

## Task force brings 11 recommendations to Legislature

A week ago, the governor-commissioned Construction Claims Task Force sent its final report to the Oregon Legislature. The report contains 11 primary recommendations, some of which require formal legislative action.

### New building code requirements

To help prevent moisture infiltration and improve ventilation, the task force recommends that framing components carry a moisture content of less than 19 percent when enclosed and that ventilation systems contain minimum flow rates. Also recommended are horizontal flashing of all building penetrations and joints between dissimilar siding materials.

### Enhancement of CCB enforcement powers

The task force recommends expedited license suspension powers for the Construction Contractors Board, along with greater ability to prevent problematic managers from serving as owners or managers of new entities. Also required would be disclosure of past financial malfeasance and past criminal activity. The contractors board would be granted criminal citation authority for certain license violations.

### Limited consumer assistance fund

The task force recommends the creation of a limited consumer assistance pool that would be funded primarily from CCB fines and penalties. The maximum benefit per claimant would be \$20,000, and the minimum fund balance would be \$250,000.

### Improved consumer information program

Under the task force's recommendations, a notice form to a consumer would have to be signed by the consumer to be effective, and the lack of a written contract would invalidate a



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construction lien. Failure to provide and execute a form would also extend the CCB claim-filing period from one year to two.

### Residential permit application changes

Another recommendation is that permit applicants specify the owner of the project, the contractor, the CCB license number and the certified envelope specialist. In addition, the task force recommends that a standard inspection checklist be created, showing a municipality's minimum scope of responsibilities. This checklist would clearly communicate to consumers what is – and what is not – to be inspected by the municipality.

### Building envelope training and certification

The most significant recommendation of the task force is that contractors working on any aspect of a building envelope (exterior walls, windows, doors, decks, roofs, etc.) be required to have a "certified envelope specialist" observe substantial portions of the envelope construction.

Also, each individual worker installing elements of the envelope would have to be certified for his or her particular trade. Both the individual worker and the certified envelope specialist would be trained, obtain certification and carry a certification card.

Because most construction defects involve moisture intrusion and envelope failure, this recommendation has the best chance of reducing construction claims in Oregon.

### First-party warranty

The task force recommends a three-tiered warranty program: a one-year warranty against all defects, a two-year warranty for major systems (such as HVAC) and the envelope, and a 10-year warranty against structural defects.

### Completed operations coverage

Under the recommendations, the minimum insurance required to obtain a license would have to include completed operations coverage, which would protect against claims for defects arising after a project is built.

### Owner- and contractor-controlled insurance programs

Owner- and contractor-controlled "wrap-up" insurance programs provide one insurance policy covering multiple contractors involved on a single project, particularly condominiums and other for-sale residential projects. The task force recommends improving the ability of admitted in-state insurance companies to compete on the same level as surplus-line out-of-state insur-

ance carriers in the wrap-up market. This would, it is hoped, lower the cost of such policies.

### Loss-control discounts

The task force is encouraging insurance carriers to implement voluntary loss-control discounts for contractors who adopt the task force's recommendations or otherwise employ "best construction practices."

### Insurance data reporting requirements

The task force recommends that the Oregon Insurance Division develop a set of data points (such as dollars paid out for different types of defects) that each insurance company would maintain and provide to the insurance division upon request.

In the future, when insurance problems or crises arise, the insurance division would be better able to understand and possibly solve problems.

The task force is made up of nine state-appointed members from various sectors of the construction industry. Its work involved numerous meetings over a 16-month period, testimony from over 30 industry experts and leaders, significant public testimony and more than 400 submissions to its Web site. The task force expects that its extensive research and balanced industry analysis will lend significant credibility to its recommendations. For more information, visit <http://egov.oregon.gov/dcbcs/cctf>.

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