

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

FILED
4-30-14 1:26 PM
ARCHIVES DIVISION
SECRETARY OF STATE

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on 04/22/2014 by the
Construction Contractors Board 812

Agency and Division Administrative Rules Chapter Number
Catherine Dixon (503) 934-2185

Rules Coordinator Telephone
700 Summer St. NE, Suite 300, Salem, OR 97310

Address

To become effective Upon filing. Rulemaking Notice was published in the April 2014 Oregon Bulletin.

RULE CAPTION

Housekeeping and Cite Reference Revisions

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:

812-002-0640, 812-003-0100, 812-003-0160, 812-003-0190, 812-003-0260, 812-003-0390, 812-005-0200, 812-005-0210, 812-005-0250, 812-020-0071, 812-022-0000, 812-022-0005, 812-022-0011, 812-022-0016, 812-022-0018, 812-022-0033, 812-022-0036, 812-022-0037, 812-022-0040, 812-022-0042, 812-022-0045, 812-022-0047, 812-032-0000, 812-032-0100, 812-032-0110, 812-032-0120, 812-032-0123, 812-032-0130, 812-032-0135, 812-032-0140, 812-032-0150

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 183.310 to 183.545, 670.310, 701.068, 701.082, 701.088, 701.235, 701.267, 701.280, 701.532

Other Authority:

Statutes Implemented:

ORS 25.270, 25.785, 25.990, 670.310, 701.005, 701.021, 701.035, 701.050, 701.056, 701.063, 701.068, 701.073, 701.081, 701.082, 701.088, 701.094, 701.098, 701.122, 701.126, 701.131, 701.238, 701.267, 701.527, 701.527 to 701.536, 701.532

RULE SUMMARY

812-003-0260 is amended to correct cite references to match 2013 legislative changes and to correct the term Home Energy Performance Score Contractor; the word "Score" was left out the rule when filed.

812-005-0250 is amended to correct cite references and to remove redundant language in 812-0250(3)(d).

812-002-0640, 812-003-0100, 812-003-0160, 812-003-0190, 812-003-0390, 812-005-0200, 812-005-0210, 812-020-0071, 812-022-0000, 812-022-0005, 812-022-0011, 812-022-0016, 812-022-0018, 812-022-0033, 812-022-0036, 812-022-0037, 812-022-0040, 812-022-0042, 812-022-0045, 812-022-0047, 812-032-0000, 812-032-0100, 812-032-0110, 812-032-0120, 812-032-0123, 812-032-0130, 812-032-0135, 812-032-0140 and 812-032-0150 are amended to correct cite references.

Catherine Dixon
Rules Coordinator Name

Catherine.A.Dixon@state.or.us
Email Address

812-002-0640

Renewal

“Renewal” (of license) as used in ORS 701.063, 701.068, and 701.131 includes but is not limited to the act of submitting a replacement bond, a bond rider, or letter of credit or cash deposit, a certificate of insurance, a fee, the renewal form, any employer account numbers, and any pre-licensure training.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 670.310, 701.056, 701.063, 701.068, 701.073, 701.088, [~~701.105,~~] 701.131 & 701.238

(4/98, 9/98, 6/00, 6/03, 12/05, 12/07, 6/08, 4/11 (eff. 5/1 11), 4/13 (eff. 5/1/13), 4/30/14)

812-003-0100

Licensing Generally

(1) A license and its identifying license number will be issued to one entity only. Other entities shall not be included in that license, but each shall be separately licensed and shall separately meet the licensing requirements. No entity may perform work subject to ORS chapter 701 through the use of another entity's license.

(2) Entities shall include but not be limited to the following:

(a) Sole proprietorship;

(b) Partnership, limited liability partnership or joint venture;

(c) Limited partnership

(d) Corporation;

(e) Limited liability company; or

(f) Trust. For purposes of licensing, a trust will be treated the same as a corporation.

(3) All partners or joint venturers listed in subsection (2)(b) of this rule shall be on record with the agency.

(4) All general partners listed in subsection (2)(c) of this rule shall be on record with the agency. The agency shall not maintain a record of limited partners.

(5) If an entity listed in section (2) of this rule seeks to change to another entity, the former license may be terminated. The new entity must license anew.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS [~~701.055 (2005)~~] **701.021**

(12/04, 8/05, 4/30/14)

812-003-0160

Entity Name Required on Bond, Letter of Credit or Cash Deposit

(1) The name of the entity as it appears on the bond, letter of credit or cash deposit must be the same as the name on the application and entity name filed at the Oregon Corporation Division (if applicable).

(a) If the entity is a sole proprietorship, the bond, letter of credit or cash deposit must include the name of the sole proprietor;

(b) If the entity is a partnership, or joint venture, the bond, letter of credit or cash deposit must include the names of all partners (except limited partners);

(c) If the entity is a limited liability partnership, the bond, letter of credit or cash deposit must be issued in the name of all partners and the name of the limited liability partnership;

(d) If the entity is a limited partnership, the bond, letter of credit or cash deposit must be issued in the name of all general partners and the name of the limited partnership and any other business names(s) used. Limited partners do not need to be listed on the bond, letter of credit or cash deposit;

(e) If the entity is a corporation or trust, the bond, letter of credit or cash deposit must be issued showing the corporate or trust name; or

(f) If the entity is a limited liability company, the bond, letter of credit or cash deposit must be issued in the name of the limited liability company.

(2) If at any time an entity amends its entity name, the agency must be notified within 30 days of the date of the change.

(3) The inclusion or exclusion of business name(s) on a bond, letter of credit or cash deposit does not limit the liability of an entity. Complaints against a licensed entity will be processed regardless of business names used by an entity.

Stat. Auth.: ORS 670.310, [~~701.085 (2005)~~] 701.068, 701.088 & 701.235

Stats. Implemented: ORS 701.068[, ~~701.085 (2005)~~] & 701.088

(12/04, 12/06, 12/07, 6/08, 4/30/14)

812-003-0190

New Bond, Letter of Credit or Cash Deposit Required for Change in Entity

(1) If an entity licenses as a sole proprietorship, partnership, limited liability partnership, limited partnership, joint venture, corporation, limited liability company, business trust or any other entity and seeks to change the licensed entity to one of the other entity types, the application must be accompanied by a new:

(a) Bond separate from the bond held for the previous entity;

(b) Letter of credit separate from the letter of credit held for the previous entity; or

(c) Cash deposit separate from the previous cash deposit held for the previous entity.

(2) Riders to existing bonds changing the type of entity bonded will be construed as a cancellation of the bond and will not be otherwise accepted.

Stat. Auth.: ORS 670.310, [~~701.085 (2005)~~] 701.068, 701.088 & 701.235

Stats. Implemented: ORS 701.068[, ~~701.085 (2005)~~] & 701.088

(12/04, 12/07, 6/08, 4/30/14)

812-003-0260

Application for New License

(1) Each entity must complete an application form prescribed by the agency. Information provided on the form must include, but not be limited to:

(a) Name of business entity, all additional business names, including assumed business names, under which business as a contractor is conducted, and Corporation Division registry numbers (if applicable);

(b) Mailing and location address of the business entity;

(c) Legal name and address (which may be the business address) of:

(A) The owner of a sole proprietorship;

(B) All partners of a general partnership or limited liability partnership;

(C) All joint venturers of a joint venture;

(D) All general partners of a limited partnership;

(E) All corporate officers of a corporation;

(F) All trustees of a trust;

(G) The manager and all members of a manager-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph;

(H) All members of a member-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph; or

(I) The responsible managing individual designated by the applicant.

(d) Except for a public company, the date of birth and driver license number of:

(A) The owner of a sole proprietorship;

(B) All partners of a general partnership or limited liability partnership;

(C) All joint venturers of a joint venture;

(D) All general partners of a limited partnership;

(E) All corporate officers of a corporation;

(F) All trustees of a trust;

(G) The manager and all members of a manager-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph;

(H) All members of a member-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph; or

(I) The responsible managing individual designated by the applicant.

(J) For purposes of this subsection, a “public company” means any business entity that offers securities registered for sale by the federal Securities and Exchange Commission to the general public.

(e) Social security number of the owner of a sole proprietorship or partners, if partners are human beings, in a general partnership;

(f) Class of independent contractor license and employer account numbers as required under OAR 812-003-0250;

(g) License endorsement sought, as provided for under OAR 812-003-0131;

(h) The identification number of the responsible managing individual who has completed the education and passed the examination required under ORS 701.122 or is otherwise exempt under division 6 of these rules;

(i) The Standard Industrial Classification (SIC) numbers of the main construction activities of the entity;

(j) Names and certification numbers of all certified locksmiths if the entity is a Residential Locksmith Services Contractor or will do work providing locksmith services under ORS 701.475 to 701.490;

(k) Names and certification numbers of all certified home inspectors if the entity will do work as a home inspector under ORS 701.350;

(L) Names and certification numbers of all certified home energy assessors if the entity is a Home Energy Performance **Score** Contractor providing home energy performance scores under [~~Oregon Laws 2013, chapter 383, sections 3 through 7~~] **ORS 701.527 to 701.536** or will do work providing home energy performance scores.

(m) For each person described in subsection (1)(c) of this section, the following information if related to construction activities:

(A) If unsatisfied on the date of application, a copy of a final judgment by a court in any state entered within five years preceding the application date that requires the person to pay money to another person or to a public body;

(B) If unsatisfied on the date of application, a copy of a final order by an administrative agency in any state issued within five years preceding the application date that requires the person to pay money to another person or public body;

(C) If pending on the date of application, a copy of a court complaint filed in any state that alleges that the person owes money to another person or public body; or

(D) If pending on the date of application, a copy of an administrative notice of action issued in any state that alleges that the person owes money to another person or public body.

(n) For each person described in subsection (1)(c) of this section, the following information if related to construction activities;

(A) A copy of a judgment of conviction for a crime listed in ORS 701.098(1)(i), entered within five years preceding the application date; or

(B) A copy of an indictment for a crime listed in ORS 701.098(1)(i), entered within five years preceding the application date.

(C) In addition to documents required in paragraphs (1)(I)(A) and (B) of this section, copies of police reports, parole or probation reports indicating parole or probation officer's name and phone number, and letters of reference.

(o) Independent contractor certification statement and a signed acknowledgment that if the licensee qualifies as an independent contractor the licensee understands that the licensee and any heirs of the licensee will not qualify for workers' compensation or unemployment compensation unless specific arrangements have been made for the licensee's insurance coverage and that the licensee's election to be an independent contractor is voluntary and is not a condition of any contract entered into by the licensee;

(p) Signature of owner, partner, joint venturer, corporate officer, member or trustee, signifying that the information provided in the application is true and correct; and

(2) A complete license application includes but is not limited to:

(a) A completed application form as provided in section (1) of this rule;

(b) The new application license fee as required under OAR 812-003-0140;

(c) A properly executed bond, letter of credit or assignment of savings as required under OAR 812-003-0152, 812-003-0153, or 812-003-0155; and

(d) The certification of insurance coverage as required under OAR 812-003-0200.

(3) The agency may return an incomplete license application to the applicant with an explanation of the deficiencies.

(4) All entities listed in section (1) of this rule that are otherwise required to be registered with the Oregon Corporation Division must be registered with the Oregon Corporation Division and be active and in good standing. All assumed business names used by persons or entities listed in section (1) of this rule must be registered with the Oregon Corporation Division as the assumed business name of the person or entity using that name.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 25.270, 25.785, 25.990, 701.035, 701.050, 701.056, 701.068, 701.073, 701.081, 701.088 & 701.122

(12/04, 8/05, 5/06, 9/06, 12/06, 8/07, 12/07, 2/08, 3/08, 6/08, 9/08, 12/13 eff. 1/1/14, 4/30/14)

812-003-0390

Revocation or Suspension of License

(1) Except as provided in section (2) of this rule, if the agency issues a final order, arbitration award, or determination directing a licensee to pay monetary damages and the licensee or the licensee's surety fails to pay the order, award or determination in full, the agency will revoke, suspend, or refuse to issue or reissue a license.

(2) Section (1) of this rule shall not apply if the licensee submits proof to the agency that:

(a) A United States Bankruptcy Court issued an automatic stay under Title 11 of the United States Bankruptcy Code and that stay is currently in force; or

(b) The order, award or determination described in section (1) of this rule arises from a debt that:

(A) Is included in an order of discharge issued by a United States Bankruptcy Court; or

(B) Is included in a chapter 11 plan and order conforming the plan issued by a United States Bankruptcy Court that prohibits the agency from revoking, suspending, or refusing to issue or reissue the licensee's contractor's license and the licensee is in compliance with the terms of the plan and order.

(3) The agency shall revoke, suspend, or refuse to issue or reissue a license under section (1) of this rule if:

(a) The agency previously was prevented from revoking or suspending a license or was required to issue or reissue a license under section (2) of this rule; and

(b) The licensee's bankruptcy discharge is revoked or the bankruptcy stay is lifted.

Stat. Auth.: ORS 183.310 to 183.545, 670.310, 701.235 & 701.280

Stats. Implemented: ORS 701.098 [~~and 701.100~~]

(6/76, 7/76, 1/78, 5/78, 6/80, 11/80, 5/81, 12/81, 1/82, 3/82, 4/82, 10/82, 1/83, 3/83, 10/83, 3/84, 5/84, 3/87, 12/87, 1/88, 2/95, 6/00, 5/02, 12/04, 6/08, 12/13 eff. 1/1/14, 4/30/14)

(Amended and renumbered from 812-003-0030, 12/04)

812-005-0200

Unpaid Final Orders, Arbitration Awards or Determinations that Exceed the Contractor's Bond, Letter of Credit or Cash Deposit

(1) Under ORS 701.068(5), the agency must suspend the license of a licensee if the agency issues a final order, arbitration award or determination on a complaint that exceeds the amount of the bond, letter of credit or cash deposit available to pay the order, arbitration award or determination.

(2) A suspension issued under section (1) of this rule must remain in effect until the unpaid amount of the order, arbitration award or determination is paid or until the license of the licensee expires.

(3) The agency may not reinstate or renew a license suspended under section (1) of this rule until the final order, arbitration award or determination described in section (1) of this rule and any subsequently issued order, arbitration award or determination that is unpaid, is paid, or discharged in bankruptcy.

(4) As a condition of ending a suspension or renewing a license that was suspended under ORS 701.068, and section (1) of this rule, the agency may require a licensee to file a bond, letter of credit or cash deposit up to five times as much as the amount required of a licensee under ORS 701.081 or 701.084. The amount of the increased bond, letter or credit or cash deposit required must conform to the following schedule:

(a) If the sum of unpaid amounts on final orders, arbitration awards and determinations described in section (4) of this rule exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require a bond, letter of credit or cash deposit two times the amount required under ORS 701.081 or 701.084.

(b) If the sum of the unpaid final orders, arbitration awards and determinations described in section (4) of this rule exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require a bond, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(c) If the sum of unpaid amounts on final orders, arbitration awards and determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require a bond, letter of credit or cash deposit in the amount of five times the normal amount required under ORS 701.081 or 701.084.

(d) For purposes of this section, if a contractor has both residential and commercial bonds, the increased bond requirement will apply to both bonds, even if the unpaid amounts occurred only with respect to one of the two bonds.

Stat. Auth.: ORS 670.310, 701.068[~~, 701.085 (2005),~~] 701.088 & 701.235

Stats. Implemented: ORS 701.068[~~, 701.085 (2005)~~] & 701.088

(12/04, 6/05, 12/05, 12/06, 12/07, 6/08, 4/12 (eff. 5/1/12) , 4/30/14)

812-005-0210

Conditions to Require an Increased Bond, Letter of Credit or Cash Deposit

(1) Under ORS 701.068(6), the agency may require a bond, letter of credit or cash deposit of up to five times the normally required amount, if it determines that a licensee or a current or previous owner, officer or responsible managing individual, as those terms are defined in division 2 of these rules, has:

(a) A history of unpaid final orders, arbitration awards or determinations consisting of two or more final orders, arbitration awards or determinations, which remain unpaid for longer than thirty (30) days following the date of issuance.

(b) Five or more complaints filed under ORS 701.140 and processed under ORS 701.145 or 701.146 by five or more separate complainants within a one-year period from the date of filing of the most recent Dispute Resolution Services complaint.

(c) An unpaid construction debt as defined in ORS 701.005(4) or unpaid judgment arising from construction activity that exceeds the amount of the bond, letter of credit or cash deposit.

(d) Board final orders, arbitration awards or determinations issued in favor of one or more complainants under ORS 701.145 where the amount that must be paid exceeds the amount of the residential bond.

(e) Board final orders or determinations issued in favor of one or more complainants under ORS 701.146 where the amount that must be paid exceeds the amount of the commercial bond.

(2) The amount of the increased bond, letter of credit or cash deposit required under subsection (1)(a) of this rule must conform to the following schedule:

(a) If the sum of unpaid amounts on final orders, arbitration awards and determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require a bond, letter of credit or cash deposit two times the amount required under ORS 701.081 or 701.084.

(b) If the sum of the unpaid final orders, arbitration awards and determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require a bond, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(c) If the sum of unpaid amounts on final orders, arbitration awards and determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require a bond, letter of credit or cash deposit in the amount of five times the normal amount required under ORS 701.081 or 701.084.

(d) For purposes of this section, if a contractor has both residential and commercial bonds, the increased bond requirement will apply to both bonds, even if the unpaid amounts occurred only with respect to one of the two bonds.

(3) The amount of increased bond, letter of credit or cash deposit the agency may require under subsection (1)(b) of this rule will be based on the number of complaints filed and the time period that the complaints were received as follows:

(a) Two times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084 if five or more complaints are received in any twelve-month period.

(b) Three times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084 if five or more complaints are received in any six-month period.

(c) Five times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084 if five or more complaints are received in any three-month period.

(d) For purposes of this section, if a contractor has both residential and commercial bonds, the increased bond requirement will apply to both bonds, even if the unpaid amounts occurred only with respect to one of the two bonds.

(4) The amount of the increased bond, letter of credit or cash deposit required under subsection (1)(c) of this rule must conform to the following schedule:

(a) If the sum of the unpaid construction debt or judgment exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require a bond, letter of credit or cash deposit two times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(b) If the sum of the unpaid construction debt or judgment exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require a bond, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(c) If the sum of the unpaid construction debt or judgment exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require a bond, letter of credit or

cash deposit five times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(d) For purposes of this section, if a contractor has both residential and commercial bonds, the increased bond requirement will apply to both bonds, even if the unpaid amounts occurred only with respect to one of the two bonds.

(5) The amount of the increased bond, letter of credit or cash deposit required under subsection (1)(d) of this rule must conform to the following schedule:

(a) If the amount of the board final orders, arbitration awards or determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require bonds, letter of credit or cash deposit two times the bond, letter of credit or cash deposit amount required under ORS 701.081 and 701.084.

(b) If the amount of the board final orders, arbitration awards or determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require bonds, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.081 and 701.084.

(c) If the amount of the board final orders, arbitrations or determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require bonds, letter of credit or cash deposit five times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(6) Notwithstanding sections (2) through (5) of this rule, a business (including an individual person) licensed as a residential general contractor or residential specialty contractor that applies to be licensed as, or seeks to change its endorsement to, a residential limited contractor must file a residential bond, letter of credit or cash deposit in an amount of five times the amount of the residential limited contractor bond, namely \$50,000, if the business or its previous owner, officer or responsible managing individual has:

(a) A history of unpaid final orders, arbitration awards or determinations consisting of two or more final orders, arbitration awards or determinations unpaid for longer than thirty (30) days following the date of issuance.

(b) Five or more complaints filed under ORS 701.140 and processed under ORS 701.145 by five or more separate complainants within a one-year period from the date of filing of the most recent Dispute Resolution Services complaint.

(c) An unpaid construction debt as defined in ORS 701.005(4) that exceeds the amount of the residential bond, letter of credit or cash deposit previously held by the business.

(d) Board final orders, arbitration awards or determinations issued in favor of one or more complainants under ORS 701.145 where the amount that must be paid exceeds the amount of the residential bond previously held by the business.

Stat. Auth.: ORS 670.310, 701.068, [~~701.085 (2005)~~], 701.088 & 701.235

Stats. Implemented: ORS 701.005, 701.068, [~~701.085 (2005)~~], 701.088 & 701.094

(12/04, 6/05, 12/05, 6/06, 9/06, 12/06, 8/07, 12/07, 6/08, 9/08, 8/10 eff. 9/1/10, 4/12 (eff. 5/1/12), 4/30/14)

812-005-0250

Repeal of Increased Bond, Letter of Credit or Cash Deposit Requirement

(1) Under ORS 701.068 or 701.088 after three years of operating under the increased bond, letter of credit or cash deposit, an applicant or licensee may submit a written request to the agency to be relieved of that obligation after demonstrating three full years of acceptable business practices while having posted the increased bond, letter of credit or cash deposit.

(2) Petitions for return to normal bond, letter of credit or cash deposit requirements under ORS 701.068 or 701.088 must be made in writing and delivered to the agency. The petition should address each requirement set forth in section (3) of this rule.

(3) The agency shall consider the applicant's or licensee's petition. The agency shall grant the petition for return to a normal bond if, within three-years period in which the increased bond was in effect, applicant or licensee satisfies all of the following requirements.

(a) The applicant or licensee paid Dispute Resolution Services final orders, arbitration awards and determinations within thirty (30) days of its issuance.

(b) The applicant or licensee paid unpaid construction related court judgments issued against the applicant or licensee.

(c) The agency did not issue any enforcement final order against the applicant or licensee.

(d) There were no criminal convictions for any of the crimes set forth in ORS 701.098(i) entered against the ~~against the~~ applicant or licensee, its owners or officers.

(4) If the applicant or licensee fails to satisfy all of the conditions set forth in section (3), the agency will require the applicant or licensee to maintain the increased bond for an additional three years from the date of the agency's decision. After that three year period, the applicant or licensee may again petition to return to a normal bond.

(5) The agency shall notify the licensee or applicant in writing of the agency's decision within 30 days of receiving the petition.

(6) If the agency denies the petition, the agency shall notify the licensee or applicant of the reasons for the denial. The licensee or applicant may seek judicial review of the agency's denial as an order in other than a contested case.

Stat. Auth.: ORS 670.310, 701.068, ~~[701.085-(2005);]~~ 701.088 & 701.235

Stats. Implemented: ORS 701.068, ~~[701.085-(2005);]~~ 701.088

(9/06, 12/07, 6/08, 3/12, 4/30/14)

812-020-0071

Hours Earned as Residential Contractor – Continuing Education for Commercial Contractors

A commercial contractor also endorsed as a residential contractor may take credit for continuing education earned under ORS ~~[701.126]~~ **701.082** & OAR division ~~[24]~~ **22**.

Stat. Auth.: ORS 670.310, ~~701.126]~~ **701.082** & 701.235

Stats. Implemented: ORS ~~701.126]~~ **701.082**

(6/09, 4/30/14)

812-022-0000

Authority, Purpose, Scope, Applicable Dates – Continuing Education for Residential Contractors (SB 783)

(1) Authority. These rules are promulgated in accordance with ~~[Oregon Laws 2013, chapter 718]~~ **ORS 701.082**, which requires CCB to establish a residential continuing education system for licensed residential contractors, other than developers.

(2) Purpose. The purpose of these rules is to create a residential continuing education system. The Board shall adopt minimum standards for:

(a) Approving providers of residential continuing education;

(b) Approving courses for residential continuing education; and

(c) Where available, giving consideration to any residential continuing education program adopted by national construction licensing trade associations.

(3) Scope.

(a) These rules establish the content and hours required for residential continuing education.

(b) These rules establish procedures for recordkeeping, for verifying attendance or completion of residential continuing education hours and for sanctions for failing to comply.

(c) These rules establish procedures and standards for provider and course approval.

(d) These rules establish fees for:

(A) Provider approvals;

(B) Course approvals;

- (C) Specialized education program approvals;
 - (D) Per attendee charge to providers for each completed approved course;
 - (E) Training offered by the agency; and
 - (F) Charge to providers that, by agreement, offer the agency-developed training.
- Stat. Auth.: ORS 670.310, 701.126 & 701.235
Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] **ORS 701.082**
(10/24/13, 4/30/14)

812-022-0005

Definitions – Continuing Education for Residential Contractors (SB 783)

The following definitions apply to OAR 812-022-0000 to 812-022-0047:

- (1) “Employee” means:
 - (a) Any individual employed by a contractor; or
 - (b) A leased worker provided to a contractor by contract with a worker leasing company defined under 701.005(19) (2013) or licensed under ORS 656.850(2).
 - (c) “Employee” does not include a subcontractor, which is an independent contractor, or a temporary employee.
 - (2) “Instructor” means:
 - (a) Any individual who develops, or assists in developing, curriculum for any course;
 - (b) Any individual who presents a course in live format; or
 - (c) Any individual who is available to answer questions from course attendees or participants.
 - (3) “Licensing period” means the two-year period from the date a contractor’s license is first issued or last renewed until the date the license is next scheduled to expire.
 - (4) “Officer” means an individual person as defined in ORS 701.005(12).
 - (5) “Owner” means an individual person as defined in OAR 812-002-0537.
 - (6) “Residential contractor” means a licensed contractor as defined in ORS 701.005(13).
 - (7) “Responsible managing individual (RMI)” means an individual person as defined in ORS 701.005(16).
 - (8) “Series A Courses” means courses required under OAR 812-022-0015(2)(b) that CCB has approved pursuant to OAR 812-022-0028.
 - (9) “Series B Courses” means courses satisfying requirements under OAR 812-022-0015(3)(b) that do not require CCB approval.
- Stat. Auth.: ORS 670.310, 701.126 & 701.235
Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] **ORS 701.082**; [~~Or Laws 2013, Chapter 300 (SB 207)~~] **701.005 & 701.035**
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0011

Residential Developer Exemption – Continuing Education for Residential Contractors (SB 783)

Residential developers are exempt from the residential continuing education requirements in OAR 812-022-0000 to 812-022-0047.

Stat. Auth.: ORS 670.310, [~~701.126~~] **701.082** & 701.235

Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] **ORS 701.082**

(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0016

Fees for Agency Courses – Continuing Education for Residential Contractors (SB 783)

(1) The agency may charge a fee of \$15 per course hour for courses in laws, regulations, and business practices, offered by the agency as provided in OAR 812-022-0015(2)(a).

(2) In addition to the fee for the course, CCB may charge for processing, shipping and handling course materials made available other than online.

(3) If the agency enters into agreements with providers to provide the agency's courses on laws, regulations and business practices, the agency may charge providers an additional fee of \$4 per student per course hour, in addition to the fees charged in section (1).

Stat. Auth.: ORS 670.310, [~~701.126~~] **701.267** & 701.235

Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] **ORS 701.267**
(10/24/13, 4/30/14)

812-022-0018

Agreements to Offer Agency Courses – Continuing Education for Residential Contractors (SB 783)

The agency may enter into agreements with approved providers to provide the agency's courses on laws, regulations and business practices.

Stat. Auth.: ORS 670.310, [~~701.126~~] **701.267** & 701.235

Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] **ORS 701.267**
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0033

Provider Rosters, Notification of Completion and Certificates of Completion for Series A Course Hours – Continuing Education for Residential Contractors (SB 783)

(1) Providers will maintain rosters capturing data for all contractors that complete Series A Courses, as described in 812-022-0015(2)(b). Rosters will contain the following information:

- (a) Course name and any other information identifying course, as required by agency;
- (b) Contractor's name;
- (c) Contractor's license number;
- (d) Name of individual attending or completing the course;
- (e) Relationship of individual completing the course to contractor (e.g. owner, officer, member, employee);
- (f) Date individual attended or completed the course;
- (g) Number of hours credit obtained by attending or completing the course; and
- (h) Certification by individual completing the course that the identified individual:
 - (A) Attended or completed the entire course; and
 - (B) No other individual attended, completed or assisted in completing the course in place of the individual.

(2) Providers will transmit data, as directed by the agency, containing the information in section (1) and notifying the agency when a contractor completes a Series A Course. Providers must submit data by 12:00 noon of the business day following the date the contractor completes the course.

(3) Upon satisfactory completion of each Series A Course, providers will prepare a certificate of completion for the person completing the course. The certificate of completion will contain the following information:

- (a) Provider name;
- (b) Provider number assigned by the agency;
- (c) Course name;
- (d) Course number assigned by the agency;
- (e) Number of credit hours;
- (f) Date of course completion;
- (g) Student name;
- (h) Name of contractor with which student is associated;
- (i) Contractor CCB number; and
- (j) Any other information required by the agency.

Stat. Auth.: ORS 670.310, [~~701.126~~] **701.267** & 701.235

Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] ORS 701.267
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0036

Agency Tracking of Hours – Continuing Education for Residential Contractors (SB 783)

(1) The agency will track completion of Series A and Series B Course hours.
(2) The agency may notify contractors, in advance of their renewal dates, of the number of Series A Course hours left to be completed before renewal.

(3) The agency may notify contractors, in advance of their renewal dates, of reported Series B.
Stat. Auth.: ORS 670.310, [~~701.126~~] 701.082 & 701.235

Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] ORS 701.082
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0037

Certification, Recordkeeping, and Review – Continuing Education for Residential Contractors (SB 783)

(1) Contractors shall maintain records of continuing education courses completed for a period of:
(a) 24 months after the renewal date for which the residential continuing education was reported; or
(b) For a lapsed license, a period of 24 months after the date the license ceased to be lapsed.
(2) The agency may request any contractor's residential continuing education records for review.
(3) If a contractor cannot prove that it completed the residential continuing education, the agency may suspend or refuse to renew the license until the contractor proves compliance or completes the missing courses.

Stat. Auth.: ORS 670.310, [~~701.126~~] 701.082 & 701.235

Stats. Implemented: [~~Oregon Laws 2013, chapter 718 (SB 783)~~] ORS 701.082
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0040

Inactive Status During the License Period or Upon Renewal – Continuing Education for Residential Contractors (SB 783)

(1) If a contractor is inactive for less than one year and seeks to renew in active status, the contractor must complete all residential continuing education required under OAR 812-022-0015. The contractor may satisfy the requirement by residential continuing education completed during the inactive period.

(2) If a contractor is inactive for one year or more during the licensing period and seeks to renew in active status, the contractor is not required to complete the residential continuing education requirements under OAR 812-022-0015.

(3) If a contractor is inactive for any period of time and seeks to renew in inactive status, the contractor is not required to complete residential continuing education required under OAR 812-022-0015.

(4) If a contractor is active at the time of renewal and seeks to renew in inactive status, the contractor is not required to complete the residential continuing education requirements under OAR 812-022-0015.

(5) Notwithstanding section (4), if an inactive contractor renews to inactive status and seeks to change to active status during the two-year licensing period, the contractor must complete residential continuing education required in OAR 812-022-0015. The contractor may satisfy the requirement by residential continuing education completed during the inactive period. Hours completed and credited towards this renewal may not be included for contractor's next renewal.

(6) Hours completed and credited towards one renewal may not be included for contractor's next renewal.

Stat. Auth.: ORS 670.310, [~~701.126~~] **701.082** & 701.235

Stats. Implemented: [~~Oregon Laws 2013, Chapter 718 (SB 783)~~] **ORS 701.063 & 701.082**
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0042

Lapse in License – Continuing Education for Residential Contractors (SB 783)

If a license lapses and a contractor applies for renewal as provided in ORS 701.063(4) and OAR 812-003-0300, the contractor must satisfy the residential continuing education requirements of OAR 812-022-0015. The contractor may satisfy the requirement by residential continuing education completed during the lapse period.

Stat. Auth.: ORS 670.310, [~~701.126~~] **701.082** & 701.235

Stats. Implemented: [~~Oregon Laws 2013, Chapter 718 (SB 783)~~] **ORS 701.063 & 701.082**
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0045

Claiming Continuing Education Credits – Continuing Education for Residential Contractors

(1) A contractor may claim continuing education hours for courses completed during the time an employee is employed by the contractor. If the employee is a leased worker, the employee must complete the continuing education hours while leased to the contractor.

(2) If an employee completed continuing education before being hired by a contractor, the contractor may not claim those hours to satisfy its continuing education requirement.

(3) A contractor may claim continuing education hours for courses completed at the time the owner, officer or RMI is associated with the contractor.

(4) If an owner, officer or RMI completed continuing education before associating with a contractor, the contractor may not claim those hours to satisfy the continuing education requirement.

Stat. Auth.: ORS 670.310, [~~701.126~~] **701.082** & 701.235

Stats. Implemented: [~~Oregon Laws 2013, Chapter 718 (SB 783)~~] **ORS 701.082**
(10/24/13, 4/30/14)

Operative 1-1-14

812-022-0047

Personnel of More than One Contractor– Continuing Education for Residential Contractors

(1) If an employee who completes a continuing education course is employed by more than one contractor at the time the employee completes the course, each employing contractor may claim the continuing education hours. For purposes of this rule, “employed by more than one contractor” does not include leased workers leased by more than one contractor. For leased workers, only one contractor may claim the continuing education credits.

(2) If an owner, officer or RMI who completes a continuing education course is associated with more than one contractor at the time the owner, officer or RMI completes the course, each affiliated contractor may claim the continuing education hours.

Stat. Auth.: ORS 670.310, [~~701.126~~] **701.082** & 701.235

Stats. Implemented: [~~Oregon Laws 2013, Chapter 718 (SB 783)~~] **ORS 701.082**
(10/24/13, 4/30/14)

812-032-0000

General Definitions

The following definitions apply to OAR 812-032-0000 to 812-032-0150:

(1) "Certificate" means the authorization issued by the board to an individual home energy assessor.

(2) "License" means the construction contractor license issued by the board under ORS 701.046 to a business offering or providing home energy performance scores, including, but not limited to, a home energy performance score contractor.

Stat. Auth.: ORS 670.310, 701.235

Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] ORS 701.527 to 701.536

(12/13 eff. 1/1/14, 4/30/14)

812-032-0100

General Application Requirements

An individual must submit the following to qualify for a home energy assessor certificate:

- (1) An application on a form provided by the board;
- (2) Proof of passing a training program designated by the Department of Energy;
- (3) If applicable, the CCB license number of the business owned by or employing the applicant; and
- (4) The fee established in OAR 812-032-0150.

Stat. Auth.: ORS 670.310, 701.235 & 701.532

Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] ORS 701.527 to 701.536

(12/13 eff. 1/1/14, 4/30/14)

812-032-0110

Certificate Issuance

(1) The effective date of the certificate will be the date that the applicant meets all board requirements, including paying the fee required under OAR 812-032-0150.

(2) A unique number will be assigned to each certificate.

(3) If the board issues a certificate, it will mail the certificate to the applicant.

(4) If the board denies a certificate, it will state, in writing, the reasons for denial.

(5) A certificate shall be non-transferable.

(6) A certificate shall be effective for one year from the date of issue.

Stat. Auth.: ORS 670.310, 701.235 & 701.532

Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] ORS 701.532

(12/13 eff. 1/1/14, 4/30/14)

812-032-0120

Requirements for Certificate Renewal

A certified home energy assessor shall submit the following to the board for renewal of the home energy assessor's certificate:

(1) Renewal application information as required by the board;

(2) If applicable the CCB license number of the business owned by or employing the applicant; and

(3) The fee established in OAR 812-032-0150.

Stat. Auth.: ORS 670.310, 701.235 & 701.532

Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] ORS 701.532

(12/13 eff. 1/1/14, 4/30/14)

812-032-0123

Certificate Cards

(1) The agency shall issue a certificate and pocket card effective on the date on which the certificate becomes effective under OAR 812-032-0110 or 812-032-0120.

(2) A certificate and pocket card is valid for the term for which it is issued.

(3) If a certificate becomes invalid, the agency may require the return of the certificate and pocket card.

(4) There is no charge for the original certificate and pocket card issued by the agency.

(5) There is a \$10 fee to replace a certificate and pocket card.

Stat. Auth.: ORS 670.310, 701.235 & **701.532**

Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] **ORS 701.532**

(12/13 eff. 1/1/14, 4/30/14)

812-032-0130

Certificate Renewal – Effective Date; Effect of Lapse

(1) A renewed certificate shall be effective on the day following the expiration date for which the renewal is sought if the certified home energy assessor fulfills all of the requirements in OAR [~~812-030-0120~~] **812-032-0120** on or before the expiration date.

(2) Except as provided in subsection (4), if a certified home energy assessor fails to fulfill all of the requirements in OAR 812-032-0120 on or before the expiration date, but fulfills the requirements at a future date, the renewal shall be effective on the date that all the requirements for renewal have been fulfilled. During the period from the expiration date to the effective date, the certificate is deemed to have lapsed.

(a) A home energy assessor may not offer to assign, or assign, home energy scores while the certificate is lapsed.

(b) A home energy assessor may not use the title of home energy assessor or similar other title while the certificate is lapsed.

(3) If the certificate lapses for one year or less, the applicant may renew its certification by renewing the certificate as provided for in OAR 812-032-0120.

(4) If the certificate lapses for more than one year, the applicant must apply for a new certificate as provided for in OAR 812-032-0100.

Stat. Auth.: ORS 670.310, 701.235 & **701.532**

Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] **ORS 701.532**

(12/13 eff. 1/1/14, 4/30/14)

812-032-0135

Mailing and E-mail Address Changes

(1) Certified home energy assessors shall notify the board of any change in mailing or e-mail addresses while certified and for one year following the certification expiration date. Such persons must notify the board within 10 days after changing an address.

(2) No charge will be made for a mailing or e-mail address change to the board's records.

Stat. Auth.: ORS 670.310, 701.235 & **701.532**

Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] **ORS 701.532**

(12/13 eff. 1/1/14, 4/30/14)

812-032-0140

Requirement that Home Energy Assessor Own or Work for a Licensed Contractor

(1) In order to work as a home energy assessor, a certified home energy assessor must be an owner or employee of a licensed construction contractor, including, but not limited to, a home energy performance score contractor.

(2) If the board refuses to issue, refuses to reissue, suspends or revokes the contractor's license, or if the construction contractor's license expires or becomes inactive, the certified home energy assessor may not:

(a) Undertake, offer to assign or assign home energy performance scores; or

(b) Use the title of home energy assessor or similar other title.

Stat. Auth.: ORS 670.310, 701.235 & **701.532**

Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] **ORS 701.532**

(12/13 eff. 1/1/14, 4/30/14)

812-032-0150

Application, Renewal and Certificate Fees

- (1) The application fee for a home energy assessor certificate is \$100.
- (2) The fee for issuance of an initial one-year certificate is \$100.
- (3) The fee for renewal of a one-year certificate is \$100.
- (4) All fees are non-refundable and non-transferrable.

Stat. Auth.: ORS 670.310, 701.235 **& 701.532**

Stats. Implemented: [~~2013 OR Laws ch. 383 (HB 2801)~~] **ORS 701.532**
(12/13 eff. 1/1/14, 4/30/14)