

# Enrolled House Bill 3462

Sponsored by Representative GILMAN; Representatives BEYER, BOONE, COWAN, ESQUIVEL, GARRARD, KENNEMER, ROBLAN, SCHAUFLER, G SMITH, Senators FERRIOLI, JOHNSON, NELSON, SCHRADER, WHITSETT (at the request of Association of Oregon Counties)

CHAPTER .....

AN ACT

Relating to building inspection program personnel; creating new provisions; and amending ORS 455.220, 455.715, 455.735 and 455.740.

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

**SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS 455.715 to 455.740.**

**SECTION 2. (1) The Director of the Department of Consumer and Business Services, with the advice of the appropriate advisory boards, may adopt rules establishing one or more programs to train, qualify and certify an individual as a specialized building inspector authorized to enforce portions of specialty codes. Notwithstanding ORS 455.720 (1) and 455.725, the rules may include, but need not be limited to, rules that establish:**

- (a) Work experience, training and other qualifications for program participation;**
- (b) Content and presentation requirements for training programs;**
- (c) Methods for verifying the qualification of the individual to enforce portions of specialty codes as a specialized building inspector certified under this section;**
- (d) The portions of various specialty codes that each program will enable a qualifying individual to enforce and any terms, conditions or classifications applicable for that enforcement; and**

**(e) Requirements the director believes reasonable for the administration and enforcement of this section.**

**(2) Notwithstanding ORS 446.250, 455.630, 455.720, 455.725, 479.530, 479.810 and 479.855, the director may issue or cause to be issued a certificate as a specialized building inspector to an individual who successfully completes an approved training program and satisfies qualification verification under this section.**

**(3) An individual certified as a specialized building inspector under this section may conduct inspections and enforce portions of specialty codes under ORS 479.510 to 479.945 and 479.950 and this chapter and ORS chapters 446, 447 and 693 as identified by the director. The enforcement of portions of specialty codes by a specialized building inspector is subject to any terms, conditions or classifications applicable to that enforcement established by the director by rule.**

**SECTION 3. (1) Section 2 of this 2009 Act is repealed January 2, 2016.**

**(2) Notwithstanding the repeal of section 2 of this 2009 Act by subsection (1) of this section, unless suspended or revoked, a certificate issued under section 2 of this 2009 Act that is in effect on January 2, 2016, shall continue in effect until the earlier of:**

**(a) The expiration of the certificate term; or**

**(b) January 2, 2018.**

**SECTION 4.** ORS 455.220 is amended to read:

455.220. (1) There is hereby imposed a surcharge in the amount of one percent of the total building 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 in connection with the construction of, or addition or alteration to, buildings and equipment or appurtenances. Up to one-half of the surcharge collected under this subsection may be used to fund the activities described in ORS 455.042 and 455.046. The remainder of the surcharge collected under this subsection shall be used for the purpose of defraying the costs of training and other educational programs administered by the Department of Consumer and Business Services under this chapter.

(2) Permit surcharges shall be collected by each municipality and remitted to the Director of the Department of Consumer and Business Services. Each municipality having a population greater than 40,000 shall, on a monthly basis, prepare and submit to the director a report of permits and certificates issued in each class or category and fees and surcharges thereon collected during the month, together with other statistical information as required by the director concerning construction activity regulated by the parts of the state building code administered by the municipality. All other municipalities shall submit a report described in this subsection on a quarterly basis. The report shall be in a form prescribed by the director and shall be submitted, together with a remittance covering the surcharges collected, by no later than the 15th day following the month or quarter in which the surcharges are collected.

(3)(a) All surcharges and other fees prescribed by ORS 455.010 to 455.240 and 455.410 to 455.740 and payable to the department, except fees received under ORS 455.148 (6) or 455.150 (6), shall be deposited by the director in the Consumer and Business Services Fund created by ORS 705.145.

(b) Notwithstanding subsection (1) of this section, the surcharge imposed under subsection (1) of this section for permits established under ORS 446.062 (3), 446.176, 446.405 (2), 446.430 (2) and 455.170 (2) shall be deposited in the Consumer and Business Services Fund established under ORS 705.145 and is continuously appropriated to the department for use as provided in ORS 446.423.

(4) **Except as provided in subsection (5) of this section,** the director shall administer training and other education programs under this chapter through contracts with local educational institutions, professional associations or other training providers.

**(5) The director may:**

**(a) Arrange for the department to offer training and other education programs for building officials and building inspectors; or**

**(b) Arrange for local educational institutions, professional associations or other training providers to offer training and other education programs for building officials and building inspectors. A contract between the director and a training provider under this paragraph is subject to ORS 279B.235, but is otherwise exempt from ORS chapters 279A and 279B and ORS 279C.100 to 279C.125 and 279C.300 to 279C.470.**

**SECTION 5.** ORS 455.715 is amended to read:

455.715. As used in ORS 455.715 to 455.740, unless the context otherwise requires:

(1) "Building official" means a person charged by a municipality with responsibility for administration and enforcement of the state building code in the municipality.

(2) "Business of providing prefabricated structure plan approvals and inspections" means an independent contractor providing prefabricated structure plan approval or inspection services, or both, under the following specialty codes, as provided in ORS 455.020, 455.705 and 455.715:

(a) Structural;

(b) Mechanical;

(c) Plumbing;

- (d) Electrical; and
  - (e) Low-rise residential dwelling.
- (3) "Inspector" means:

(a) A person, including a plans examiner, acting under the authority and direction of a building official and charged with the responsibility of routine enforcement of any specialty code; *[or]*

(b) A person, including a plans examiner, who provides enforcement of any specialty code, who is personally in the business of providing prefabricated structure plan approvals or inspections or is employed by such a business.; **or**

**(c) A specialized building inspector certified under section 2 of this 2009 Act.**

**SECTION 6.** ORS 455.715, as amended by section 5 of this 2009 Act, is amended to read:

455.715. As used in ORS 455.715 to 455.740, unless the context otherwise requires:

(1) "Building official" means a person charged by a municipality with responsibility for administration and enforcement of the state building code in the municipality.

(2) "Business of providing prefabricated structure plan approvals and inspections" means an independent contractor providing prefabricated structure plan approval or inspection services, or both, under the following specialty codes, as provided in ORS 455.020, 455.705 and 455.715:

- (a) Structural;
  - (b) Mechanical;
  - (c) Plumbing;
  - (d) Electrical; and
  - (e) Low-rise residential dwelling.
- (3) "Inspector" means:

(a) A person, including a plans examiner, acting under the authority and direction of a building official and charged with the responsibility of routine enforcement of any specialty code; **or**

(b) A person, including a plans examiner, who provides enforcement of any specialty code, who is personally in the business of providing prefabricated structure plan approvals or inspections or is employed by such a business.; *or]*

*[(c) A specialized building inspector certified under section 2 of this 2009 Act.]*

**SECTION 7.** ORS 455.735 is amended to read:

455.735. (1) **The Director of the Department of Consumer and Business Services may issue certificates for building officials and building inspectors under ORS 455.715 to 455.740.**

(2) Any person desiring *[to be certified]* **issuance of an initial certificate** as a building official or inspector *[pursuant to ORS 455.715 to 455.740]* shall make application to the director *[of the Department of Consumer and Business Services]* upon such forms as the director may prescribe for such purpose **and pay an application fee.**

*[(2)(a) Each person applying for certification pursuant to this section shall pay a fee of \$22.]*

*[(b)]* (3) *[In the event]* **If** the director requires, by rule, an applicant for a particular certification to pass an examination prepared by a national organization, the applicant shall pay in addition to the fee required in *[paragraph (a) of this]* subsection (2) **of this section**, the cost of the examination. **If the director requires an applicant for certification to pass an examination administered by the Department of Consumer and Business Services, the department may charge the applicant an examination administration fee.**

*[(3)]* (4) Upon determining that the applicant is qualified under ORS 455.715 to 455.740, the director shall issue a certificate or cause a certificate to be issued to the applicant.

(5) **A certificate issued under this section shall be valid for a term established by the department by rule. An applicant for renewal of a certificate shall submit an application on a form approved by the director and pay a renewal application fee.**

(6) **The department may adopt rules establishing certificate renewal requirements and establishing reasonable fees under this section.**

(7) **The department may charge fees for participation in specialized building inspector training programs approved or established by the department.**

**SECTION 8.** ORS 455.735, as amended by section 7 of this 2009 Act, is amended to read:

455.735. (1) The Director of the Department of Consumer and Business Services may issue certificates for building officials and building inspectors under ORS 455.715 to 455.740.

(2) Any person desiring issuance of an initial certificate as a building official or inspector shall make application to the director upon such forms as the director may prescribe for such purpose and pay an application fee.

(3) If the director requires, by rule, an applicant for a particular certification to pass an examination prepared by a national organization, the applicant shall pay in addition to the fee required in subsection (2) of this section, the cost of the examination. If the director requires an applicant for certification to pass an examination administered by the Department of Consumer and Business Services, the department may charge the applicant an examination administration fee.

(4) Upon determining that the applicant is qualified under ORS 455.715 to 455.740, the director shall issue a certificate or cause a certificate to be issued to the applicant.

(5) A certificate issued under this section shall be valid for a term established by the department by rule. An applicant for renewal of a certificate shall submit an application on a form approved by the director and pay a renewal application fee.

(6) The department may adopt rules establishing certificate renewal requirements and establishing reasonable fees under this section.

*[(7) The department may charge fees for participation in specialized building inspector training programs approved or established by the department.]*

**SECTION 9.** ORS 455.740 is amended to read:

455.740. (1) *[The Director of the Department of Consumer and Business Services may, upon notice and hearing, suspend or revoke the certification of any building official or inspector when it appears to the director by competent evidence that the building official or inspector:]* **Subject to ORS chapter 183, the Director of the Department of Consumer and Business Services may deny, condition, suspend, revoke or refuse to renew a certificate of a building official or inspector if the director finds that the building official or inspector has:**

(a) *[Has]* Consistently failed to act in the public interest in the performance of duties;

(b) Failed to complete the continuing education requirements as required under ORS 455.720 (4);  
*[or]*

(c) Provided false information to the department[.]; **or**

**(d) Committed an act described in ORS 455.125 or 455.129.**

(2) In any revocation proceeding under this section, the municipality that employs the building official or inspector shall be entitled to appear as a party in interest, either for or against the revocation.

(3) When a certification is suspended or revoked under this section, the director may also suspend, deny or place conditions on that person's right to reapply for certification under ORS 455.735 for a period not to exceed 12 months.

(4) *[Nothing in]* This section *[shall be construed to]* **does not** limit or otherwise affect the authority of a municipality to dismiss or suspend a building official or inspector at *[its]* **the discretion of the municipality.**

(5) Notwithstanding the requirements of subsections (1) to (4) of this section, the director may adopt rules *[which]* **that:**

(a) Allow certifications to be placed on inactive status; and

(b) Extend continuing education compliance requirements in case of illness or hardship.

**SECTION 10. The amendments to ORS 455.715 and 455.735 by sections 6 and 8 of this 2009 Act become operative January 2, 2018.**

**Passed by House May 8, 2009**

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Chief Clerk of House

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Speaker of House

**Passed by Senate June 3, 2009**

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President of Senate

**Received by Governor:**

.....M,....., 2009

**Approved:**

.....M,....., 2009

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2009

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Secretary of State