

Enrolled House Bill 2405

Sponsored by Representatives GELSER, SCHAUFLEER, CAMERON, Senator SCHRADER; Senators
DEVLIN, NELSON (at the request of Governor Theodore R. Kulongoski) (Presession filed.)

CHAPTER

AN ACT

Relating to building codes information; creating new provisions; amending ORS 455.095, 455.210 and 455.471; and declaring an emergency.

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

SECTION 1. Sections 2 and 3 of this 2007 Act are added to and made a part of ORS chapter 455.

SECTION 2. (1) As used in this section, “form and format”:

(a) Means the arrangement, organization, configuration, structure or style of, or method of delivery for, providing required information or providing the substantive equivalent of required information.

(b) Does not mean altering the substance of information or the addition or omission of information.

(2) The purpose of this section and ORS 455.095 is to enable the Department of Consumer and Business Services to develop and implement a system that:

- (a) Provides electronic access to building codes information;
- (b) Is designed to offer a full range of electronic building permits services;
- (c) Allows the streamlining of building inspection services;
- (d) Provides a uniform form and format for submitting building codes information electronically; and

(e) Is available for use by any municipality administering and enforcing a building inspection program.

(3) The department shall adopt rules to govern the form and format of building permit applications, building plans, specifications and other building program information exchanged through the electronic building codes information system described in ORS 455.095.

(4) The department may waive a contrary form and format requirement imposed by statute or ordinance or by the rules of another agency for the submission of information in physical form to the extent the waiver is necessary to facilitate the submission of the information electronically. The department may accept an electronic reproduction of a signature, stamp, seal, certification or notarization as the equivalent of the original or may accept the substitution of identifying information for the signature, stamp, seal, certification or notarization. The department may not waive a requirement imposed by statute or ordinance or by the rules of another agency, other than a form and format requirement.

(5) A person exchanging information through the electronic building codes information system in a form and format acceptable to the department is not subject to any licensing

sanction, civil penalty, fine, permit disapproval or revocation or other sanction for failure to comply with a form or format requirement imposed by statute, ordinance or rule for submission of the information in physical form, including but not limited to any requirement that the information be in a particular form or of a particular size, be submitted with multiple copies, be physically attached to another document be an original document or be signed, stamped, sealed, certified or notarized.

SECTION 3. (1) As used in this section:

(a) "Form and format" has the meaning given that term in section 2 of this 2007 Act.

(b) "Standards" means the content, processing, form and format of building codes information collected and maintained by municipalities.

(2) The Department of Consumer and Business Services may adopt rules establishing building codes information standards for municipalities administering and enforcing building inspection programs. The department shall design the standards to ensure consistency between municipalities regarding building inspections, permits, plans specifications and other building codes information. The department may not adopt standards that:

(a) Waive any requirement imposed by statute or by rule of another state agency for submitting building permit applications, building plans, specifications or other building program information in physical form.

(b) Require a municipality to assume or expand a building inspection program or to provide additional building inspection program services.

SECTION 4. ORS 455.095 is amended to read:

455.095. The Department of Consumer and Business Services[, *in cooperation with local jurisdictions, may*] shall develop and implement a [program] system that provides electronic access to building codes information. The department shall make the system accessible for use by municipalities in carrying out the building inspection programs administered and enforced by the municipalities. The building codes information and services available through the [program] system may include, but need not be limited to:

(1) Licensing, permit, inspection and other relevant information;

(2) Access to forms;

(2) (3) [Provision for the] Electronic submission of permit applications;

(4) Electronic submission of plans for review;

(3) (5) [The] Electronic issuance of minor label or other appropriate permits;

(4) (6) Access to [other] permit and inspection processes; and

(5) (7) Scheduling of inspections, tracking of corrections and granting of approvals.

SECTION 5. ORS 455.210 is amended to read:

455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits issued by the Department of Consumer and Business Services for the construction, reconstruction, alteration and repair of prefabricated structures and of buildings and other structures and the installation of mechanical heating and ventilating devices and equipment. The fees may not exceed 130 percent of the fee schedule printed in the "Uniform Building Code," 1979 Edition, and in the "Uniform Mechanical Code," 1979 Edition, both published by the International Conference of Building Officials. Fees are not effective until approved by the Oregon Department of Administrative Services.

(2) Notwithstanding subsection (1) of this section, the maximum fee the Director of the Department of Consumer and Business Services may prescribe for a limited plan review for fire and life safety as required under ORS 479.155 shall be 40 percent of the prescribed permit fee.

(3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and reasonable to provide for the administration and enforcement of any specialty code or codes for which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality shall give the director notice of the proposed adoption of a new or increased fee under this subsection. The municipality shall give the notice to the director at the time the municipality provides the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is

contained in an estimate of municipal budget resources, at the time notice of the last budget meeting is published in a newspaper under ORS 294.401.

(b) Ten or more persons or an association with 10 or more members may appeal the adoption of a fee described in this subsection to the Director of the Department of Consumer and Business Services. The persons or association must file the appeal no later than 60 days after the director receives notice of the proposed adoption of the fee from the municipality under paragraph (a) of this subsection. However, if the municipality failed to give notice to the director, an appeal may be filed with the director within one year after adoption of the new or increased fee. Upon receiving a timely appeal, the director shall, after notice to affected parties and hearing, review the municipality's fee adoption process and the costs of administering and enforcing the specialty code or codes referred to in paragraph (a) of this subsection. The director shall approve the fee if the director feels the fee is necessary and reasonable. If the director does not approve the fee upon appeal, the fee is not effective. The appeal process provided in this paragraph does not apply to fees that have been submitted for a vote and approved by a majority of the electors voting on the question.

(c) Fees collected by a municipality under this subsection shall be used for the administration and enforcement of a building inspection program for which the municipality has assumed responsibility under ORS 455.148 or 455.150.

(d) For purposes of paragraph (b) of this subsection, in determining whether a fee is reasonable the director shall consider whether:

(A) The fee is the same amount as or closely approximates the amount of the fee charged by other municipalities of a similar size and geographic location for the same level of service;

(B) The fee is calculated with the same or a similar calculation method as the fee charged by other municipalities for the same service;

(C) The fee is the same type as the fee charged by other municipalities for the same level of service; and

(D) The municipality, in adopting the fee, complied with ORS 294.160, 294.361 and 294.401 and this section and standards adopted by the director under ORS 455.148 (11) or 455.150 (11).

(4) Notwithstanding any other provision of [ORS 455.010 to 455.240, 455.310, 455.315 and 455.410 to 455.740,] **this chapter:**

(a) For the purpose of partially defraying state administrative costs, there is [hereby] imposed a surcharge in the amount of four percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, four percent of the total hourly charges collected. [Municipalities shall collect and remit surcharges to the director as provided in ORS 455.220.]

[(5) Notwithstanding any other provisions of ORS 455.010 to 455.240, 455.310, 455.315 and 455.410 to 455.740,]

(b) For the purpose of partially defraying state inspection costs, there is [hereby] imposed a surcharge in the amount of two percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, two percent of the total hourly charges collected. [Municipalities shall collect and remit surcharges to the director as provided in ORS 455.220.]

[(6) Notwithstanding any other provision of ORS 455.010 to 455.240, 455.310, 455.315 and 455.410 to 455.740 and in addition to the surcharges imposed under subsections (4) and (5) of this section,]

(c) For the purpose of defraying the cost of administering and enforcing the state building code, there is imposed a surcharge on permit fees and on hourly charges collected instead of permit fees. The surcharge may not exceed one percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, one percent of the total hourly charges collected.

(d) For the purpose of defraying the cost of developing and administering the electronic building codes information system described in section 2 of this 2007 Act and ORS 455.095, there is imposed a surcharge in the amount of five percent on permit fees, or if the applicant chooses to pay an hourly rate instead of purchasing a permit, five percent of the total hourly charges collected. However, the department may adopt rules to waive a portion of the surcharge imposed under this paragraph if the department determines that the amount col-

lected by the surcharge imposed under this paragraph exceeds the actual cost to the department of developing and administering the electronic building codes information system described in section 2 of this 2007 Act and ORS 455.095

(5) Municipalities shall collect and remit surcharges imposed under subsection (4) of this section to the director as provided in ORS 455.220.

[7] (6) The director shall adopt administrative rules to allow reduced fees for review of plans that have been previously reviewed.

SECTION 6. ORS 455.210, as amended by section 5 of this 2007 Act, is amended to read:

455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits issued by the Department of Consumer and Business Services for the construction, reconstruction, alteration and repair of prefabricated structures and of buildings and other structures and the installation of mechanical heating and ventilating devices and equipment. The fees may not exceed 130 percent of the fee schedule printed in the "Uniform Building Code," 1979 Edition, and in the "Uniform Mechanical Code," 1979 Edition, both published by the International Conference of Building Officials. Fees are not effective until approved by the Oregon Department of Administrative Services.

(2) Notwithstanding subsection (1) of this section, the maximum fee the Director of the Department of Consumer and Business Services may prescribe for a limited plan review for fire and life safety as required under ORS 479.155 shall be 40 percent of the prescribed permit fee.

(3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and reasonable to provide for the administration and enforcement of any specialty code or codes for which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality shall give the director notice of the proposed adoption of a new or increased fee under this subsection. The municipality shall give the notice to the director at the time the municipality provides the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is contained in an estimate of municipal budget resources, at the time notice of the last budget meeting is published in a newspaper under ORS 294.401.

(b) Ten or more persons or an association with 10 or more members may appeal the adoption of a fee described in this subsection to the Director of the Department of Consumer and Business Services. The persons or association must file the appeal no later than 60 days after the director receives notice of the proposed adoption of the fee from the municipality under paragraph (a) of this subsection. However, if the municipality failed to give notice to the director, an appeal may be filed with the director within one year after adoption of the new or increased fee. Upon receiving a timely appeal, the director shall, after notice to affected parties and hearing, review the municipality's fee adoption process and the costs of administering and enforcing the specialty code or codes referred to in paragraph (a) of this subsection. The director shall approve the fee if the director feels the fee is necessary and reasonable. If the director does not approve the fee upon appeal, the fee is not effective. The appeal process provided in this paragraph does not apply to fees that have been submitted for a vote and approved by a majority of the electors voting on the question.

(c) Fees collected by a municipality under this subsection shall be used for the administration and enforcement of a building inspection program for which the municipality has assumed responsibility under ORS 455.148 or 455.150.

(d) For purposes of paragraph (b) of this subsection, in determining whether a fee is reasonable the director shall consider whether:

(A) The fee is the same amount as or closely approximates the amount of the fee charged by other municipalities of a similar size and geographic location for the same level of service;

(B) The fee is calculated with the same or a similar calculation method as the fee charged by other municipalities for the same service;

(C) The fee is the same type as the fee charged by other municipalities for the same level of service; and

(D) The municipality, in adopting the fee, complied with ORS 294.160, 294.361 and 294.401 and this section and standards adopted by the director under ORS 455.148 (11) or 455.150 (11).

(4) Notwithstanding any other provision of this chapter:

(a) For the purpose of partially defraying state administrative costs, there is imposed a surcharge in the amount of four percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, four percent of the total hourly charges collected.

(b) For the purpose of partially defraying state inspection costs, there is imposed a surcharge in the amount of two percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, two percent of the total hourly charges collected.

(c) For the purpose of defraying the cost of administering and enforcing the state building code, there is imposed a surcharge on permit fees and on hourly charges collected instead of permit fees. The surcharge may not exceed one percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, one percent of the total hourly charges collected.

[(d) For the purpose of defraying the cost of developing and administering the electronic building codes information system described in section 2 of this 2007 Act and ORS 455.095, there is imposed a surcharge in the amount of five percent on permit fees, or if the applicant chooses to pay an hourly rate instead of purchasing a permit, five percent of the total hourly charges collected. However, the department may adopt rules to waive a portion of the surcharge imposed under this paragraph if the department determines that the amount collected by the surcharge imposed under this paragraph exceeds the actual cost to the department of developing and administering the electronic building codes information system described in section 2 of this 2007 Act and ORS 455.095.]

(5) Municipalities shall collect and remit surcharges imposed under subsection (4) of this section to the director as provided in ORS 455.220.

(6) The director shall adopt administrative rules to allow reduced fees for review of plans that have been previously reviewed.

SECTION 7. ORS 455.471 is amended to read:

455.471. (1) Fee amounts shall not be established by the Director of the Department of Consumer and Business Services or any municipality for fees charged by persons licensed under ORS 455.457.

(2) Fees charged by a person licensed under ORS 455.457 shall include a surcharge equal to the percentage amounts established for municipalities under ORS 455.210 [(4) and (5)] (4)(a) and (b) and 455.220 (1). The surcharges shall be remitted quarterly to the department to partially defray the department's administration, inspection and training costs incurred pursuant to ORS 455.455, 455.457, 455.461 and 455.463. Funds received by the department under this section shall be deposited in the Consumer and Business Services Fund created by ORS 705.145.

SECTION 8. (1) The amendments to ORS 455.210 and 455.471 by sections 5 and 7 of this 2007 Act become operative January 1, 2008.

(2) The amendments to ORS 455.210 by section 6 of this 2007 Act become operative January 2, 2018.

SECTION 9. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

Passed by House February 20, 2007

Repassed by House April 5, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate April 3, 2007

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President of Senate

Received by Governor:

.....M,....., 2007

Approved:

.....M,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State