

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2478

By COMMITTEE ON BUSINESS, TRANSPORTATION AND WORKFORCE DEVELOPMENT

May 29

1 On page 1 of the printed A-engrossed bill, line 2, after “455.148” insert “and 455.895”.

2 After line 4, insert:

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

5 “**SECTION 2.** The Director of the Department of Consumer and Business Services may
6 adopt rules establishing uniform permit, inspection and certificate of occupancy require-
7 ments under the state building code. The rules may include, but need not be limited to, rules
8 establishing standards for building inspections and inspection procedures and rules estab-
9 lishing uniform forms for certificates of occupancy. In adopting rules under this section, the
10 director may establish a process for a municipality to address conditions that are unique to
11 the municipality’s enforcement of the state building code or that are not addressed by the
12 rules establishing uniform permit, inspection and certificate of occupancy requirements.

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

14 “(a) ‘Public body’ has the meaning given that term in ORS 174.109.

15 “(b) ‘Work on a structure’ means the construction, reconstruction, alteration or repair
16 of a structure.

17 “(2) A public body that administers and enforces a building inspection program shall en-
18 sure that a person required to be licensed under a provision of ORS 446.003 to 446.200, 446.225
19 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666 to 446.746, 479.510 to 479.945, 479.950
20 and 480.510 to 480.670, this chapter or ORS chapter 447, 460 or 693 in order to obtain a permit
21 for work on a structure has a current, valid license of the type required for the permit.”.

22 In line 5, delete “1” and insert “4”.

23 On page 4, line 7, delete “2” and insert “5”.

24 On page 6, after line 28, insert:

25 “**SECTION 6.** ORS 455.895 is amended to read:

26 “455.895. (1)(a) The State Plumbing Board may impose a civil penalty against a person as pro-
27 vided under ORS 447.992 and 693.992. Amounts recovered under this paragraph are subject to ORS
28 693.165.

29 “(b) The Electrical and Elevator Board may impose a civil penalty against a person as provided
30 under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.

31 “(c) The Board of Boiler Rules may impose a civil penalty against a person as provided under
32 ORS 480.670. Amounts recovered under this paragraph shall be deposited to the General Fund.

33 “(2) The Director of the Department of Consumer and Business Services, in consultation with
34 the appropriate board, if any, may impose a civil penalty against any person who violates any pro-
35 vision of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666

1 to 446.746, 479.510 to 479.945, 479.950 and 480.510 to 480.670 and this chapter and ORS chapters 447,
2 460 and 693, or any rule adopted or order issued for the administration and enforcement of those
3 provisions. Except as provided in subsections (3), (4) and [(8)] (9) of this section or ORS 446.995, a
4 civil penalty imposed under this section must be in an amount determined by the appropriate board
5 or the director of not more than \$5,000 for each offense or, in the case of a continuing offense, not
6 more than \$1,000 for each day of the offense.

7 “(3) Each violation of ORS 446.003 to 446.200 or 446.225 to 446.285, or any rule or order issued
8 thereunder, constitutes a separate violation with respect to each manufactured structure or with
9 respect to each failure or refusal to allow or perform an act required thereby, except that the
10 maximum civil penalty may not exceed \$1 million for any related series of violations occurring
11 within one year from the date of the first violation.

12 “(4) **The director may impose a civil penalty of not more than \$25,000 against a public**
13 **body responsible for administering and enforcing a building inspection program. As used in**
14 **this subsection, ‘public body’ has the meaning given that term in ORS 174.109.**

15 “[4)] (5) The maximum penalty established by this section for a violation may be imposed only
16 upon a finding that the person has engaged in a pattern of violations. The Department of Consumer
17 and Business Services, by rule, shall define what constitutes a pattern of violations. Except as pro-
18 vided in subsections (1) and [(9)] (10) of this section, moneys received from any civil penalty under
19 this section are appropriated continuously for and shall be used by the director for enforcement and
20 administration of provisions and rules described in subsection (2) of this section.

21 “[5)] (6) Civil penalties under this section shall be imposed as provided in ORS 183.745.

22 “[6)] (7) A civil penalty imposed under this section may be remitted or reduced upon such terms
23 and conditions as the director or the appropriate board considers proper and consistent with the
24 public health and safety. In any judicial review of a civil penalty imposed under this section, the
25 court may, in its discretion, reduce the penalty.

26 “[7)] (8) Any officer, director, shareholder or agent of a corporation, or member or agent of a
27 partnership or association, who personally participates in or is an accessory to any violation by the
28 partnership, association or corporation of a provision or rule described in subsection (2) of this
29 section is subject to the penalties prescribed in this section.

30 “[8)] (9) In addition to the civil penalty set forth in subsection (1) or (2) of this section, any
31 person who violates a provision or rule described in subsection (2) of this section may be required
32 by the director or the appropriate board to forfeit and pay to the General Fund of the State Treas-
33 ury a civil penalty in an amount determined by the director or board that shall not exceed five times
34 the amount by which such person profited in any transaction that violates a provision or rule de-
35 scribed in subsection (2) of this section.

36 “[9)] (10) If a civil penalty is imposed for a violation of a provision of ORS 446.566 to 446.646
37 and the violation relates to a filing or failure to file with a county assessor functioning as agent of
38 the department, the department, after deducting an amount equal to the department’s procedural,
39 collection and other related costs and expenses, shall forward one-half of the remaining civil penalty
40 amount to the county in which the manufactured structure is located at the time of the violation.”.

41 In line 29, delete “3” and insert “7” and delete “1” and insert “4”.

42 In line 32, delete “1” and insert “4”.

43 In line 35, delete “2” and insert “5”.

44 In line 37, delete “4” and insert “8”.