

Enrolled
House Bill 2685

Sponsored by Representative CAMERON (at the request of Marion County Sheriff Jason Myers)
(Presession filed.)

CHAPTER

AN ACT

Relating to the Department of Corrections; amending ORS 144.430, 144.460, 421.068, 421.210, 443.405 and 701.005; appropriating money; and declaring an emergency.

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

SECTION 1. ORS 421.210 is amended to read:

421.210. After *[the making of]* **entering into** a contract under ORS 421.205, **the Department of Corrections may convey** persons convicted of a felony in the courts of this state and sentenced to the legal and physical custody of the department *[of Corrections, including those who, at the date of entering into the contract, are in the legal and physical custody of the Department of Corrections, may be conveyed, as provided by law, by the Department of Corrections]* to the jurisdiction named in the contract. They shall be delivered to the authorities of *[said]* **the contracting** jurisdiction[]], *there to be]* **and, unless they are eligible for any form of temporary or transitional leave from custody, work release or a program of conditional or supervised release, that is authorized by the department, shall remain** confined until their respective sentences have expired or until they are otherwise discharged by law.

SECTION 2. ORS 144.460 is amended to read:

144.460. The Department of Corrections may contract with the governing bodies of political subdivisions in this state, with the federal government and with any private agencies approved by the department for the quartering in suitable local facilities of persons enrolled in work release programs. *[Each such facility having six or more residents must be licensed under ORS 443.400 to 443.455 and must satisfy standards established by the Department of Corrections to ensure adequate supervision, custody, health and safety of persons quartered therein.]*

SECTION 3. ORS 144.430 is amended to read:

144.430. (1) The Department of Corrections shall administer the work release program by means of such staff organization and personnel as the director considers necessary. In addition to other duties, the department shall:

- (a) Locate employment for qualified applicants;
 - (b) Effect placement of persons under the work release program;
 - [(c) Provide security training approved by the department to persons responsible for supervising persons participating in an inmate work program;]*
 - [(d)]* (c) Collect, account for and make disbursements from earnings, if any, of persons under the work release program;
 - [(e)]* (d) Generally promote public understanding and acceptance of the work release program;
- and

[(f)] (e) Establish and maintain community centers.

(2) The Department of Corrections may enter into agreements with other public or private agencies or persons for providing services relating to work release programs.

(3) In carrying out the provisions of this section, the Department of Corrections may enter into agreements with the Department of Human Services to provide such services as determined by the Department of Corrections and as the Department of Human Services is authorized to provide under ORS 344.511 to 344.550.

SECTION 4. ORS 421.068 is amended to read:

421.068. (1) Revenues, less operating expenses, from the following sources shall be deposited into an account established by the Department of Corrections [*to provide money to enhance inmate activities and programs including education programs*]:

- (a) Operation of correctional institution canteens;
- (b) Operation of the vending machines in the inmate visiting area of correctional institutions;
- (c) Operation of inmate telephones in correctional institutions;
- (d) Funds confiscated from the inmates under existing disciplinary procedures; and
- (e) Funds donated under administrative rules promulgated by the Director of the Department of Corrections.

(2) **Moneys in the account are continuously appropriated to the Department of Corrections [*shall limit use of the fund to*] for uses benefiting the general inmate population [*and*], enhancing inmate activities and programs including education programs and providing for offender reentry programs and support.**

SECTION 5. ORS 443.405 is amended to read:

443.405. For purposes of ORS 443.400 to 443.455 and 443.991, “residential facility” does not include:

- (1) A residential school;
- (2) A state or local correctional facility[, *other than a local facility for persons enrolled in work release programs maintained under ORS 144.460*];
- (3) A youth correction facility as defined in ORS 420.005;
- (4) A youth care center operated by a county juvenile department under administrative control of a juvenile court pursuant to ORS 420.855 to 420.885;
- (5) A juvenile detention facility as defined in ORS 419A.004;
- (6) A nursing home;
- (7) A hospital;
- (8) A place primarily engaged in recreational activities;
- (9) A foster home; or
- (10) A place providing care and treatment on less than a 24-hour basis.

SECTION 6. ORS 701.005 is amended to read:

701.005. As used in this chapter:

- (1) “Board” means the Construction Contractors Board.
- (2) “Commercial contractor” means a licensed contractor that holds an endorsement as a:
 - (a) Commercial general contractor level 1;
 - (b) Commercial specialty contractor level 1;
 - (c) Commercial general contractor level 2;
 - (d) Commercial specialty contractor level 2; or
 - (e) Commercial developer.
- (3) “Commercial developer” means a developer of property that is zoned for or intended for use compatible with a small commercial or large commercial structure.
- (4) “Construction debt” means an amount owed under:
 - (a) An order or arbitration award issued by the board that has become final by operation of law;
 - (b) A judgment, arbitration award or civil penalty that has become final by operation of law arising from construction activities within the United States; or

(c) A judgment or civil penalty that has become final by operation of law arising from a failure to comply with ORS 656.017.

(5) "Contractor" means any of the following:

(a) A person that, for compensation or with the intent to sell, arranges or undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect, move, wreck or demolish, for another, a building, highway, road, railroad, excavation or other structure, project, development or improvement attached to real estate, or to do any part thereof.

(b) A person that purchases or owns property and constructs or for compensation arranges for the construction of one or more residential structures or small commercial structures with the intent of selling the structures.

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

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

(e) A person except a landscape contracting business, nurseryman, gardener or person engaged in the commercial harvest of forest products, that is engaged as an independent contractor to remove trees, prune trees, remove tree limbs or stumps or to engage in tree or limb guying.

(f) A business that supplies the services of a home inspector certified under ORS 701.350 or a cross-connection inspector and backflow assembly tester certified under ORS 448.279.

(g) A person that for compensation arranges, undertakes, offers to undertake or submits a bid to clean or service chimneys.

(6) "Developer" means a contractor that owns property or an interest in property and engages in the business of arranging for construction work or performing other activities associated with the improvement of real property, with the intent to sell the property.

(7)(a) "General contractor" means a contractor whose business operations require the use of more than two unrelated building trades or crafts that the contractor supervises or performs in whole or part, whenever the sum of all contracts on any single property, including materials and labor, exceeds an amount established by rule by the board.

(b) "General contractor" does not mean a specialty contractor or a residential limited contractor.

(8)(a) "Home improvement" means a renovation, remodel, repair or alteration by a residential contractor to an existing owner-occupied:

(A) Residence that is a site-built home;

(B) Condominium, rental residential unit or other residential dwelling unit that is part of a larger structure, if the property interest in the unit is separate from the property interest in the larger structure;

(C) Modular home constructed off-site;

(D) Manufactured dwelling; or

(E) Floating home, as defined in ORS 830.700.

(b) "Home improvement" does not include a renovation, remodel, repair or alteration by a residential contractor:

(A) To a structure that contains one or more dwelling units and is four stories or less above grade; or

(B) That the residential contractor performed in the course of constructing a new residential structure.

(9)(a) "Home inspector" means a person who, for a fee, inspects and provides written reports on the overall physical condition of a residential structure.

(b) "Home inspector" does not include persons certified under ORS chapter 455 to inspect new, repaired or altered structures for compliance with the state building code.

(10) "Key employee" means an employee or owner of a contractor who is a corporate officer, manager, superintendent, foreperson or lead person or any other employee the board identifies by rule.

(11) "Large commercial structure" means a structure that is not a residential structure or small commercial structure.

(12) "Officer" means any of the following persons:

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

(b) A general partner in a limited partnership.

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

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

(e) A trustee.

(f) A person the board defines by rule as an officer. The definition of officer adopted by board rule may include persons not listed in this subsection who may exercise substantial control over a business.

(13) "Residential contractor" means a licensed contractor that holds an endorsement as a:

(a) Residential general contractor;

(b) Residential specialty contractor;

(c) Residential limited contractor; or

(d) Residential developer.

(14) "Residential developer" means a developer of property that is zoned for or intended for use compatible with a residential or small commercial structure.

(15)(a) "Residential structure" means:

(A) A residence that is a site-built home;

(B) A structure that contains one or more dwelling units and is four stories or less above grade;

(C) A condominium, rental residential unit or other residential dwelling unit that is part of a larger structure, if the property interest in the unit is separate from the property interest in the larger structure;

(D) A modular home constructed off-site;

(E) A manufactured dwelling;

(F) A floating home as defined in ORS 830.700; or

(G) An appurtenance to a home, structure, unit or dwelling described in subparagraphs (A) to (F) of this paragraph.

(b) "Residential structure" does not mean:

(A) Subject to paragraph (a)(C) of this subsection, a structure that contains both residential and nonresidential units;

(B) Transient lodging;

(C) A residential school or residence hall;

(D) A state or local correctional facility [*other than a local facility for persons enrolled in work release programs maintained under ORS 144.460*];

(E) A youth correction facility as defined in ORS 420.005;

(F) A youth care center operated by a county juvenile department under administrative control of a juvenile court pursuant to ORS 420.855 to 420.885;

(G) A detention facility as defined in ORS 419A.004;

(H) A nursing home;

(I) A hospital; or

(J) A place constructed primarily for recreational activities.

(16) "Responsible managing individual" means an individual who:

(a) Is an owner described in ORS 701.094 or an employee of the business;

(b) Exercises management or supervisory authority, as defined by the board by rule, over the construction activities of the business; and

(c)(A) Successfully completed the training and testing required for licensing under ORS 701.122 within a period the board identifies by rule;

- (B) Demonstrated experience the board requires by rule; or
- (C) Complied with the licensing requirements of ORS 446.395.

(17) "Small commercial structure" means:

(a) A nonresidential structure that has a ground area of 10,000 square feet or less, including exterior walls, and a height of not more than 20 feet from the top surface of the lowest flooring to the highest interior overhead finish of the structure;

(b) A nonresidential leasehold, rental unit or other unit that is part of a larger structure, if the unit has a ground area of 12,000 square feet or less, excluding exterior walls, and a height of not more than 20 feet from the top surface of the lowest flooring to the highest interior overhead finish of the unit;

(c) A nonresidential structure of any size for which the contract price of all construction contractor work to be performed on the structure as part of a construction project does not total more than \$250,000; or

(d) An appurtenance to a structure or unit described in paragraphs (a) to (c) of this subsection.

(18) "Specialty contractor" means a contractor who performs work on a structure, project, development or improvement and whose operations as such do not fall within the definition of "general contractor." "Specialty contractor" includes a person who performs work regulated under ORS 446.395.

(19) "Zero-lot-line dwelling" means a single-family dwelling unit constructed in a group of attached units in which:

(a) Each attached unit extends from foundation to roof with open space on two sides; and

(b) Each dwelling unit is separated by a property line.

SECTION 7. ORS 701.005, as amended by section 59, chapter 630, Oregon Laws 2011, is amended to read:

701.005. As used in this chapter:

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

(2) "Commercial contractor" means a licensed contractor that holds an endorsement as a:

(a) Commercial general contractor level 1;

(b) Commercial specialty contractor level 1;

(c) Commercial general contractor level 2;

(d) Commercial specialty contractor level 2; or

(e) Commercial developer.

(3) "Commercial developer" means a developer of property that is zoned for or intended for use compatible with a small commercial or large commercial structure.

(4) "Construction debt" means an amount owed under:

(a) An order or arbitration award issued by the board that has become final by operation of law;

(b) A judgment or civil penalty that has become final by operation of law arising from construction activities within the United States; or

(c) A judgment or civil penalty that has become final by operation of law arising from a failure to comply with ORS 656.017.

(5) "Contractor" means any of the following:

(a) A person that, for compensation or with the intent to sell, arranges or undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect, move, wreck or demolish, for another, a building, highway, road, railroad, excavation or other structure, project, development or improvement attached to real estate, or to do any part thereof.

(b) A person that purchases or owns property and constructs or for compensation arranges for the construction of one or more residential structures or small commercial structures with the intent of selling the structures.

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

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

(e) A person except a landscape contracting business, nurseryman, gardener or person engaged in the commercial harvest of forest products, that is engaged as an independent contractor to remove trees, prune trees, remove tree limbs or stumps or to engage in tree or limb guying.

(f) A business that supplies the services of a home inspector certified under ORS 701.350 or a cross-connection inspector and backflow assembly tester certified under ORS 448.279.

(g) A person that for compensation arranges, undertakes, offers to undertake or submits a bid to clean or service chimneys.

(6) "Developer" means a contractor that owns property or an interest in property and engages in the business of arranging for construction work or performing other activities associated with the improvement of real property, with the intent to sell the property.

(7)(a) "General contractor" means a contractor whose business operations require the use of more than two unrelated building trades or crafts that the contractor supervises or performs in whole or part, whenever the sum of all contracts on any single property, including materials and labor, exceeds an amount established by rule by the board.

(b) "General contractor" does not mean a specialty contractor or a residential limited contractor.

(8)(a) "Home improvement" means a renovation, remodel, repair or alteration by a residential contractor to an existing owner-occupied:

(A) Residence that is a site-built home;

(B) Condominium, rental residential unit or other residential dwelling unit that is part of a larger structure, if the property interest in the unit is separate from the property interest in the larger structure;

(C) Modular home constructed off-site;

(D) Manufactured dwelling; or

(E) Floating home, as defined in ORS 830.700.

(b) "Home improvement" does not include a renovation, remodel, repair or alteration by a residential contractor:

(A) To a structure that contains one or more dwelling units and is four stories or less above grade; or

(B) That the residential contractor performed in the course of constructing a new residential structure.

(9)(a) "Home inspector" means a person who, for a fee, inspects and provides written reports on the overall physical condition of a residential structure.

(b) "Home inspector" does not include persons certified under ORS chapter 455 to inspect new, repaired or altered structures for compliance with the state building code.

(10) "Key employee" means an employee or owner of a contractor who is a corporate officer, manager, superintendent, foreperson or lead person or any other employee the board identifies by rule.

(11) "Large commercial structure" means a structure that is not a residential structure or small commercial structure.

(12) "Officer" means any of the following persons:

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

(b) A general partner in a limited partnership.

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

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

(e) A trustee.

(f) A person the board defines by rule as an officer. The definition of officer adopted by board rule may include persons not listed in this subsection who may exercise substantial control over a business.

- (13) "Residential contractor" means a licensed contractor that holds an endorsement as a:
- (a) Residential general contractor;
 - (b) Residential specialty contractor;
 - (c) Residential limited contractor; or
 - (d) Residential developer.
- (14) "Residential developer" means a developer of property that is zoned for or intended for use compatible with a residential or small commercial structure.
- (15)(a) "Residential structure" means:
- (A) A residence that is a site-built home;
 - (B) A structure that contains one or more dwelling units and is four stories or less above grade;
 - (C) A condominium, rental residential unit or other residential dwelling unit that is part of a larger structure, if the property interest in the unit is separate from the property interest in the larger structure;
 - (D) A modular home constructed off-site;
 - (E) A manufactured dwelling;
 - (F) A floating home as defined in ORS 830.700; or
 - (G) An appurtenance to a home, structure, unit or dwelling described in subparagraphs (A) to (F) of this paragraph.
- (b) "Residential structure" does not mean:
- (A) Subject to paragraph (a)(C) of this subsection, a structure that contains both residential and nonresidential units;
 - (B) Transient lodging;
 - (C) A residential school or residence hall;
 - (D) A state or local correctional facility [*other than a local facility for persons enrolled in work release programs maintained under ORS 144.460*];
 - (E) A youth correction facility as defined in ORS 420.005;
 - (F) A youth care center operated by a county juvenile department under administrative control of a juvenile court pursuant to ORS 420.855 to 420.885;
 - (G) A detention facility as defined in ORS 419A.004;
 - (H) A nursing home;
 - (I) A hospital; or
 - (J) A place constructed primarily for recreational activities.
- (16) "Responsible managing individual" means an individual who:
- (a) Is an owner described in ORS 701.094 or an employee of the business;
 - (b) Exercises management or supervisory authority, as defined by the board by rule, over the construction activities of the business; and
 - (c)(A) Successfully completed the training and testing required for licensing under ORS 701.122 within a period the board identifies by rule;
 - (B) Demonstrated experience the board requires by rule; or
 - (C) Complied with the licensing requirements of ORS 446.395.
- (17) "Small commercial structure" means:
- (a) A nonresidential structure that has a ground area of 10,000 square feet or less, including exterior walls, and a height of not more than 20 feet from the top surface of the lowest flooring to the highest interior overhead finish of the structure;
 - (b) A nonresidential leasehold, rental unit or other unit that is part of a larger structure, if the unit has a ground area of 12,000 square feet or less, excluding exterior walls, and a height of not more than 20 feet from the top surface of the lowest flooring to the highest interior overhead finish of the unit;
 - (c) A nonresidential structure of any size for which the contract price of all construction contractor work to be performed on the structure as part of a construction project does not total more than \$250,000; or
 - (d) An appurtenance to a structure or unit described in paragraphs (a) to (c) of this subsection.

(18) "Specialty contractor" means a contractor who performs work on a structure, project, development or improvement and whose operations as such do not fall within the definition of "general contractor." "Specialty contractor" includes a person who performs work regulated under ORS 446.395.

(19) "Zero-lot-line dwelling" means a single-family dwelling unit constructed in a group of attached units in which:

- (a) Each attached unit extends from foundation to roof with open space on two sides; and
- (b) Each dwelling unit is separated by a property line.

SECTION 8. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by House April 15, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 7, 2013

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Peter Courtney, President of Senate

Received by Governor:

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Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State