

## HOUSE AMENDMENTS TO HOUSE BILL 2478

By COMMITTEE ON BUSINESS AND LABOR

May 8

1 On page 1 of the printed bill, line 2, after the second semicolon delete the rest of the line and  
2 line 3 and insert “amending ORS 455.148; and declaring an emergency.”.

3 Delete lines 5 through 30 and delete pages 2 through 9 and insert:

4 “**SECTION 1.** ORS 455.148 is amended to read:

5 “455.148. (1)(a) A municipality that assumes the administration and enforcement of a building  
6 inspection program [*on or after January 1, 2002,*] shall administer and enforce the program for all  
7 of the following:

8 “(A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of  
9 this subsection;

10 “(B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and  
11 446.230;

12 “(C) Manufactured dwelling parks and mobile home parks under ORS chapter 446;

13 “(D) Park and camp programs regulated under ORS 455.680;

14 “(E) Tourist facilities regulated under ORS 446.310 to 446.350;

15 “(F) Manufactured dwelling alterations regulated under ORS 446.155; and

16 “(G) Manufactured structure accessory buildings and structures under ORS 446.253.

17 “(b) A building inspection program of a municipality may not include:

18 “(A) Boiler and pressure vessel programs under ORS 480.510 to 480.670;

19 “(B) Elevator programs under ORS 460.005 to 460.175;

20 “(C) Amusement ride regulation under ORS 460.310 to 460.370;

21 “(D) Prefabricated structure regulation under ORS chapter 455;

22 “(E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including  
23 the administration and enforcement of federal manufactured dwelling construction and safety stan-  
24 dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety  
25 Standards Act of 1974;

26 “(F) Licensing and certification, or the adoption of statewide codes and standards, under ORS  
27 chapter 446, 447, 455, 479 or 693; or

28 “(G) Review of plans and specifications as provided in ORS 455.685.

29 “(2) A municipality that administers a building inspection program as allowed under this section  
30 shall do so for periods of four years. The Department of Consumer and Business Services shall adopt  
31 rules to adjust time periods for administration of a building inspection program to allow for vari-  
32 ations in the needs of the department and participants.

33 “(3) When a municipality administers a building inspection program, the governing body of the  
34 municipality shall, unless other means are already provided, appoint a person to administer and  
35 enforce the building inspection program, who shall be known as the building official. A building of-

1 ficial shall, in the municipality for which appointed, attend to all aspects of code enforcement, in-  
2 cluding the issuance of all building permits. Two or more municipalities may combine in the  
3 appointment of a single building official for the purpose of administering a building inspection pro-  
4 gram within their communities.

5 “(4)(a) By January 1 of the year preceding the expiration of the four-year period described in  
6 subsection (2) of this section, the governing body of the municipality shall notify the Director of the  
7 Department of Consumer and Business Services and, if the municipality is not a county, notify the  
8 county whether the municipality will continue to administer and enforce the building inspection  
9 program after expiration of the four-year period.

10 “(b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the di-  
11 rector and the municipality and, if the municipality is not a county, the county may by agreement  
12 extend that date to no later than March 1.

13 “(5) If a city does not notify the director, or notifies the director that it will not administer the  
14 building inspection program, the county or counties in which the city is located shall administer and  
15 enforce the county program within the city in the same manner as the program is administered and  
16 enforced outside the city, except as provided by subsection (6) of this section.

17 “(6) If a county does not notify the director, or notifies the director that it will not administer  
18 and enforce a building inspection program, the director shall contract with a municipality or other  
19 person or use such state employees or state agencies as are necessary to administer and enforce a  
20 building inspection program, and permit or other fees arising therefrom shall be paid into the Con-  
21 sumer and Business Services Fund created by ORS 705.145 and credited to the account responsible  
22 for paying the expenses thereof. A state employee may not be displaced as a result of using contract  
23 personnel.

24 “(7)(a) The governing body of a municipality may commence responsibility for the administration  
25 and enforcement of a building inspection program beginning July 1 of any year by notifying the di-  
26 rector no later than January 1 of the same year and obtaining the director’s approval of an as-  
27 sumption plan as described in subsection (11)(c) of this section.

28 **“(b) Notwithstanding paragraph (a) of this subsection, a municipality may not assume**  
29 **responsibility for administering and enforcing a building inspection program within the**  
30 **municipality unless:**

31 **“(A) Prior to the assumption, the municipality is subject to ORS 455.150; or**

32 **“(B) Responsibility for the program is being assumed from the department.**

33 “(8) The department shall adopt rules to require the governing body of each municipality as-  
34 suming or continuing a building inspection program under this section to submit a written plan with  
35 the notice required under subsection (4) or (7) of this section. If the department is the governing  
36 body, the department shall have a plan on file. The plan must specify how cooperation with the State  
37 Fire Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code  
38 will be considered in the review process of the design and construction phases of buildings or  
39 structures.

40 “(9) A municipality that administers and enforces a building inspection program pursuant to this  
41 section shall recognize and accept the performances of state building code activities by businesses  
42 and persons authorized under ORS 455.457 to perform the activities as if the activities were per-  
43 formed by the municipality. A municipality is not required to accept an inspection, a plan or a plan  
44 review that does not meet the requirements of the state building code.

45 “(10) The department or a municipality that accepts an inspection or plan review as required

1 by this section by a person licensed under ORS 455.457 has no responsibility or liability for the ac-  
2 tivities of the licensee.

3 “(11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate  
4 building inspection programs that municipalities assume on or after January 1, 2002. Regulation  
5 under this subsection shall include but not be limited to:

6 “(a) Creating building inspection program application and amendment requirements and proce-  
7 dures;

8 “(b) Granting or denying applications for building inspection program authority and amend-  
9 ments;

10 “(c) Requiring a municipality assuming a building inspection program to submit with the notice  
11 given under subsection (7) of this section an assumption plan that includes, at a minimum:

12 “(A) A description of the intended availability of program services, including proposed service  
13 agreements for carrying out the program during at least the first two years;

14 “(B) Demonstration of the ability and intent to provide building inspection program services for  
15 at least two years;

16 “(C) An estimate of proposed permit revenue and program operating expenses;

17 “(D) Proposed staffing levels; and

18 “(E) Proposed service levels;

19 “(d) Reviewing procedures and program operations of municipalities;

20 “(e) Creating standards for efficient, effective, timely and acceptable building inspection pro-  
21 grams;

22 “(f) Creating standards for justifying increases in building inspection program fees adopted by  
23 a municipality;

24 “(g) Creating standards for determining whether a county or department building inspection  
25 program is economically impaired in its ability to reasonably continue providing the program  
26 throughout a county, if another municipality is allowed to provide a building inspection program  
27 within the same county; and

28 “(h) Enforcing the requirements of this section.

29 “(12) The department may assume administration of a building inspection program:

30 “(a) During the pendency of activities under ORS 455.770;

31 “(b) If a municipality abandons or is no longer able to administer the building inspection pro-  
32 gram; and

33 “(c) If a municipality fails to substantially comply with any provision of this section or of ORS  
34 455.465, 455.467 and 455.469.

35 “(13) A municipality that abandons or otherwise ceases to administer a building inspection pro-  
36 gram that the municipality assumed under this section may not resume the administration or  
37 enforcement of the program for at least two years. The municipality may resume the administration  
38 and enforcement of the abandoned program only on July 1 of an odd-numbered year. Prior to re-  
39 suming the administration and enforcement of the program, the municipality must follow the notifi-  
40 cation procedure set forth in subsection (7) of this section.

41 “**SECTION 2.** ORS 455.148, as amended by section 1 of this 2007 Act, is amended to read:

42 “455.148. (1)(a) A municipality that assumes the administration and enforcement of a building  
43 inspection program shall administer and enforce the program for all of the following:

44 “(A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of  
45 this subsection;

1 “(B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and  
2 446.230;

3 “(C) Manufactured dwelling parks and mobile home parks under ORS chapter 446;

4 “(D) Park and camp programs regulated under ORS 455.680;

5 “(E) Tourist facilities regulated under ORS 446.310 to 446.350;

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7 “(G) Manufactured structure accessory buildings and structures under ORS 446.253.

8 “(b) A building inspection program of a municipality may not include:

9 “(A) Boiler and pressure vessel programs under ORS 480.510 to 480.670;

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11 “(C) Amusement ride regulation under ORS 460.310 to 460.370;

12 “(D) Prefabricated structure regulation under ORS chapter 455;

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14 the administration and enforcement of federal manufactured dwelling construction and safety stan-  
15 dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety  
16 Standards Act of 1974;

17 “(F) Licensing and certification, or the adoption of statewide codes and standards, under ORS  
18 chapter 446, 447, 455, 479 or 693; or

19 “(G) Review of plans and specifications as provided in ORS 455.685.

20 “(2) A municipality that administers a building inspection program as allowed under this section  
21 shall do so for periods of four years. The Department of Consumer and Business Services shall adopt  
22 rules to adjust time periods for administration of a building inspection program to allow for vari-  
23 ations in the needs of the department and participants.

24 “(3) When a municipality administers a building inspection program, the governing body of the  
25 municipality shall, unless other means are already provided, appoint a person to administer and  
26 enforce the building inspection program, who shall be known as the building official. A building of-  
27 ficial shall, in the municipality for which appointed, attend to all aspects of code enforcement, in-  
28 cluding the issuance of all building permits. Two or more municipalities may combine in the  
29 appointment of a single building official for the purpose of administering a building inspection pro-  
30 gram within their communities.

31 “(4)(a) By January 1 of the year preceding the expiration of the four-year period described in  
32 subsection (2) of this section, the governing body of the municipality shall notify the Director of the  
33 Department of Consumer and Business Services and, if the municipality is not a county, notify the  
34 county whether the municipality will continue to administer and enforce the building inspection  
35 program after expiration of the four-year period.

36 “(b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the di-  
37 rector and the municipality and, if the municipality is not a county, the county may by agreement  
38 extend that date to no later than March 1.

39 “(5) If a city does not notify the director, or notifies the director that it will not administer the  
40 building inspection program, the county or counties in which the city is located shall administer and  
41 enforce the county program within the city in the same manner as the program is administered and  
42 enforced outside the city, except as provided by subsection (6) of this section.

43 “(6) If a county does not notify the director, or notifies the director that it will not administer  
44 and enforce a building inspection program, the director shall contract with a municipality or other  
45 person or use such state employees or state agencies as are necessary to administer and enforce a

1 building inspection program, and permit or other fees arising therefrom shall be paid into the Con-  
2 sumer and Business Services Fund created by ORS 705.145 and credited to the account responsible  
3 for paying the expenses thereof. A state employee may not be displaced as a result of using contract  
4 personnel.

5 “(7)[(a)] The governing body of a municipality may commence responsibility for the adminis-  
6 tration and enforcement of a building inspection program beginning July 1 of any year by notifying  
7 the director no later than January 1 of the same year and obtaining the director’s approval of an  
8 assumption plan as described in subsection (11)(c) of this section.

9 “[*(b) Notwithstanding paragraph (a) of this subsection, a municipality may not assume responsi-*  
10 *bility for administering and enforcing a building inspection program within the municipality unless:*]

11 “[*(A) Prior to the assumption, the municipality is subject to ORS 455.150; or*]

12 “[*(B) Responsibility for the program is being assumed from the department.*]

13 “(8) The department shall adopt rules to require the governing body of each municipality as-  
14 suming or continuing a building inspection program under this section to submit a written plan with  
15 the notice required under subsection (4) or (7) of this section. If the department is the governing  
16 body, the department shall have a plan on file. The plan must specify how cooperation with the State  
17 Fire Marshal or a designee of the State Fire Marshal will be achieved and how a uniform fire code  
18 will be considered in the review process of the design and construction phases of buildings or  
19 structures.

20 “(9) A municipality that administers and enforces a building inspection program pursuant to this  
21 section shall recognize and accept the performances of state building code activities by businesses  
22 and persons authorized under ORS 455.457 to perform the activities as if the activities were per-  
23 formed by the municipality. A municipality is not required to accept an inspection, a plan or a plan  
24 review that does not meet the requirements of the state building code.

25 “(10) The department or a municipality that accepts an inspection or plan review as required  
26 by this section by a person licensed under ORS 455.457 has no responsibility or liability for the ac-  
27 tivities of the licensee.

28 “(11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate  
29 building inspection programs that municipalities assume on or after January 1, 2002. Regulation  
30 under this subsection shall include but not be limited to:

31 “(a) Creating building inspection program application and amendment requirements and proce-  
32 dures;

33 “(b) Granting or denying applications for building inspection program authority and amend-  
34 ments;

35 “(c) Requiring a municipality assuming a building inspection program to submit with the notice  
36 given under subsection (7) of this section an assumption plan that includes, at a minimum:

37 “(A) A description of the intended availability of program services, including proposed service  
38 agreements for carrying out the program during at least the first two years;

39 “(B) Demonstration of the ability and intent to provide building inspection program services for  
40 at least two years;

41 “(C) An estimate of proposed permit revenue and program operating expenses;

42 “(D) Proposed staffing levels; and

43 “(E) Proposed service levels;

44 “(d) Reviewing procedures and program operations of municipalities;

45 “(e) Creating standards for efficient, effective, timely and acceptable building inspection pro-

1 grams;

2 “(f) Creating standards for justifying increases in building inspection program fees adopted by

3 a municipality;

4 “(g) Creating standards for determining whether a county or department building inspection

5 program is economically impaired in its ability to reasonably continue providing the program

6 throughout a county, if another municipality is allowed to provide a building inspection program

7 within the same county; and

8 “(h) Enforcing the requirements of this section.

9 “(12) The department may assume administration of a building inspection program:

10 “(a) During the pendency of activities under ORS 455.770;

11 “(b) If a municipality abandons or is no longer able to administer the building inspection pro-

12 gram; and

13 “(c) If a municipality fails to substantially comply with any provision of this section or of ORS

14 455.465, 455.467 and 455.469.

15 “(13) A municipality that abandons or otherwise ceases to administer a building inspection pro-

16 gram that the municipality assumed under this section may not resume the administration or

17 enforcement of the program for at least two years. The municipality may resume the administration

18 and enforcement of the abandoned program only on July 1 of an odd-numbered year. Prior to re-

19 suming the administration and enforcement of the program, the municipality must follow the notifi-

20 cation procedure set forth in subsection (7) of this section.

21 **“SECTION 3. (1) The amendments to ORS 455.148 by section 1 of this 2007 Act apply to**

22 **the assumption of building inspection programs on or after July 1, 2007. If this 2007 Act takes**

23 **effect after July 1, 2007, a municipality that does not qualify under ORS 455.148 (7)(b) as set**

24 **forth in section 1 of this 2007 Act and that assumed a building inspection program on July**

25 **1, 2007, shall return responsibility for the program to the transferring municipality on the**

26 **effective date of this 2007 Act.**

27 **“(2) The amendments to ORS 455.148 by section 2 of this 2007 Act apply to the assumption**

28 **of building inspection programs on or after July 1, 2010.**

29 **“SECTION 4. This 2007 Act being necessary for the immediate preservation of the public**

30 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**

31 **on its passage.”.**

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