

# Chapter 671

1993 EDITION

## Architect; Landscape Architect, Contractor and Business

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**ARCHITECTS**

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

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

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

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

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

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

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

(7) "State Building Code" means the State of Oregon Structural Specialty Code and Fire and Life Safety Code. [Amended by 1957 c.408 §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; identification.** (1) Any person applying for a license or permit required under the laws of this state or the ordinances of any jurisdiction in which the person proposes to erect, construct, enlarge, alter, repair, move, improve, remove or convert a building shall submit an original or reproduction of the plans and specifications for the work proposed. The plans and specifications shall bear the stamp of a registered architect, or of a registered professional engineer, where the services of a registered architect or of a registered professional engineer are required by the provisions of ORS 671.010 to 671.220, and shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed and that the work proposed conforms to ORS 671.010 to 671.220, State Building Code and to any other applicable laws and ordinances.

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

(a) The project name and location;

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

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

(d) The date the documents were issued.

(3) Each jurisdiction which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement or repair of any building or structure shall

require the signature and registration stamp on the plans and specifications from a person allowed under the provisions of this section to prepare the plans and specifications.

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

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

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

(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, de-

signing, specifying or supervising the alterations or repairs to a building when the structural part of a building, i.e., the foundation walls, floors, roof, footings, bearing partitions, beams, columns, joists, etc., is not involved, or when the occupancy or the code-related classification of the building has not been changed.

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

**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 professional corporations, firms and partnerships; application to professional engineers and landscape architects; documents to be stamped.** (1) A professional 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 under ORS 671.010 to 671.220 and provided:

(a) That the persons serving as a majority of the board of directors of the professional corporation, or a majority of the members of the firm or partnership or in the case of a firm or partnership, those holding a majority ownership, 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 in Oregon with the named entity or its members or predecessors; and

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

(2) The president of a professional 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 professional 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 respon-

sible for the preparation thereof and shall also bear the corporate or assumed business name of the corporation, firm or partnership.

(4) Notwithstanding the provisions of subsection (1) of this section, a professional corporation that existed on September 29, 1991, may engage in the practice of architecture if the stockholders owning a majority of the stock of the corporation are registered as architects under ORS 671.010 to 671.220 or professional engineers under ORS 672.002 to 672.325. [1969 c.596 §2 (enacted in lieu of 671.040); 1971 c.587 §2; 1977 c.803 §4; 1985 c.764 §2; 1991 c.910 §3]

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

**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 ad-

dition 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 30th day after the renewal date, without penalty, upon payment of renewal fees or after the 30th 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 double the amount of the current renewal fee.

(2) Any person who fails to pay the renewal fee, with accrued penalties, for a period of 60 days, 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. If the architect fails to renew within the five-year period, the architect may be reinstated only upon passing examinations required by the board and by paying any required examination fees and penalties. [Amended by 1957 c.408 §4; 1973 c.832 §23; 1977 c.803 §10; 1977 c.873 §2a; 1991 c.910 §5]

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

- (a) Registration.
  - (b) Renewal.
  - (c) Architectural Registration Examination, resident and nonresident, which shall not exceed the cost of administering the exam.
  - (d) Reciprocal application.
  - (e) Duplicate certificate.
  - (f) Corporation renewal.
  - (g) Corporation registration.
- (2) Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior

to adopting the fees, the amounts of fees authorized by subsection (1) of this section shall be adjusted by the board to finance costs and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board. [1973 c.832 §20; 1977 c.803 §11; 1981 c.121 §3; 1983 c.50 §1; 1989 c.795 §1; 1991 c.703 §17]

**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 willfully evaded or tried to evade any law, ordinance, code or regulation of the state, or counties and cities of this state, governing construction of buildings.

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

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

(8) Upon proof that the applicant or the holder of the certificate is practicing contrary to the provisions and requirements of ORS 671.010 to 671.220. [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; members; qualifications.** The State Board of Architect Examiners is created. The board shall be composed of seven members appointed by the Governor to four-year terms with three terms maximum. The chair of the board shall be elected by the board from among the current members. The board shall have as members:

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

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

**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 be assessed a civil penalty of not more than \$5,000 for each offense. The provisions of this section are in addition to and not in lieu of any other penalty or sanction provided by law.

(2) If the 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.

(4) Civil penalties under this section shall be imposed as provided in ORS 183.090. [Amended by 1961 c.585 §7; 1977 c.803 §16; 1983 c.389 §3; 1989 c.795 §§2,5; 1991 c.734 §64]

## LANDSCAPE ARCHITECTS

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

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

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

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

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

(b) The location and construction of aesthetically pleasing and functional approaches for structures, roadways and walkways or

other improvements for natural drainage and erosion control; or

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

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

**671.312 Purpose of ORS 671.310 to 671.459.** ORS 671.310 to 671.459 is enacted in order to introduce qualifying criteria in the professional 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 board, bearing the name of the registrant, date of registration, number of certificate and the legend "registered landscape architect." The registrant shall stamp all professional documents that the registrant issues, including maps, plans, designs, contract documents and reports. [1981 c.536 §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 board, upon such form and in such manner as provided by the board.

(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 board, 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 at the time of filing the application a fee to be established under ORS 671.365.

(4) The board shall annually examine, or cause to have examined, at such times and places as the board 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; 1987 c.414 §42a]

**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 board an examination conducted by the board 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 board, and have one year of training-experience under the supervision of a registered landscape architect or other qualified person approved by the board;

(2) Have been graduated from a school of landscape architecture that is approved by the board 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 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, 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 board may register as a landscape architect, without examination, any individual who applies for such registration under ORS 671.325, and:

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

(b) Has passed the Uniform National Examination within the five years immediately preceding application.

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

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

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

(3) The board 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 board of a fee established under ORS 671.365, the board 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 board 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 board under this section shall not exceed the following maximum amounts for fees:

(1) Examination fee, an amount not to exceed the purchase price of the examination.

(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; 1993 c.712 §1]

**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 five 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; 1987 c.460 §2]

**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 board 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 board that the individual is competent to practice landscape architecture.

(2) The board 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; 1987 c.414 §42c]

**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 board may establish or approve programs of continuing education that contribute to the competency of landscape architects. The board may charge a fee for programs of continuing education it establishes.

(2) A program of education established or approved under this section is not required for the issuance or renewal of registration under ORS 671.310 to 671.459. [1981 c.536 §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 board 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 board finds that 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 board to have used fraud or deceit or to have been grossly negligent in the practice of landscape architecture.

(4) Has affixed the person's signature to plans, reports or other professional documents that have not been prepared by the person or under the person's immediate and

responsible direction or has permitted the use of the person's name for the purpose of assisting any individual, not a registered landscape architect, to evade the provisions of ORS 671.310 to 671.459.

(5) Has been found to have violated ethical or professional standards by a court or administrative body in another state for committing or omitting acts which, if committed or omitted in this state, would be a violation of ethical or professional standards established pursuant to this chapter. A certified copy of the record of suspension or revocation of the state making such suspension or revocation is conclusive evidence thereof. [1981 c.536 §10; 1987 c.460 §3]

**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.** The board, subject to ORS 183.310 to 183.550, may adopt rules necessary for the board to perform its duties under ORS 671.310 to 671.459. [1981 c.536 §11; 1987 c.414 §42d]

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

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

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

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

**671.428 Minimum standards for contracts and billings; compliance; effect of noncompliance.** (1) The board 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 re-

quired will be any information the board 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 board may impose a civil penalty against any person who violates any provision of ORS 671.310 to 671.459 or any rule adopted thereunder. The penalty shall be imposed in the manner provided by ORS 183.090. A civil penalty imposed under this section shall be in an amount determined by the board of not more than \$1,000 for each offense. 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; 1991 c.734 §65]

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 board may:

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

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

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 board pursuant to ORS 671.315 to 671.459 shall be paid into the State Treasury and credited to the account. All moneys in the account are appropriated continuously to the board to carry out the provisions of ORS 671.315 to 671.459. [1981 c.536 §14a; 1987 c.414 §43]

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

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

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

(3) The board shall advise the Governor on the administration and enforcement of ORS 671.310 to 671.459.

(4) A member is entitled to compensation and expenses as provided in ORS 292.495. [1981 c.536 §15; 1987 c.414 §44; 1993 c.744 §238]

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

### (General Provisions)

**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 Board.

(2) "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 irrigation 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.

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

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

(5) "Nursery stock" means nursery stock as defined by ORS 571.005 and as further defined by the board after public hearing. [1971 c.764 §2; 1973 c.832 §26; 1975 c.757 §1; 1981 c.536 §22; 1983 c.452 §1; 1985 c.565 §91; 1987 c.414 §45]

#### (Licensure)

**671.525 Applicant required to be independent contractor; classes of registration.** (1) An applicant for a landscaping business license must qualify as an independent contractor, under ORS 670.600, to be licensed with the board.

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

(a) The nonexempt class is a sole proprietor, partnership or corporation with employees or a partnership without employees.

(b) The exempt class is a sole proprietor without employees or a corporation whose officers have selected the option described in ORS 656.027.

(3) If a licensee who qualifies for registration under paragraph (b) of subsection (2) of this section hires one or more employees, the registration is invalid and reapplication shall be made.

(4) The decision of the board that a licensee is an independent contractor applies only when the licensee is performing work of the nature described in ORS 671.520 and 671.530. [1991 c.533 §6]

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

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

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

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

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

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

(1) Any federal or state agency or any political subdivision performing landscaping on 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 do so.

(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 Construction Contractors 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 Construction Contractors 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 board to investigate; confidentiality of information.** (1) The board may inquire into and inspect:

(a) Any services performed or materials furnished by a licensee under ORS 671.510 to 671.710.

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

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

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

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

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

(3) Any inspector authorized by the board to determine compliance with the provisions of ORS 671.510 to 671.710 is authorized to require any person who is engaged in any activity regulated by ORS 671.510 to 671.710 to demonstrate proof of compliance with the registration requirements of ORS 671.510 to 671.710. If a person who is contracting directly with the owner of the property does not demonstrate proof of compliance with the license requirements of ORS 671.510 to 671.710, the inspector shall give notice of noncompliance to the person. The notice of noncompliance shall be in writing, shall specifically state that the person is not in compliance with the registration requirements of ORS 671.510 to 671.710 and shall provide that unless the person demonstrates proof of compliance within two days of the date of the notice, the inspector may by order stop all work then being done by the person. The notice of noncompliance shall be served upon the person and shall be served upon or delivered to the owner of each property upon which the person is then performing work under contract. If more than one person is the owner of any such property, a copy of the notice need be given to only one of such persons. If after receipt of the notice of noncompliance the person fails within the two-day period specified in the notice to demonstrate proof of compliance with the registration requirements of ORS 671.510 to 671.710, the inspector is authorized to order the work stopped by notice in writing served on any persons engaged in the activity. Any

person so notified shall stop such work until proof of compliance is demonstrated. However, the inspector may not order the work stopped until at least two days after the copies of the notice of noncompliance have been served upon or delivered to the owners.

(4) The board has the power to administer oaths, issue notices and subpoenas in the name of the board, compel the attendance of witnesses and the production of evidence, hold hearings and perform such other acts as are reasonably necessary to carry out its duties under ORS 671.510 to 671.710.

(5) If any person fails to comply with a subpoena issued under subsection (4) of this section or refuses to testify on matters on which the person may be lawfully interrogated, the board shall compel obedience in the manner provided in ORS 183.440. [1991 c.533 §5]

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

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

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

(4) The board may issue a limited or specialty license if the applicant is required to have a landscape contractor's license or business license but is not qualified or required to be licensed for all phases of landscape contracting. [1971 c.764 §6; 1975 c.757 §4; 1983 c.452 §5]

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

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

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

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

tion and renewal that the insurance required by this section has been procured and is in effect.

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

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

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

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

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

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

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

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

(3) Pay a nonrefundable examination fee not to exceed \$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; 1987 c.414 §45a]

**671.575 License required to obtain judicial or administrative remedy; exception.** (1) A landscaping business may not file a lien, file a claim with the board or bring or maintain in any court of this state a suit or action for compensation for the performance of any work or for the breach of any contract for work which is subject to ORS 671.510 to 671.720, unless the landscaping business was:

(a) Licensed under ORS 671.510 to 671.720 at the time the landscaping business bid or entered into the contract for performance of the work; and

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

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

(3) If a landscaping business falsely swears to information provided under ORS 671.560 or 671.565 or knowingly violates the provisions of ORS 656.029, 670.600, 671.560 or

671.565, the landscaping business may not file a lien, file a claim with the State Landscape Contractors Board or bring or maintain in any court of this state a suit or action for compensation for the performance of any work or for the breach of any contract for work which is subject to ORS 671.510 to 671.720. [1991 c.533 §7]

**671.578 Suit for damages for misrepresentation.** If any person suffered costs or damages as a result of an individual providing a false or invalid State Landscape Contractors Board number or otherwise misleading a person with respect to licensing with the board, that person may bring suit in a court of competent jurisdiction to recover the costs, damages and attorney fees. [1991 c.533 §8]

**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 board may license without examination any person who is a landscape contractor licensed, certified or registered under the laws of another state, territory of the United States, the District of Columbia or another country where the requirements on the date the applicant was licensed, certified or registered were substantially equal to the requirements for licensing of landscape contractors in this state on the date of application by the person. [1971 c.764 §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; notification of change of address.** A new license shall be required whenever there is a change in ownership, irrespective of whether the business name is changed. If a licensee moves to another location, relicensing is not required but the licensee must notify the board promptly of the new address. [1971 c.764 §10; 1973 c.832 §31; 1987 c.461 §1]

**671.605 Effect of change in partners or corporate officers.** A licensed partnership or corporation shall notify the board immediately upon any change in partners or corporate officers. Upon a change in partners, a licensed partnership immediately shall license again and pay to the board the fee required by ORS 671.650 for an original license. [1983 c.452 §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 re-new license; injunctive relief.** (1) The board

may suspend, revoke or refuse to issue or renew the license of any person who:

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

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

(c) Has performed defective work;

(d) Has furnished defective materials;

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

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

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

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

(2) The board may suspend or refuse to license any corporation, partnership or individual if any individual who is an owner or officer of the business is or was the owner or officer of a previously registered business that owes any amount pursuant to a final order of the board.

(3) A person who has been a sole proprietor, partner or corporate officer of a landscaping business the license of which has been suspended or revoked may be denied a license if the person knowingly participated in the conduct that led to the suspension or revocation.

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

(5) In addition to the remedies of license denial, suspension, revocation or refusal to renew a license, when it appears to the board that a person has engaged in, or is engaging in, any act, practice or transaction which violates the provisions of this chapter, the board may direct the Attorney General to apply to the court for an injunction restraining the person from violating the provisions of this chapter. [1971 c.764 §11; 1981 c.536 §23; 1987 c.461 §2; 1989 c.944 §2]

**671.613 Sanction for failure to comply with certain laws.** (1) The failure of a landscaping business to comply with the provisions of this section, ORS 656.021, 657.665, 670.600, 671.520, 671.525, 671.530 and 671.575 or to be in conformance with the provisions of ORS chapter 316, 656, 657 or 657A is a basis for suspension of the landscaping business license, revocation of the landscaping

business license, refusal to issue or reissue a landscaping business license, assessment of a civil penalty as set forth in ORS 671.720 or a combination of these sanctions.

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

**671.615 Installation of irrigation backflow prevention devices.** A landscape contractor may tap into the potable water supply only after the connection between the water system and the customer, as defined in ORS 448.115, in order to install irrigation backflow prevention devices only if the landscape contractor is licensed by the board as set forth by rule to:

(1) Perform all phases of landscape contracting; or

(2) Perform irrigation work. [1987 c.561 §2; 1989 c.944 §3]

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

*Note:* 671.617 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 671 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

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

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

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

(3) A contract that does not substantially comply with this section may not be enforced by a landscaping business in any court or other proceedings within this state. [1979 c.840 §13; 1983 c.462 §12]

**671.628 Sanctions for failure to pay amount owed board.** The board may suspend the license of or refuse to license any corporation; partnership or individual if any individual who is an owner, shareholder or officer of the business is or was the owner

or officer of a business that owes any amount pursuant to a final order of the board. [1991 c.533 §4]

**(Landscape Contractors Board)**

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

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

**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 board and shall not exceed \$30.

(2) The annual landscaping business fee shall not exceed \$75.

(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; 1989 c.450 §1]

**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 board with the required annual fee plus a penalty fee not to exceed \$25.

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

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

(5) When a person renews a landscape contractor license, the person must submit the name of the employer if the person is currently performing landscaping work. [1971 c.764 §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 board 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]

**671.675 Complaint log.** The board shall cause a complaint log to be maintained in which all written or oral complaints relating to licensees of the board are recorded, whether or not the complaint is within the jurisdiction of the board and whether or not any action is taken on the complaint. The complaint log shall contain the name of the complainant if known, the date, the subject and the object of the complaint. The complaint log is a public record. [1987 c.461 §7]

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

**(Claims)**

**671.690 Business surety bond or other security.** (1) An applicant for a license as a landscaping business shall file with the board a surety bond with one or more corporate sureties authorized to do business in this state, or an irrevocable letter of credit issued by a commercial bank as defined in ORS 706.005. The amount of the bond or letter of credit shall be \$3,000.

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

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

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

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

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

(3) In lieu of the surety bond or letter of credit required under subsection (1) of this section, the landscaping business may file with the board, under the same terms and conditions as when a bond is filed, a deposit in cash or negotiable securities acceptable to the board.

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

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

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

(5) The landscaping business is responsible for all landscape work performed. [1973 c.832 §29b; 1979 c.840 §6; 1983 c.452 §15; 1991 c.331 §103]

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

**671.703 Filing claim against business; hearing; arbitration; board limitations.**

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

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

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

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

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

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

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

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

(d) The board determines that the nature or complexity of the claim is such that a court is the appropriate forum for the adjudication of the claim. [1979 c.840 §8; 1983 c.452 §17; 1987 c.461 §4; 1989 c.153 §1; 1991 c.533 §2]

**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 board against a landscaping business under ORS 671.703, the landscaping business may appeal the decision of the board 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 board if the same claim has been filed with the board 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.** 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 board. For purposes of priority under this section:

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

(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 board.

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

(a) The board 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 de-

termination of the court is filed with the board.

(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]

**(Civil Penalty)**

**671.720 Civil penalty for violations of ORS 671.510 to 671.710.** (1) Any person who violates any provision of ORS 671.510 to 671.710 or any rule adopted thereunder shall forfeit and pay into the General Fund of the State Treasury a civil penalty in an amount determined by the department of not more than \$1,000 for each offense.

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

(3) The provisions of this section are in addition to and not in lieu of any other penalty or sanction provided by law. [1975 c.757 §11; 1987 c.461 §5; 1991 c.734 §66]

**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]

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