



Chair Grayber, Vice Chairs Munoz and Scharf, and Members of the Committee:

Thank you for the opportunity to provide testimony in opposition to HB 4089. Oregon REALTORS® is an industry association comprised of roughly 17,000 members who work as real estate brokers, principal real estate brokers, and affiliated industry professionals. In turn, our members represent hundreds of thousands of Oregonians in real property transactions across the state.

Oregon REALTORS® stands firmly against wage theft in all forms. Failing to pay the wages of a worker is not only unlawful, but also immoral and unethical. Wage theft should be addressed forcefully and without exception. However, we have serious concerns that HB 4089 bill could impose severe and irrevocable harm on well-intended employers, homeowners and members of the public.

Our concerns are multi-fold. First, as pointed out in the testimony of the Oregon Criminal Defense Lawyers Association, creating new criminal violations should be done carefully, transparently, and with input from all stakeholders. That did not happen with this bill.

Additionally, Section (1) (c) of the bill, which expands the crime of “theft of services,” does not require malicious intent. The conduct currently criminalized as “theft of services” is contained in ORS 164.125 Sections (1) (a) and (b) and requires malicious intent. Section (1) (c)—which is added by HB 4089—would criminalize mistakes. This is concerning for large and small employers alike. Many of our members are small employers, and our industry is very dynamic, with brokers and principal brokers often leaving firms to start their own. Small employers—particularly those just starting up—may not have sophisticated payroll processing systems in place. They may just be learning the complex system of federal and state payroll taxes and withholding. Mistakes can and will happen. **Mistakes should be corrected, not criminalized.**

What small business owner would want to risk a felony conviction to hire a new employee if an unintentional violation – a simple mistake – could lead to such extreme consequences?

Additionally, Section 1 defines “employer” to includes a person who enters into a contract with an independent contractor for the performance of work. This definition is so broad that it would include a homeowner hiring a contractor. Simple misunderstandings or disagreements regarding amounts owed could result in a homeowner committing a felony. It also creates an uneven playing field regarding contract disputes. If there is a disagreement between the homeowner and the contractor about amounts owed or whether the work was performed as specified in the contract, the contractor would be able to hold out the prospect of criminal prosecution as leverage. These types of disputes have been resolved for generations without the involvement of the criminal law.

Section 1 of HB 4089 is an extreme proposal and should be rejected.

Our other concern is with Section 5. Hiring an unlicensed contractor may be unwise, but it should not be criminal. And it certainly should not include a “should have known” standard, which would require an unreasonable level of diligence by a homeowner when hiring a contractor. Because contractor license status is available online, any homeowner who hires a contractor without verifying their status the moment before they begin work could end up being a criminal.



Here is an example that demonstrate how extreme HB 4089 as written is:

*Imagine an unsuspecting homeowner needs to fix a lock that broke on their door. The homeowner learns from a friend that their next-door neighbor is a locksmith. The homeowner asks if asks the neighbor if they could pay them to fix the broken lock. The neighbor agrees to the help and fixes the lock.*

If the neighbor's license had lapsed and the homeowner did not first go onto the CCB website to confirm license status, the homeowner could be subject to penalties for a Class C felony by hiring someone who is not a licensed contractor [Section 5 (2)].

What if the neighbor's license was still active, but the homeowner and neighbor simply misunderstood each other when verbally negotiating the compensation? The homeowner, thinking they agreed to \$1000, pays the neighbor \$1000. But the neighbor believes they had agreed to \$2000. If the neighbor is correct, the homeowner now has now violated a different part of the statute [Section 1 (c)(B)] – also a Class C felony. This is the type of thing that would typically be resolved through negotiation or small claims court. Now, the homeowner faces the prospect of jail time and criminal fines.

Oregon already has robust civil and administrative remedies to protect workers against wage theft and hold bad actors accountable, which are described in more detail in other opposition testimony you have received. Additionally, SB 426 which passed in 2025 to address issues related to wage theft and labor brokers, is just now taking effect. And there are efforts underway at BOLI and CCB to address issues related to labor brokers, including HB 4012 which already passed out of this Committee earlier this week.

HB 4089 is an extreme bill with extreme consequences. It should be rejected. Other efforts already underway to address wage theft and unlicensed labor contractors should play out before criminalizing conduct. Criminal violations should not be added to Oregon's statute without careful consideration of unintended consequences and due diligence with effected stakeholders including not only groups representing employers and homeowners but also stakeholders in the legal community who understand criminal law and procedure.

Oregon REALTORS® urges you to vote NO on HB 4089.

Thank you for your time and consideration of our serious concerns.