

KATE BROWN  
SECRETARY OF STATE

ROBERT TAYLOR  
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION  
MARY BETH HERKERT  
DIRECTOR  
800 Summer Street NE  
Salem, Oregon 97310  
(503) 373-0701  
Facsimile (503) 378-4118

## **Landscape Contractors Board**

### Administrative Overview

June 2014

#### **Introduction**

The mission of the Landscape Contractors Board is to ensure consumer protection, contractor competency and fair competition in the landscape industry. The board administers ORS 671.510–671.997 and regulates and licenses landscaping businesses and landscape contractors, educates consumers, and resolves disputes. The activities of the LCB are funded from licensing related fees paid by landscape construction professionals and landscape contracting businesses. No general fund (tax) dollars are used.

#### **History**

The 1971 Legislative Assembly, created the State “For Hire” Landscape Advisory Committee within the Commerce Department. The five-member committee’s function was to counsel and advise the department in the administration and enforcement of the “For Hire” Landscapers Law. Committee members were to be appointed by the Commerce Department Director for three-year terms and were to be from all segments of the “for hire” landscape industry. At least two members were to be public members.

Landscape Contractors were required to be licensed. Applicants were required to pay a fee, pass an examination, and have a supervisor or manager with three years experience or two years experience and one year of training. All funds collected for licensing were to be deposited in the Commerce Administration Account for the exclusive purpose of administering the “For Hire” Landscapers Law.

In 1973, the Legislative Assembly changed the name to the State Landscape Contractors Advisory Committee. This legislation added the requirement for license applicants to file a surety bond or deposit to pay claims against contractors. The 1975 Legislative Assembly, changed the committee to the State Landscape Contractors Advisory Board. Membership was increased to seven. New provisions allowed the Commerce Department to issue limited or specialty licenses in certain circumstances. The Commerce Department was authorized to levy civil penalties for violations of the law. These penalties were to be recovered by the Attorney General in any court of appropriate jurisdiction.

The 1977 Legislative Assembly, referred the Landscapers Law and other Department of Commerce statutes to interim legislative committees for sunset review. The 1979 Legislative Assembly, continued the board within the Commerce Department. The same legislation added provisions allowing registration in-lieu of licensing for contractors grossing less than \$5,000 per year. It also established reciprocal licensing of landscapers from other states, territories, or countries. The board’s final determinations of claims were given the same effect as final determination of a court. Civil penalties on claims were limited to the amount of the contractor’s

surety bond or deposit. The department was directed to adopt rules for minimum standards for written contracts and billings of landscape contractors.

Landscape businesses were added as types of licensees by the 1983 Legislative Assembly. The 1987 Legislative Assembly removed the word "advisory," changing the Board's name to the State Landscape Contractors Board. The Commerce Department was abolished and the Board was continued as an independent board. Board members were to be appointed by the chairman of the newly formed Building, Housing and Real Estate Council. Concurrent legislation added provisions for the board to investigate claims against landscapers before initiating hearings proceedings. The same legislative session saw new provisions for allowing landscape contractors to install irrigation backflow prevention devices and outlined licensing requirements. In addition, the board's programs were assigned to the Builders Board for administration which in 1989, became known as the Construction Contractors Board (CCB).

The 1989 Legislative Assembly removed the limits on civil penalties against contractors to the amount of their surety bond or deposit. That legislative session also clarified the responsibilities of landscape contractors to comply with city and county business license requirements.

In 1991, the Legislative Assembly added provisions for the board to resolve claims against contractors through binding arbitration. The board was given authority to investigate any person or business to determine compliance with the statute. The board was given permission to use, with reimbursement, city or county inspectors. Inspectors were given authority to give notice of noncompliance and to order work stopped.

The 1993 Legislative Assembly abolished the Building, Housing and Real Estate Council and transferred board member appointing authority to the Governor.

In 1995, the Legislative Assembly clarified types of independent contractors such as sole proprietorships, partnerships, corporations, and limited liability companies. 1997 legislation provided for a 10-year renewal of orders of financial obligation to be filed in the County Recorder's Lien Record. This made it possible for the board to continue seeking payment of civil penalties levied against contractors. In 1999, a central Hearing Officer Panel was established in the Employment Department and the board was required to use Administrative Law Judges assigned to the panel for contested case hearings.

In 2001, the Landscape Contractors Board was made semi-independent and its programs were removed from the Construction Contractors Board. The board was authorized to use arbitration to resolve complaints and required to use Administrative Law Judges assigned to the central Hearing Officer Panel to hold arbitration hearings. The 2003 Legislative Assembly clarified the legal restrictions regarding use of term "landscaper." Unlicensed parties were prohibited from using the term.

In 2007, the Legislative Assembly added a new requirement for Continuing Education hours for landscape construction professionals (LCP) in order to renew the LCP license.

## **Current Organization**

The Landscape Contractors Board sets policy for and operates through the Landscape Contractors Board agency. The board meets bi-monthly.

Administration provides leadership and oversight of all Landscape Contractors Board agency activities. The agency Administrator directs the operation of the agency and serves as policy advisor to the Board, Governor, and the Legislative Assembly on landscape industry issues. Administration staff perform or coordinate facilitative and support functions including accounting, budget, cashiering, information systems, mail, payroll, personnel, and purchasing. It also coordinates Administrative Rule functions, legislative tracking, records management, and safety and risk management.

The Claims Resolution Section receives and processes claims or complaints against licensed landscape contracting businesses. A claim may be filed by: an owner alleging breach of contract, fraud, negligent or improper work; by a contractor's employee alleging nonpayment of wages; by a supplier alleging nonpayment for materials; or by one contractor against another alleging breach of contract, negligent or improper work, or nonpayment.

The Board investigates the claims and uses different forms of dispute resolution from mediation to binding arbitration to help resolve complaints without compelling the parties to go to court. If a settlement is not reached, an order proposing that the business pay the claimant or that the claim be dismissed may be issued. The LCB may refer a file to the Office of Administrative Hearings (OAH) for a hearing.

The Continuing Education Section promotes the development of landscape construction professionals so that they can stay current in their field. The Section administers an education requirement for landscape construction professionals. The board audits the renewals on a monthly basis to verify compliance with the Continuing Education hour's requirement.

The Enforcement Section enforces Landscape Contractors Laws and related laws to provide protection for consumers. The program responds to complaints by consumers. It also conducts its own investigations of suspected wrongdoing by contractors [outside the scope of a claim]. The program contracts with private investigators throughout the state, and the State Police and/or the Department of Justice assist in criminal cases.

The Licensing Section issues examinations for landscape contractors and licenses landscape contractors and landscape businesses. To become licensed, an applicant must show evidence of prerequisite experience, pass a comprehensive examination, and pay exam and licensing fees. In addition, businesses must provide a surety bond, general liability insurance, workers compensation insurance, and evidence of employment as a licensed contractor.

## **Selected Chronology**

**1971** State "For Hire" Landscape Advisory Committee created within Commerce Department to counsel and advise the department in administration and enforcement of "For Hire" Landscapers Law. Committee members were appointed by the Commerce Department Director.

**1973** Name changed to the State Landscape Contractors Advisory Committee.

- 1975** Name changed to State Landscape Contractors Advisory Board, membership increased to seven.
- 1979** The Legislative Assembly continued the Board and the Commerce Department after sunset review
- 1987** Renamed the State Landscape Contractors Board. Commerce Department abolished and board continued as an independent board. Board members to be appointed by the Chairman of newly formed Building, Housing and Real Estate Council. Responsibility for administering programs of the Landscape Contractors Board assigned to Construction Contractors Board.
- 1991** Statutory provisions added for the board to resolve claims against contractors through binding arbitration. Board given authority to investigate any person or business to determine compliance with statutes.
- 1993** The Building, Housing and Real Estate Council abolished, board member appointing authority transferred to the Governor.
- 1997** Ten year renewal of orders of financial obligation filed in County Recorder's Lien Record made it possible for the Board to extend seeking unpaid civil penalties levied against contractors.
- 1999** Central Hearing Officer Panel established in the Employment Department and board required to use Administrative Law Judges assigned to the panel for contested case hearings.
- 2001** Landscape Contractors Board made semi-independent and its programs removed from Construction Contractors Board. Board authorized to use arbitration to resolve complaints.
- 2003** Legal restrictions clarified regarding use of term "landscaper."
- 2007** New licensing requirement (Continuing Education) for landscape construction professionals.

### **Primary Agency Statutes and Administrative Rule Chapters**

ORS 671  
OAR 808

### **Bibliography**

Oregon Blue Book Secretary of State. 1997-2013.

Legislatively Adopted Budget, Landscape Contractors Board, 1997-99.

Oregon Laws, 1971-2003. (O.L. 1971 c 764; O.L. 1973 c 832; O.L. 1975 c 757; O.L. 1977 c 803, c 842, c 873; O.L. 1979 c 107, c 840; O.L. 1983 c 452; O.L. 1987 c 414, c 460, c 461, c

561; O.L. 1989 c 153, c 450, c 944, c 1064; O.L. 1991 c 533; O.L. 1993 c 744; O.L. 1995 c 645; O.L. 1997 c 327, c 337, c 387, c 398, c 785; O.L. 1999 c 153 O.L. 2001 c 181, c 198, c 387, c 409; O.L. 2003 c 659; O.L. 2007 c 550.

Oregon Revised Statutes, 1997-2013

Agency website <http://www.oregon.gov/LCB/pages/index.aspx>  
(Last Visited on 3/6/2014)