

Enrolled Senate Bill 328

Sponsored by Senators MORSE, WESTLUND; Senators METSGER, VERGER, WALKER, Representatives AVAKIAN, BOQUIST, BURLEY, JENSON, KOMP, OLSON, SCHAUFLER, G SMITH, WHISNANT (at the request of Donald W. Miner, Oregon Manufactured Housing Association)

CHAPTER

AN ACT

Relating to prefabricated structures; creating new provisions; and amending ORS 455.705, 479.540 and 693.020.

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

SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS chapter 455.

SECTION 2. (1) For a residential prefabricated structure manufactured in this state and intended for delivery in another state, the Director of the Department of Consumer and Business Services may not require that:

(a) The prefabricated structure conform to the state building code.

(b) An inspector provide plan approvals and inspections pursuant to ORS 455.715 to 455.740.

(c) A person licensed under ORS 479.630 or certified under ORS 693.060 or 693.103 perform electrical or plumbing installations in the prefabricated structure.

(2) Nothing in subsection (1) of this section exempts a person that is renting, leasing, selling, exchanging, installing or offering for rent, lease, sale, exchange or installation a residential prefabricated structure from meeting the insignia of compliance or certification stamp requirements prescribed under ORS 455.705 if the prefabricated structure is delivered in or relocated to this state.

SECTION 3. ORS 455.705 is amended to read:

455.705. (1) [No] A manufacturer of prefabricated structures or manufacturer of prefabricated structure components may **not contract with a municipality or a person [who does not have an approval issued under subsection (2) of this section to perform prefabricated structure plan approvals or inspections.] **to perform prefabricated structure plan approvals or inspections unless the person providing the plan approvals or inspections is certified or approved under subsection (2) of this section or is providing plan approvals or inspections for a residential prefabricated structure that is intended for delivery in another state.****

(2)(a) [No] A person may **not engage in prefabricated structure plan approvals or inspections without being certified under ORS 455.715 to 455.740 or 479.810 [(3)] **unless the person is providing plan approvals or inspections for a residential prefabricated structure that is intended for delivery in another state.****

(b) [No] A person may **not engage in the business of providing prefabricated structure plan approvals or inspections without an approval issued by the Department of Consumer and Business Services.**

(3) In accordance with any applicable provisions of ORS chapter 183, the Director of the Department of Consumer and Business Services shall establish by rule a system for approval and regulation of businesses and persons who perform prefabricated structure plan approvals or inspections. [Such a] **The** system shall include but not be limited to the following provisions:

(a) Prescribing the form and content of and the times and procedures for submitting an application for the issuance or renewal of an approval.

(b) Prescribing the term of the approval and the fee for the original issue and renewal in an amount that does not exceed the cost of administering the approval system. The charge for review and approval of a third party inspection service shall not exceed, for the original issue, \$400 and for the renewal, \$200.

(c) Prescribing the conditions for initial issuance, renewal and maintenance of the approval **for a person certified under ORS 455.715 to 455.740 or 479.810**, including but not limited to the following provisions:

(A) Procedures and reports for plan approvals and inspections;

(B) Ethical practices and prohibitions of conflicts of interests with manufacturers of prefabricated structures and manufacturers and suppliers of parts and services;

(C) Insurance compliance requirements;

(D) Procedures for use and application of insignia of compliance; and

(E) Fees for and procedures for use and application of certification stamps.

(d) Prescribing other actions or circumstances that constitute failure to achieve or maintain approval competency or that otherwise constitute a danger to the public health or safety and for which the director may refuse to issue or renew or may suspend or revoke a certification, permit or certificate.

(e) Prescribing the authority of the department to perform oversight monitoring including but not limited to:

(A) Right of entry and access to third party records and information;

(B) Frequency, type and extent of the oversight monitoring and inspection of third party agencies and manufacturing facilities; and

(C) Frequency and description of information to be submitted as part of the monitoring process.

(f) Prescribing fees for monitoring conducted by the department at the manufacturing plant site or at third party inspection service locations, which fees shall not exceed \$60 per hour.

(4)(a) The department shall establish by rule a manufacturer compliance program to allow for plan approvals or inspections of prefabricated structures or prefabricated structure components at the facility at which the prefabrication takes place, including but not limited to the following provisions:

(A) Quality assurance programs;

(B) Procedures for use and application of insignia of compliance; and

(C) Fees for and procedures for use and application of certification stamps.

(b) A manufacturer of prefabricated structures shall provide the department with written notice at least 60 days before a manufacturer may provide for plan approval or inspection service as allowed under subsection (2) of this section.

(c) The department is not required to provide plan approval for or inspection of any prefabricated structure or prefabricated structure components unless the department has been notified in writing by the manufacturer of the prefabricated structure 180 days in advance of the proposed assumption of department inspections.

(5) [No person shall] **A person may not** rent, lease, sell, exchange, **install** or offer for rent, lease, sale, [or] exchange **or installation** within this state a prefabricated structure constructed on or after July 1, 1991, unless it bears an insignia of compliance or certification stamp issued by the department or a third party indicating compliance with this state's building regulations and standards for prefabricated structures. **The prohibition in this subsection does not apply to a residential prefabricated structure intended for delivery in another state unless the residential prefabricated structure is installed or offered for installation in this state.** A prefabricated

structure with an insignia of compliance or certification stamp shall be acceptable to municipalities as meeting the state building code regulations. Prefabricated structures constructed prior to July 1, 1991, are subject to the building code regulations in effect at the time of original construction.

(6) The provisions of this section do not apply to employees of the Department of Consumer and Business Services and testing laboratories approved under ORS chapters 447 and 479.

(7) For purposes of this section, "insignia of compliance" means the plate affixed to a structure by the Department of Consumer and Business Services or a third party to signify compliance with all state building code requirements for which the structure was inspected.

(8) Prefabricated structures or components found by the department or a third party to represent a danger to public health or safety shall be brought into compliance with building code regulations or removed from the state.

(9) All plan approvals and inspections of prefabricated structures and prefabricated components constructed at manufacturing plants outside of Oregon but intended for delivery into Oregon shall be performed by the department or conducted under ORS 455.430.

SECTION 4. ORS 479.540 is amended to read:

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

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

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

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

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

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

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

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

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

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

(b) A license is not required for:

(A) Temporary demonstrations;

(B) A street lighting system located on a public street or in a right of way if the system is similar to a system provided by a public utility and the installation or maintenance, or both, is

performed by a qualified employee of a licensed electrical contractor principally engaged in the business of installing and maintaining such systems; or

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

(c) For the purposes of this subsection, "qualified employee" means an employee who has registered with or graduated from a State of Oregon or federally approved apprenticeship course designed for the work being performed. The supervising electrician signature required under ORS 479.560 (1)(b) does not apply to contractors working under this subsection.

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

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

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

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

(6) A permit is not required:

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

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

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

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

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

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

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

(c) As used in this subsection:

(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.

(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.

(9) A person is not required to obtain a license or permit to set in place and connect a certified electrical product as long as the work performed is not an electrical installation as defined in ORS 479.530.

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

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

(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.

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

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

(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:

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

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

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

(A) One and two family dwellings; and

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

(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.

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

(11)(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.

(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.

(12) 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:

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

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

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

(C) Commercial electrical air conditioning equipment.

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

(b) Notwithstanding paragraph (a) of this subsection, the board may require any of the products described in paragraph (a) of this subsection to be subject to the certification requirements under ORS 479.760 if the board determines that the product or class of products has presented a fire or life safety hazard in use. A determination under this paragraph shall be effective as to any such

product or class of products sold or offered for sale after the date of the determination becomes final. The board may reinstate any exemption removed under this paragraph if the board determines that the reasons for the removal of the exemption have been corrected.

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

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

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

(B) Equipment minimum safety standards established by concurrence of the board and the director;

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

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

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

(F) Any other method approved by the board.

(14) ORS 479.760 does not apply to electrical equipment that has been in use for one year or more and that is offered for sale.

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

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

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

(18) A residential home, as defined in ORS 443.580, and an adult foster home, as defined in ORS 443.705, is not a multifamily dwelling and only electrical installation standards and safety requirements applicable to single family dwellings apply to such homes.

(19) The permit requirements of ORS 479.550 and the license requirements of ORS 479.620 do not apply to cable television installations.

(20) The provisions of any electrical products code or rule adopted pursuant to ORS 479.510 to 479.945 and 479.995 apply to cable and such products installed as part of a cable television installation.

(21) A person is not required to obtain a license to make an electrical installation in a prefabricated structure, as defined in ORS 455.010, that is designed for residential use and intended for delivery in another state.

[(21)] **(22)** As used in this section, "smoke alarm" *[shall have]* **has** the meaning given that term under ORS 479.250.

SECTION 5. ORS 693.020 is amended to read:

693.020. (1) Subject to the following described conditions, this chapter does not *[prevent]* **apply to:**

(a) *[Except as provided in paragraph (e) of this subsection, a person from doing the person's own work]* **A person that is doing work, other than repair work on residential property, that is on the person's own building on the person's own premises, whether or not the person holds a certificate of competency under this chapter, if the person complies with all the rules adopted under this chapter and ORS 447.010 to 447.156 and 447.992 and ORS chapter 455.**

(b) A person *[from]* testing, repairing, servicing, maintaining, installing or replacing new or existing potable water pump equipment not exceeding seven and one-half horsepower on residential

property and piping between such pumps and storage tanks for such pumps, whether or not the person holds any certificate of competency under this chapter.

(c) A person *[from]* installing exterior storm drains. This exception does not apply to exterior storm drains that are connected to a sanitary sewer or combination sanitary storm sewer.

(d) An employee or contractor of a utility, energy service provider or water supplier *[from]* **who is** installing an approved low-flow showerhead or faucet aerator in existing plumbing fixtures. The devices installed under this paragraph are exempt from the certification, permit and inspection requirements of this chapter and ORS chapter 447.

(e) A person who owns, leases or operates residential property~~*[, from repairing or using]*~~ **and who repairs or uses** regular employees to repair existing plumbing on property owned, leased or operated by the *[employer]* **person**, whether or not the **person or** employee holds a certificate of competency under this chapter. As used in this paragraph:

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

(B) "Regular employee" means a person **who is** subject to the provisions of ORS 316.162 to 316.219 and who has completed a withholding exemptions certificate required by the provisions of ORS 316.162 to 316.219.

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

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

(3)(a) Notwithstanding the exceptions in subsection (1) of this section, only an individual certified as provided by ORS 693.060 may install, remodel or alter plumbing in a commercial or industrial building being constructed or being offered for sale, exchange, rent or lease.

[(b) Nothing in paragraph (a) of this subsection shall limit the right of a person to repair property as set forth in subsection (1)(e) of this section.]

[(4)] **(b)** For the purpose of **this** subsection, *[(3) of this section,]* "install, remodel or alter" means activities which involve installation or changes to the plumbing inside a wall, floor, crawl space or ceiling, or a change in the configuration of a plumbing system.

[(5)] **(4)** Except as provided in subsection (1)(d) of this section, nothing in this *[chapter]* **section** exempts a person from the plumbing inspection requirements of ORS 447.010 to 447.156 *[and 447.992]*.

SECTION 6. (1) The Department of Consumer and Business Services shall collect the information, if any, supplied by industry sources in this state regarding the manufacture of prefabricated structures intended for delivery in other states. The types of information to be collected by the department shall include:

(a) The applied and potential capacity of manufacturers to produce residential prefabricated structures in this state;

(b) The number of persons the manufacturer employs in this state to produce residential prefabricated structures intended for delivery in other states;

(c) The number of residential prefabricated structures produced in this state intended for delivery in other states; and

(d) Any information the department determines to be useful for assessing the effect or potential effect of section 2 of this 2005 Act on employment levels in this state.

(2) The department shall biennially report any information collected by the department under this section to the Legislative Assembly. The department shall submit the report to the Legislative Assembly as provided in ORS 192.245 no later than October 1 of each even-numbered year.

SECTION 7. Section 2 of this 2005 Act and the amendments to ORS 455.705, 479.540 and 693.020 by sections 3 to 5 of this 2005 Act apply to electrical and plumbing installations in prefabricated structures made on or after the effective date of this 2005 Act.

SECTION 8. Section 6 of this 2005 Act is repealed January 2, 2012.

Passed by Senate March 22, 2005

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Secretary of Senate

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President of Senate

Passed by House June 2, 2005

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Speaker of House

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State