

# House Bill 2498

Sponsored by Representative ROBLAN; Representatives BERGER, BONAMICI, BOONE, BRUUN, CLEM, ESQUIVEL, GARRARD, GREENLICK, HUNT, JENSON, READ, SCHAUFLE, SHIELDS, Senators MONNES ANDERSON, MORSE, NELSON, VERGER (at the request of Oregon Association of Realtors)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Transfers unexercised right to claim against contractor for negligent or improper work on existing residential structure from seller of structure to purchaser of structure.

Extends construction contractor licensing exemption to owner of existing residential structure hiring licensed contractors in course of business of reselling structure.

## A BILL FOR AN ACT

1  
2 Relating to construction work on existing structures; creating new provisions; and amending ORS  
3 701.010.

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

5 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 701.**

6 **SECTION 2. If a licensed contractor performs work on an existing residential structure**  
7 **for a property owner who is not a licensed contractor, upon the property owner selling the**  
8 **structure, the purchaser of the residential structure acquires any unexercised right of the**  
9 **property owner to file a claim against the contractor with the Construction Contractors**  
10 **Board for negligent or improper work on the structure. This section does not:**

11 (1) **Transfer to the purchaser any claim for negligent or improper work that was filed**  
12 **with the board prior to closure of the sale of the structure;**

13 (2) **Extend the time available for filing a claim beyond the filing time that would have**  
14 **been available to the property owner who sold the structure; or**

15 (3) **Transfer the right to file a claim to a person other than the first purchaser of the**  
16 **structure after the contractor substantially completes work on the structure.**

17 **SECTION 3. ORS 701.010 is amended to read:**

18 701.010. The Construction Contractors Board may adopt rules to make licensure optional for  
19 persons who offer, bid or undertake to perform work peripheral to construction, as defined by ad-  
20 ministrative rule of the board. The following persons are exempt from licensure under this chapter:

21 (1) A person who is constructing, altering, improving or repairing personal property.

22 (2) A person who is constructing, altering, improving or repairing a structure located within the  
23 boundaries of any site or reservation under the jurisdiction of the federal government.

24 (3) A person who furnishes materials, supplies, equipment or finished product and does not fab-  
25 ricate them into, or consume them, in the performance of the work of a contractor.

26 (4) A person working on one structure or project, under one or more contracts, when the ag-  
27 gregate price of all of that person's contracts for labor, materials and all other items is less than  
28 \$500 and such work is of a casual, minor or inconsequential nature. This subsection does not apply  
29 to a person who advertises or puts out any sign or card or other device that might indicate to the

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 public that the person is a contractor.

2 (5) An owner who contracts for work to be performed by a licensed contractor. This subsection  
 3 does not apply to a person who, in the pursuit of an independent business, constructs, remodels,  
 4 repairs or for compensation and with the intent to sell the structure, arranges to have constructed,  
 5 remodeled or repaired a **commercial structure or new residential** structure with the intent of  
 6 offering the structure for sale before, upon or after completion. It is prima facie evidence that there  
 7 was an intent of offering the structure for sale if the person who constructed, remodeled or repaired  
 8 the structure or arranged to have [the] a **commercial structure or new residential** structure  
 9 constructed, remodeled or repaired does not occupy the structure after its completion.

10 (6) A person performing work on a property that person owns or performing work as the owner's  
 11 employee, whether the property is occupied by the owner or not, or a person performing work on  
 12 that person's residence, whether or not that person owns the residence. This subsection does not  
 13 apply to a person performing work on a structure owned by that person or the owner's employee,  
 14 if the work is performed[,] in the pursuit of an independent business[,] with the intent of offering the  
 15 structure for sale before, upon or after completion.

16 (7) A person licensed in one of the following trades or professions when operating within the  
 17 scope of that license:

18 (a) An architect licensed by the State Board of Architect Examiners.

19 (b) A registered professional engineer licensed by the State Board of Examiners for Engineering  
 20 and Land Surveying.

21 (c) A water well contractor licensed by the Water Resources Department.

22 (d) A sewage disposal system installer licensed by the Department of Environmental Quality.

23 (e) A landscaping business licensed under ORS 671.510 to 671.710 that constructs fences, decks,  
 24 arbors, patios, landscape edging, driveways, walkways or retaining walls and that meets the appli-  
 25 cable bonding requirements under ORS 671.690.

26 (f) A pesticide operator licensed under ORS 634.116 who does not conduct inspections for wood  
 27 destroying organisms for the transfer of real estate.

28 (g) An appraiser certified or licensed under ORS chapter 674 or an appraiser assistant registered  
 29 under ORS chapter 674 by the Appraiser Certification and Licensure Board.

30 (8) A person who performs work subject to this chapter as an employee of a contractor.

31 (9) A manufacturer of a manufactured home constructed under standards established by the  
 32 federal government.

33 (10) A person involved in the movement of:

34 (a) Modular buildings or structures other than manufactured structures not in excess of 14 feet  
 35 in width.

36 (b) Structures not in excess of 16 feet in width when the structures are being moved by their  
 37 owner if the owner is not a contractor required to be licensed under this chapter.

38 (11) A commercial lending institution or surety company that arranges for the completion, repair  
 39 or remodeling of a structure. As used in this subsection, "commercial lending institution" means  
 40 any bank, mortgage banking company, trust company, savings bank, savings and loan association,  
 41 credit union, national banking association, federal savings and loan association, insurance company  
 42 or federal credit union maintaining an office in this state.

43 (12) A real estate licensee as defined in ORS 696.010 or the employee of that licensee when  
 44 performing work on a structure that the real estate licensee manages under a contract.

45 (13) Units of government other than those specified in ORS 701.005 (10)(b) and (c).

1 (14) A qualified intermediary in a property exchange that qualifies under section 1031 of the  
2 Internal Revenue Code as amended and in effect on January 1, 2004, if the qualified intermediary  
3 is not performing construction activities.

4 (15) A business that supplies personnel to a licensed contractor for the performance of work  
5 under the direction and supervision of the contractor.

6 **SECTION 4. Section 2 of this 2007 Act applies to residential structure sales closing on**  
7 **or after the effective date of this 2007 Act.**

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