

House Bill 3266

Sponsored by Representative HOLVEY

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**.

Removes persons performing construction, electrical or plumbing work for more than two employers at same time from coverage of employee exemption to construction contractor, electrical and plumbing laws.

Specifies exemption of regular employee of residential property owner exempted from plumber licensing laws. Clarifies scope of residential property owner exemption.

A BILL FOR AN ACT

1
2 Relating to building trades; creating new provisions; and amending ORS 447.060, 479.540, 693.020 and
3 701.010.

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

5 **SECTION 1.** ORS 701.010 is amended to read:

6 701.010. The Construction Contractors Board may adopt rules to make licensure optional for
7 persons who offer, bid or undertake to perform work peripheral to construction, as defined by ad-
8 ministrative rule of the board. The following persons are exempt from licensure under this chapter:

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

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

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

14 (4) A person working on one structure or project, under one or more contracts, when the ag-
15 gregate price of all of that person's contracts for labor, materials and all other items is less than
16 \$500 and such work is of a casual, minor or inconsequential nature. This subsection does not apply
17 to a person who advertises or puts out any sign or card or other device that might indicate to the
18 public that the person is a contractor.

19 (5) An owner who contracts for work to be performed by a licensed contractor. This subsection
20 does not apply to a person who, in the pursuit of an independent business, constructs, remodels,
21 repairs or for compensation and with the intent to sell the structure, arranges to have constructed,
22 remodeled or repaired a structure with the intent of offering the structure for sale before, upon or
23 after completion. It is prima facie evidence that there was an intent of offering the structure for sale
24 if the person who constructed, remodeled or repaired the structure or arranged to have the struc-
25 ture constructed, remodeled or repaired does not occupy the structure after its completion.

26 (6) An owner who contracts for one or more licensed contractors to perform work wholly or
27 partially within the same calendar year on not more than three existing residential structures of the
28 owner. This subsection does not apply to an owner contracting for work that requires a building
29 permit unless the work that requires a permit is performed by, or under the direction of, a residen-
30 tial general contractor.

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 (7) A person performing work on a property that person owns or performing work as the owner's
 2 employee, whether the property is occupied by the owner or not, or a person performing work on
 3 that person's residence, whether or not that person owns the residence. This subsection does not
 4 apply to a person performing work on a structure owned by that person or to the owner's employee,
 5 if the work is performed in the pursuit of an independent business with the intent of offering the
 6 structure for sale before, upon or after completion. **For purposes of this subsection, a person**
 7 **who performs work for more than two property owners under coexisting employment or**
 8 **agency relationships is considered to be acting as an independent contractor and not as an**
 9 **employee of the property owners.**

10 (8) A person licensed in one of the following trades or professions when operating within the
 11 scope of that license:

12 (a) An architect [*licensed*] **registered** by the State Board of Architect Examiners.

13 (b) A professional engineer registered by the State Board of Examiners for Engineering and
 14 Land Surveying.

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

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

17 (e) A landscape contracting business licensed under ORS 671.510 to 671.760.

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

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

22 (9) A landscape contracting business operating within the scope of a license issued under ORS
 23 671.510 to 671.760 that:

24 (a) Constructs fences, decks, arbors, patios, landscape edging, driveways, walkways or retaining
 25 walls and meets the applicable bonding requirements under ORS 671.690; or

26 (b) Subcontracts to a licensed plumbing contractor, or otherwise arranges for a licensed plumb-
 27 ing contractor to perform, the installation of an irrigation system described in ORS 671.540 (1)(m)
 28 or the repair or maintenance of an irrigation system.

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

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

32 (12) A person involved in the movement of:

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

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

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

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

44 (15) Units of government other than those specified in ORS 701.005 (5)(c) and (d).

45 (16) A qualified intermediary in a property exchange that qualifies under section 1031 of the

1 Internal Revenue Code as amended and in effect on January 1, 2004, if the qualified intermediary
 2 is not performing construction activities.

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

5 (18) City or county inspectors acting under ORS 701.225 or inspectors described in ORS 455.715.

6 **SECTION 2.** ORS 479.540 is amended to read:

7 479.540. (1) Except as otherwise provided in this subsection, a person is not required to obtain
 8 a license to make an electrical installation on residential or farm property that is owned by the
 9 person or a member of the person's immediate family if the property is not intended for sale, ex-
 10 change, lease or rent. The following apply to the exemption established in this subsection:

11 (a) The exemption established for a person under this subsection does not exempt the work
 12 performed by the person from having to comply with the requirements for such work under ORS
 13 chapter 455 or this chapter and rules adopted thereunder.

14 (b) If the property is a building used as a residence and is for rent, lease, sale or exchange, this
 15 subsection establishes an exemption for work on, alterations to or replacement of parts of electrical
 16 installations as necessary for maintenance of the existing electrical installations on that property,
 17 but does not exempt new electrical installations or substantial alterations to existing electrical in-
 18 stallations on that property. As used in this paragraph, **subject to paragraph (c) of this sub-**
 19 **section**, "new electrical installations or substantial alterations" does not include the replacement
 20 of an existing garbage disposal, dishwasher or electric hot water heater with a similar appliance of
 21 30 amps or less, single phase, by a landlord, landlord's agent or the employee of the landlord or
 22 landlord's agent.

23 **(c) For purposes of paragraph (b) of this subsection, a person who performs electrical**
 24 **installations or substantial alterations for more than two landlords under coexisting em-**
 25 **ployment or agency relationships is considered to be acting as an independent contractor and**
 26 **not as the landlord's agent or the employee of the landlord.**

27 (2) An electrical contractor license is not required in connection with an electrical installation:

28 (a) Of meters and similar devices for measuring electricity by a person principally engaged in
 29 the business of generating or selling electricity in connection with the construction or maintenance
 30 of electrical lines, wires or equipment.

31 (b) Of ignition or lighting systems for motor vehicles.

32 (c) To be made by a person on the person's property in connection with the person's business.

33 (d) To be made by a public utility, consumer-owned utility as defined in ORS 757.270, telecom-
 34 munications carrier as defined in ORS 133.721, competitive telecommunications provider as defined
 35 in ORS 759.005 or municipality for generation, transmission or distribution of electricity on property
 36 that the utility, carrier, provider or municipality owns or manages.

37 (3) A person whose sole business is generating or selling electricity in connection with the
 38 construction or maintenance of electrical lines, wires or equipment, is not required to obtain a li-
 39 cense to transform, transmit or distribute electricity from its source to the service head of the
 40 premises to be supplied thereby.

41 (4)(a) A person is not required to obtain a license for the repair or replacement of light fixtures,
 42 light switches, lighting ballast, electrical outlets or smoke alarms in a building used for housing
 43 purposes that is owned, leased, managed or operated by a housing authority and the person doing
 44 the repair or replacement is a member of the housing authority's regular maintenance staff.

45 (b) A license is not required for:

1 (A) Temporary demonstrations;

2 (B) A street lighting system located on a public street or in a right of way if the system is
 3 similar to a system provided by a public utility and the installation or maintenance, or both, is
 4 performed by a qualified employee of a licensed electrical contractor principally engaged in the
 5 business of installing and maintaining such systems; or

6 (C) An outdoor transmission or distribution system, whether overhead or underground, if the
 7 system is similar to a system provided by a public utility and the installation or maintenance, or
 8 both, is performed by a qualified employee of a licensed electrical contractor principally engaged in
 9 the business of installing and maintaining such systems.

10 (c) For the purposes of this subsection, “qualified employee” means an employee who has regis-
 11 tered with or graduated from a State of Oregon or federally approved apprenticeship course de-
 12 signed for the work being performed. The supervising electrician signature required under ORS
 13 479.560 (1)(b) does not apply to contractors working under this subsection.

14 (5) The provisions of ORS 479.510 to 479.945 and 479.995 do not apply:

15 (a) To electrical products owned by, supplied to or to be supplied to a public utility as defined
 16 in ORS 757.005, consumer-owned utility as defined in ORS 757.270, telecommunications carrier as
 17 defined in ORS 133.721 or competitive telecommunications provider as defined in ORS 759.005;

18 (b) To electrical installations made by or for a public utility, consumer-owned utility, telecom-
 19 munications carrier or competitive telecommunications provider if the electrical installations are
 20 an integral part of the equipment or electrical products of the utility, carrier or provider; or

21 (c) To any electrical generation plant owned or operated by a municipality to the same extent
 22 that a utility, telecommunications carrier or competitive telecommunications provider is exempted
 23 under paragraphs (a) and (b) of this subsection.

24 (6) A permit is not required:

25 (a) For the repair or replacement of light fixtures, light switches, lighting ballast, electrical
 26 outlets or smoke alarms in a building used for housing purposes that is owned, leased, managed or
 27 operated by a housing authority; or

28 (b) For the repair, alteration or replacement of existing electrical products or electrical instal-
 29 lations authorized by ORS 479.560 (3) at an industrial plant, a commercial office building, a building
 30 that is owned, leased, managed or operated by the state or a local government entity or other fa-
 31 cilities designated by the Electrical and Elevator Board when the owner, operating manager or
 32 electrical contractor of the facility meets the provisions of ORS 479.630 (1) and (2) and:

33 (A) Obtains a master permit for inspection under ORS 479.560 (3); or

34 (B) Obtains a master individual inspection permit under ORS 479.565.

35 (7) In cases of emergency in industrial plants, a permit is not required in advance for electrical
 36 installation made by a person licensed as a general supervising electrician, a general journeyman
 37 electrician or an electrical apprentice under ORS 479.630 if an application accompanied by appro-
 38 priate fee for a permit is submitted to the Department of Consumer and Business Services within
 39 five days after the commencement of such electrical work.

40 (8)(a) A license or permit is not required for the installation or assembly of industrial electrical
 41 equipment by the duly authorized agents of the factory, vendor or owner.

42 (b) The license and permit exemptions of this subsection do not apply to activity in an area
 43 where industrial electrical equipment is installed in or enters a hazardous location or penetrates
 44 or enters a fire rated assembly or plenum rated assembly.

45 (c) As used in this subsection:

1 (A) "Duly authorized agents" means individuals trained by the factory or a vendor or by experience and who are knowledgeable in the operation, maintenance, repair and installation of industrial electrical equipment.

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4 (B) "Installation or assembly" means the reassembly at a job site of equipment that is wired and assembled at the factory and then disassembled for shipping purposes or of existing equipment that is relocated. "Installation or assembly" does not include work involving field fabricated assemblies or any other electrical product that is not an original part of the industrial electrical equipment. "Installation or assembly" does not include the connection of industrial electrical equipment to a power source.

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10 (9) The provisions of ORS 479.510 to 479.945 and 479.995 do not apply to:

11 (a) Electrical installations and repairs involving communication and signal systems of railroad companies.

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13 (b) Electrical installations and repairs involving remote and permanent broadcast systems of radio and television stations licensed by the Federal Communications Commission if the systems are not part of the building's permanent wiring.

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15 (c) The installing, maintaining, repairing or replacement of telecommunications systems on the provider side of the demarcation point by a telecommunications service provider.

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17 (d) The maintaining, repairing or replacement of telecommunications equipment on the customer side of the demarcation point by a telecommunications service provider.

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19 (e) Installations, by a telecommunications service provider or an appropriately licensed electrical contractor, of telecommunications systems on the customer side of the demarcation point except:

20 (A) Installations involving more than 10 telecommunications outlets; and

21 (B) Installations of any size that penetrate fire-resistive construction or air handling systems or that pass through hazardous locations.

22 (f) Notwithstanding paragraph (e) of this subsection, installation of telecommunications systems on the customer side of the demarcation point in:

23 (A) One and two family dwellings; and

24 (B) Multifamily dwellings having not more than four dwelling units if the installation is by a telecommunications service provider.

25 (g) Notwithstanding paragraph (e) of this subsection, installation or replacement of cord or plug connected telecommunications equipment on the customer side of the demarcation point.

26 (h) Notwithstanding paragraph (e) of this subsection, installation of patch cord and jumper cross-connected equipment on the customer side of the demarcation point.

27 (10)(a) The board may grant partial or complete exemptions by rule for any electrical product from any of the provisions of ORS 455.610 to 455.630 or 479.510 to 479.945 and 479.995 if the board determines that the electrical product does not present a danger to the health and safety of the people of this state.

28 (b) If the board grants an exemption pursuant to subsection (1) of this section, the board may determine that the product may be installed by a person not licensed under ORS 479.510 to 479.945.

29 (11) ORS 479.760 does not apply to products described in this subsection that comply with the electrical product safety standards established by concurrence of the board and the Director of the Department of Consumer and Business Services as described under ORS 479.730. This subsection does not exempt any products used in locations determined to be hazardous in the electrical code of this state. The following apply to this subsection:

1 (a) Except as provided in paragraph (b) of this subsection, the exemption under this subsection
 2 applies to:

3 (A) The rotating equipment portion of power generation equipment.

4 (B) Testing equipment used in a laboratory or hospital.

5 (C) Commercial electrical air conditioning equipment.

6 (D) Prefabricated work performed by an electrical contractor with licensed electrical personnel
 7 in the contractor's place of business for assembly on the job site if the work is composed of parts
 8 that meet the electrical product safety standards established by concurrence of the board and the
 9 director.

10 (b) Notwithstanding paragraph (a) of this subsection, the board may require any of the products
 11 described in paragraph (a) of this subsection to be subject to the certification requirements under
 12 ORS 479.760 if the board determines that the product or class of products has presented a fire or
 13 life safety hazard in use. A determination under this paragraph shall be effective as to any such
 14 product or class of products installed after the date of the determination becomes final. The board
 15 may reinstate any exemption removed under this paragraph if the board determines that the reasons
 16 for the removal of the exemption have been corrected.

17 (12)(a) ORS 479.610 does not apply to installations of industrial electrical equipment unless the
 18 board determines that the product or class of products may present a fire or life safety hazard.

19 (b) The board may reinstate an exemption removed under this subsection if the product qualifies
 20 for reinstatement under:

21 (A) An equipment safety program approved by the board;

22 (B) Equipment minimum safety standards established by concurrence of the board and the di-
 23 rector;

24 (C) An evaluation by an approved field evaluation firm;

25 (D) A listing from a nationally recognized testing laboratory;

26 (E) An evaluation of a first model of a product by the board; or

27 (F) Any other method approved by the board.

28 (13) ORS 479.760 does not apply to electrical equipment that has been installed and in use for
 29 one year or more.

30 (14) A person who holds a limited maintenance specialty contractor license or a limited pump
 31 installation specialty contractor license issued under ORS 479.510 to 479.945 or a person who is the
 32 employee of such license holder and who is listed with the board as an employee is not required to
 33 have a journeyman license or supervising electrician's license to perform work authorized under the
 34 person's license.

35 (15) A person is not required to obtain a permit for work on, alterations to or replacement of
 36 parts of electrical installations as necessary for maintenance of existing electrical installations on
 37 residential property owned by the person or by a member of the person's immediate family. This
 38 subsection does not establish an exemption for new electrical installations or substantial alterations
 39 to existing electrical installations.

40 (16) A permit is not required for those minor electrical installations for which the board has
 41 authorized an installation label.

42 (17) A residential home, as defined in ORS 443.580, and an adult foster home, as defined in ORS
 43 443.705, is not a multifamily dwelling and only electrical installation standards and safety require-
 44 ments applicable to single family dwellings apply to such homes.

45 (18) The permit requirements of ORS 479.550 and the license requirements of ORS 479.620 do

1 not apply to cable television installations.

2 (19) The provisions of any electrical products code or rule adopted pursuant to ORS 479.510 to
3 479.945 and 479.995 apply to cable and such products installed as part of a cable television instal-
4 lation.

5 (20) A person is not required to obtain a license to make an electrical installation in a prefab-
6 ricated structure, as defined in ORS 455.010, that is designed for residential use and intended for
7 delivery in another state.

8 (21) As used in this section, "smoke alarm" has the meaning given that term under ORS 479.250.

9 **SECTION 3.** ORS 447.060 is amended to read:

10 447.060. (1) ORS 447.010 to 447.156 do not apply to a person:

11 (a) Engaging in plumbing work when not so engaged for hire.

12 (b) Using the services of regular employees in performing plumbing work, **or to a regular em-**
13 **ployee performing plumbing work**, for the benefit of property owned, leased or operated by the
14 person. For purposes of this paragraph, "regular employee" means a person who is subject to the
15 provisions of ORS 316.162 to 316.221 and who has completed a withholding exemptions certificate
16 required by ORS 316.162 to 316.221. **However, "regular employee" does not include a person who**
17 **provides services for more than two property owners, lessors or operators under coexisting**
18 **employment or agency relationships.**

19 (c) Using the services of an employee or contractor of a utility company, energy service provider
20 or water supplier to install an approved low-flow showerhead or faucet aerator in existing plumbing
21 fixtures. The devices installed under this paragraph are exempt from the certification, permit and
22 inspection requirements of ORS 447.010 to 447.156 and ORS chapter 693.

23 (2) A landscape contracting business licensed under ORS 671.560 is not required to be licensed
24 under ORS 447.010 to 447.156 to install, repair or maintain backflow assemblies for irrigation sys-
25 tems and ornamental water features if the work is performed by an individual who is licensed as
26 required by ORS 671.615 and is an owner or employee of the landscape contracting business. The
27 repair and maintenance of the backflow assembly must be performed by a tester certified under ORS
28 448.279. The licensing exemption established under this subsection does not exempt the landscape
29 contracting business from the inspection and permit requirements of ORS 447.010 to 447.156.

30 (3) This section applies to any person, including but not limited to, individuals, corporations,
31 associations, firms, partnerships, joint stock companies, public and municipal corporations, political
32 subdivisions, this state, the federal government and state or federal agencies.

33 **SECTION 4.** ORS 693.020 is amended to read:

34 693.020. (1) Except as provided in subsection (2) of this section, this chapter does not apply to:

35 (a) A person working on a building or premises owned by the person, regardless of whether the
36 person holds a license under this chapter, if the person complies with all the rules adopted under
37 this chapter and ORS 447.010 to 447.156 and ORS chapter 455.

38 (b) A person testing, repairing, servicing, maintaining, installing or replacing new or existing
39 potable water pump equipment not exceeding seven and one-half horsepower on residential property
40 and piping between the pumps and storage tanks for the pumps, regardless of whether the person
41 holds any license under this chapter.

42 (c) A person installing exterior storm drains that are not connected to a sanitary sewer or
43 combination sanitary storm sewer.

44 (d) An employee or contractor of a utility, energy service provider or water supplier who is in-
45 stallng an approved low-flow showerhead or faucet aerator in existing plumbing fixtures. The de-

1 vices installed under this paragraph are exempt from the certification, permit and inspection
2 requirements of this chapter and ORS 447.010 to 447.156.

3 (e) A person who owns, leases or operates residential property and who repairs, or uses regular
4 employees to repair, existing plumbing on **residential** property owned, leased or operated by the
5 person, **or who is a regular employee repairing existing plumbing for a person who owns,**
6 **leases or operates the property,** regardless of whether the person or employee holds a license
7 under this chapter. As used in this paragraph:

8 (A) "Repair" means the act of replacing or putting together plumbing parts that restore the
9 existing plumbing system to a safe and sanitary operating condition.

10 (B) "Regular employee" means a person who is subject to the provisions of ORS 316.162 to
11 316.221 and who has completed a withholding exemptions certificate required by the provisions of
12 ORS 316.162 to 316.221. **However, "regular employee" does not include a person who repairs**
13 **plumbing for more than two property owners, lessors or operators under coexisting employ-**
14 **ment or agency relationships.**

15 (f) A person installing plumbing in a prefabricated structure, as defined in ORS 455.010, that is
16 designed for residential use and intended for delivery in another state.

17 (2) Subsection (1)(a) to (d) of this section does not allow a person other than a journeyman
18 plumber or apprentice plumber to install, remodel or alter plumbing in a commercial or industrial
19 building being constructed or offered for sale, exchange, rent or lease. As used in this subsection,
20 "install, remodel or alter" means activities that involve installations or changes to the plumbing
21 inside a wall, floor, crawl space or ceiling, or a change in the configuration of a plumbing system.

22 (3) This section applies to any person, including but not limited to individuals, corporations,
23 associations, firms, partnerships, joint stock companies, public and municipal corporations, political
24 subdivisions, this state and any agencies thereof and the federal government and any agencies
25 thereof.

26 (4) Except as provided in subsection (1)(d) of this section, nothing in this section exempts a
27 person from the plumbing inspection requirements of ORS 447.010 to 447.156.

28 **SECTION 5. The amendments to ORS 447.060, 479.540, 693.020 and 701.010 by sections 1**
29 **to 4 of this 2011 Act apply to agency and employee relationships coexisting on or after the**
30 **effective date of this 2011 Act.**

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