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Legal Developments Affecting Business

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## **UPDATE ON MAJOR CHANGES TO OREGON CONSTRUCTION LAW**

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The 2007 Oregon legislative session created the most significant changes in construction law since 1972. A number of new laws drastically change commonly understood practices concerning licensing, liens, contract requirements, insurance requirements, and warranty terms. While a comprehensive review is beyond the scope of this article, anyone working in the construction industry must carefully review the new legislation and act immediately to amend contracts, notices, standard forms and alter prior practices to remain in compliance with the new laws.

Some of the changes requiring immediate attention concern construction liens. Changes to the construction lien law went into effective on January 1, 2008. Because construction liens require strict adherence to the law, it is critical that the new requirements are followed immediately. The new legislation updates the notice contractors must provide to property owners when working on a residential construction project. Of the three notices required, the law requires that the consumer notice inform a property owner of actions needed to protect the owner in a residential repair, remodel or construction project. The notice must contain signature lines for the contractor and property owner. The notice must be given to the owner at the time of contract and must be delivered by personal, registered or certified mail or by first class mail with a certificate of mailing. The Oregon Construction Contractors Board ("CCB") is also required to update and replace the former "Owners Duty to Notify Contractor in the Event of a Residential Construction Dispute" form to comply with these new laws.

In addition, the CCB is now required to adopt a series of regulations that create certain uniform terms in every construction contract. These terms are to expressly include: (1) a statement that the contractor is licensed; (2) the contractor's name, CCB license number, address and phone number of record; (3) an acknowledgement of a written offer of warranty, if an offer is required; (4) for residential structures, a summary of notices required to be given; and (5) an explanation of the property owner's rights under the contract, including the right to file a claim with the CCB and the existence of arbitration and mediation provisions in the contract. Finally, the new legislation requires a written contract for any construction project in excess of \$2,000. Failure to provide a contract voids any lien rights of the contractor.

Another area of major change concerns warranty requirements. Effective July 1, 2008, commercial general contractors constructing new large commercial structures must provide the owner with a two (2) year warranty against defects in the materials and workmanship of the building envelope. The warranty must provide that the contractor will annually inspect the building during the warranty period. Also beginning on July 1, 2008, contractors constructing new residential structures excluding manufactured dwellings must offer the first purchaser or owner a written warranty against defects in materials and workmanship for the structure. The first purchaser or owner may refuse the offer of warranty. However, if the contractor offers the warranty before the contract is signed, and the first purchaser or owner refuses the warranty, the contractor can withdraw the offer to construct the structure.

These are just a few of the many significant changes that were made by the 2007 Oregon legislature. A prudent contractor in the current economic climate will carefully review existing contracts, notices, forms and procedures to ensure that their lien rights, contracts, and license are in full compliance with the new laws before it is too late. If you have questions about the changes to Oregon construction law, please contact a member of the firm's Construction Law Group.