

# House Bill 2405

Sponsored by Representatives GELSER, SCHAUFLER, CAMERON, Senator SCHRADER; Senator NELSON (at the request of Governor Theodore R. Kulongoski) (Pre-session filed.)

## 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**.

Expands scope of Department of Consumer and Business Services electronic building codes information system. Requires department to make system available for use by municipalities administering and enforcing building inspection programs.

Authorizes department to develop form and format for exchanging information through electronic building code information system. Exempts information exchanged through electronic building codes information system in form and format acceptable to department from form and format requirements for submission of information in physical form.

Imposes surcharge on permits to defray cost of administering electronic system.

Allows department to develop uniform building code information standards for municipalities administering and enforcing building inspection programs.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to building codes information; creating new provisions; amending ORS 455.095, 455.210 and  
3 455.471; and declaring an emergency.

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

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

7 **SECTION 2. (1) As used in this section, "form and format":**

8 **(a) Means the arrangement, organization, configuration, structure or style of, or method**  
9 **of delivery for, providing required information or providing the substantive equivalent of re-**  
10 **quired information.**

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

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

15 **(a) Provides electronic access to building codes information;**

16 **(b) Is designed to offer a full range of electronic building permits services;**

17 **(c) Allows the streamlining of building inspection services;**

18 **(d) Provides a uniform form and format for submitting building codes information elec-**  
19 **tronically; and**

20 **(e) Is available for use by any municipality administering and enforcing a building in-**  
21 **spection program.**

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

25 **(4) The department may waive a contrary form and format requirement imposed by**

**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 statute or ordinance or by the rules of another agency for the submission of information in  
 2 physical form to the extent the waiver is necessary to facilitate the submission of the in-  
 3 formation electronically. The department may accept an electronic reproduction of a signa-  
 4 ture, stamp, seal, certification or notarization as the equivalent of the original or may accept  
 5 the substitution of identifying information for the signature, stamp, seal, certification or  
 6 notarization. The department may not waive a requirement imposed by statute or ordinance  
 7 or by the rules of another agency, other than a form and format requirement.

8 (5) A person exchanging information through the electronic building codes information  
 9 system in a form and format acceptable to the department is not subject to any licensing  
 10 sanction, civil penalty, fine, permit disapproval or revocation or other sanction for failure  
 11 to comply with a form or format requirement imposed by statute, ordinance or rule for  
 12 submission of the information in physical form, including but not limited to any requirement  
 13 that the information be in a particular form or of a particular size, be submitted with mul-  
 14 tiple copies, be physically attached to another document be an original document or be  
 15 signed, stamped, sealed, certified or notarized.

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

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

18 (b) "Standards" means the content, processing, form and format of building codes infor-  
 19 mation collected and maintained by municipalities.

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

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

28 (b) Require a municipality to assume or expand a building inspection program or to pro-  
 29 vide additional building inspection program services.

30 **SECTION 4.** ORS 455.095 is amended to read:

31 455.095. The Department of Consumer and Business Services[, *in cooperation with local jurisdic-*  
 32 *tions, may*] shall develop and implement a [*program*] **system** that provides electronic access to  
 33 building codes information. **The department shall make the system accessible for use by**  
 34 **municipalities in carrying out the building inspection programs administered and enforced**  
 35 **by the municipalities.** The building codes information and services available through the  
 36 [*program*] **system** may include, but need not be limited to:

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

38 (2) **Access to forms;**

39 [(2)] (3) [*Provision for the*] Electronic submission of permit applications;

40 (4) **Electronic submission of plans for review;**

41 [(3)] (5) [*The*] Electronic issuance of minor label or other appropriate permits;

42 [(4)] (6) Access to [*other*] permit and inspection processes; and

43 [(5)] (7) Scheduling of inspections, tracking of corrections and granting of approvals.

44 **SECTION 5.** ORS 455.210 is amended to read:

45 455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits

1 issued by the Department of Consumer and Business Services for the construction, reconstruction,  
 2 alteration and repair of prefabricated structures and of buildings and other structures and the in-  
 3 stallation of mechanical heating and ventilating devices and equipment. The fees may not exceed 130  
 4 percent of the fee schedule printed in the "Uniform Building Code," 1979 Edition, and in the "Uni-  
 5 form Mechanical Code," 1979 Edition, both published by the International Conference of Building  
 6 Officials. Fees are not effective until approved by the Oregon Department of Administrative Ser-  
 7 vices.

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

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

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

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

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

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

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

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

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

45 (4) Notwithstanding any other provision of [ORS 455.010 to 455.240, 455.310, 455.315 and 455.410

1 to 455.740,] **this chapter:**

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

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

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

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

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

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

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

29 [(7)] (6) The director shall adopt administrative rules to allow reduced fees for review of plans  
 30 that have been previously reviewed.

31 **SECTION 6.** ORS 455.471 is amended to read:

32 455.471. (1) Fee amounts shall not be established by the Director of the Department of Consumer  
 33 and Business Services or any municipality for fees charged by persons licensed under ORS 455.457.

34 (2) Fees charged by a person licensed under ORS 455.457 shall include a surcharge equal to the  
 35 percentage amounts established for municipalities under ORS 455.210 [(4) and (5)] (4)(a) and (b) and  
 36 455.220 (1). The surcharges shall be remitted quarterly to the department to partially defray the  
 37 department’s administration, inspection and training costs incurred pursuant to ORS 455.455,  
 38 455.457, 455.461 and 455.463. Funds received by the department under this section shall be deposited  
 39 in the Consumer and Business Services Fund created by ORS 705.145.

40 **SECTION 7. The amendments to ORS 455.210 and 455.471 by sections 5 and 6 of this 2007**  
 41 **Act become operative January 1, 2008.**

42 **SECTION 8. This 2007 Act being necessary for the immediate preservation of the public**  
 43 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**  
 44 **on its passage.**