filed with the department. For purposes of priority under this section:

(a) A claim determined by the department under ORS 671.703 is filed when the claim is first filed with and accepted by the department.

(b) A claim based on a determination by a court is filed when evidence of liability under a final determination by a court is filed with the department.

(2) If a claim filed with the department is made part of an action filed in a court before final determination of the claim by the department:

(a) The department shall dismiss the claim and discontinue any hearing on the claim; and

(b) The claim shall have priority under this section based on the time the final determination of the court is filed with the department.

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

671.720 Civil penalty for violations of ORS 671.530 to 671.600. (1) Any person who violates any provision of ORS 671.530 to

671.600 or any rule promulgated thereunder shall forfeit and pay into the General Fund a civil penalty in an amount determined by the department of not more than $1,000 for each offense, in accordance with ORS 670.335.

(2) Such civil penalty may be recovered by the Attorney General in an action brought in the name of the State of Oregon in any court of appropriate jurisdiction. [1975 c 757 §11]

PENALTIES

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

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