

Senate Bill 865

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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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Adds some new kinds of work to the work that a person can do only if the person has a license from the State Landscape Contractors Board. Lets a person install water features without needing a license from the State Landscape Contractors Board if the person has a license from the Construction Contractors Board. Lets a person get out of a contract for landscape work on real property within three days even if the person does not own or lease the real property. (Flesch Readability Score: 60.5).

Requires the State Landscape Contractors Board to determine that a landscape contracting business is an independent contractor with responsibility for obtaining workers' compensation insurance if the landscape contracting business performs certain work related to backflow assemblies for irrigation systems and ornamental water features, to landscape irrigation control wiring and outdoor landscape lighting or to removing or pruning trees or tree limbs or stumps or performing tree or tree limb guying.

Exempts persons or businesses who are licensed with the Construction Contractors Board and who install ornamental water features from a requirement to obtain a landscape contractors license.

Removes the requirement that a person who intends to rescind a contract with a landscape contracting business for work on real property own or lease the real property.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to work performed by a landscape contracting business; amending ORS 671.525, 671.540 and 671.627; and prescribing an effective date.

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

SECTION 1. ORS 671.525 is amended to read:

671.525. (1) An applicant for a landscape contracting business license must qualify as an independent contractor, under ORS 670.600, to be licensed with the State Landscape Contractors Board.

(2) The board shall establish two classes of independent contractor licensees:

(a) The nonexempt class is composed of the following entities:

(A) Sole proprietorships, partnerships, corporations and limited liability companies with one or more employees; and

(B) Partnerships, corporations and limited liability companies with more than two partners, corporate officers or members if any of the partners, officers or members are not part of the same family and related as parents, spouses, siblings, children, grandchildren, sons-in-law or daughters-in-law.

(b) The exempt class is composed of all sole proprietorships, partnerships, corporations and limited liability companies that do not qualify as nonexempt.

(3) All partnerships, corporations and limited liability companies applying for a landscape contracting business license must have a federal tax identification number.

(4) If a licensee who qualifies under subsection (2)(b) of this section hires one or more employees, or falls into any of the categories set out in subsection (2)(a)(B) of this section, the licensee is

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.

subject to penalties under ORS 671.997 and must submit proof that the licensee qualifies under subsection (2)(a) of this section.

(5) The decision of the board that a licensee is an independent contractor applies only when the licensee is performing work:

(a) Of the nature described in ORS 671.520 and 671.530[.]; **or**

(b) That falls within any of the following categories:

(A) Backflow assembly testing services that a landscape contracting business provides through employees who are certified under ORS 448.279;

(B) Installing, repairing or maintaining backflow assemblies for irrigation systems and ornamental water features in a manner that under ORS 447.060 exempts the landscape contracting business from a requirement to obtain a license under ORS 447.010 to 447.156;

(C) Installing landscape irrigation control wiring and outdoor landscape lighting in a manner that under ORS 479.940 exempts the landscape contracting business from a requirement to obtain a license under ORS 479.510 to 479.945; or

(D) Removing or pruning a tree, removing tree limbs or stumps or tree or limb guying.

SECTION 2. ORS 671.540 is amended to read:

671.540. (1) Except as provided in subsection (2) of this section, ORS 671.510 to 671.760 and 671.990 (2) do not apply to:

(a) Any federal or state agency or any political subdivision performing landscaping work on public property.

(b) Any landscape architect registered under ORS 671.310 to 671.459 and practicing as provided under ORS 671.310 to 671.459.

(c) Landscaping work performed by a landscape maintenance business if:

(A) The landscaping work is performed for a customer that in a calendar year receives primarily landscape maintenance services from the business;

(B) The value of all labor, materials or other items supplied for landscaping work at a job site does not exceed \$500 in a calendar year; and

(C) The landscaping work is of a casual, minor or inconsequential nature, as those terms are defined by the State Landscape Contractors Board by rule.

(d) Installation of fences, decks, arbors, driveways, walkways, [or] retaining walls **or ornamental water features** if performed by a person or business licensed with the Construction Contractors Board.

(e) Rough grading of plots and areas of land performed in conjunction with new or remodeling construction if performed by a person or business licensed with the Construction Contractors Board.

(f) Any owner of property, or employee of an owner of property, who contracts for landscaping work on the property to be performed by a person licensed under ORS 671.560. The exception provided by this paragraph does not apply to a person who, in pursuit of an independent business, performs or contracts for the performance of landscaping work with the intent of offering for sale before, upon or after completion of the landscaping work the property upon which the landscaping work is performed.

(g) Any landscaping work performed by a person on property that the person owns or in which the person has a legal interest. The exception provided by this paragraph does not apply to a person who, in pursuit of an independent business, performs or contracts for the performance of landscaping work with the intent of offering for sale before, upon or after completion of the landscaping work the property on which the landscaping work is performed.

(h) A residential general contractor licensed under ORS chapter 701 who performs landscaping work if the total value of the landscaping is less than \$2,500 per residential dwelling and the landscaping work is performed on residential property for which the contractor is under contract for the construction of a new dwelling. The exception provided by this paragraph does not apply to the performance of irrigation work by a residential general contractor. The State Landscape Contractors Board shall revise the amount specified in this paragraph every five years, beginning in 2003, based on changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.

(i) A residential general contractor licensed under ORS chapter 701 who performs landscaping work on residential property that is directly related to local building code requirements or occupancy ordinances including, but not limited to, the placement of street trees. The exception provided by this paragraph does not apply to the performance of irrigation work by a residential general contractor.

(j) A person engaged in making plans or drawings for the selection, placement or use of plants or other site features, unless the plans or drawings are for the purpose of providing construction details and specifications.

(k) Use by a person other than a landscape construction professional of the title "landscape designer" when engaged in making plans or drawings described in paragraph (j) of this subsection.

(L) A person providing recommendations or written specifications for soil amendments or planting media if the recommendations or specifications are solely for the purpose of plant installation.

(m) A plumbing contractor licensed under ORS 447.010 to 447.156 when engaged in superintending installation work on piping for an irrigation system designed by a landscape contracting business or by a person registered under ORS 671.310 to 671.459.

(n) A plumbing contractor licensed under ORS 447.010 to 447.156 when engaged in superintending repair or maintenance work on piping for an irrigation system.

(o) A journeyman plumber licensed under ORS chapter 693 when performing an installation for a plumbing contractor described in paragraph (m) of this subsection or performing repair or maintenance work on piping for an irrigation system.

(p) An employee, as defined in ORS 657.015, of a residential general contractor licensed under ORS chapter 701 when performing work that the contractor may perform under paragraph (h) or (i) of this subsection.

(q) An employee of a licensed landscape contracting business when performing work for the business under the direct supervision of a licensed landscape construction professional.

(r) An employee of a worker leasing company or temporary service provider, both as defined in ORS 656.850, when performing work for a licensed landscape contracting business under the direct supervision of a licensed landscape construction professional.

(2) ORS 671.530 (2), (4) and (5) apply to a person described under subsection (1) of this section.

SECTION 3. ORS 671.627 is amended to read:

671.627. (1)(a) A person that executes a written contract with a landscape contracting business for work on real property [*that the person owns or leases*] may, within three business days after the date of execution, rescind the contract as provided in paragraph (b) of this subsection.

(b) A person that intends to rescind a contract described in paragraph (a) of this subsection shall deliver to the landscape contracting business a written notice that clearly states the person's intent to rescind the contract. For purposes of this paragraph, a written notice includes notice by

means of facsimile, electronic mail or other electronic notice in written form.

(2) A person may not rescind a contract as provided in subsection (1) of this section if:

(a) The person agrees in writing that the landscape contracting business may begin work under the contract before the three-day period set forth in subsection (1) of this section expires; or

(b) The person agrees to an amendment of the terms or conditions of the contract after the three-day period set forth in subsection (1) of this section expires.

(3)(a) At the same time a landscape contracting business executes a contract described in subsection (1) of this section, the landscape contracting business shall provide written notice of the right of rescission under this section to the person with whom the landscape contracting business enters into the contract.

(b) The State Landscape Contractors Board by rule may specify the form and content of the notice described in paragraph (a) of this subsection.

SECTION 4. This 2025 Act takes effect on the 91st day after the date on which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.