

A-Engrossed
Senate Bill 915

Ordered by the Senate April 29
Including Senate Amendments dated April 29

Sponsored by Senator MORSE

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.

[Prohibits municipality that enforces state building code provision or building requirement by means of municipal ordinance from assessing criminal penalty for ordinance violation if violation of corresponding state building code provision or building requirement is subject to civil penalty. Prohibits municipality from imposing civil penalty for ordinance violation that exceeds maximum civil penalty for violation of corresponding state building code provision or building requirement. Requires that fees municipality charges for investigation or other activities regarding alleged violation of ordinance be approved by Director of Department of Consumer and Business Services.]

[Revises grounds on which director may allow municipality to adopt municipal ordinance, rule or regulation conflicting with state building code.]

[Requires that rules for uniform enforcement of state building code provide for building official or inspector to give violator notice of penalties and procedural rights when issuing citation. Requires that rules provide appeal process for denial of certificate of occupancy if denial is based on violation of state building code specialty code.]

[Declares emergency, effective on passage.]

Requires municipality that administers building inspection program under state building code to assess violation of program as civil penalty. Requires municipality to provide notice of violation and municipal administrative process before assessing penalty.

A BILL FOR AN ACT

Relating to the regulation of structures.

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 chapter 455.

SECTION 2. (1) The Legislative Assembly finds and declares that enforcement of the state building code in a fair, equitable and uniform manner throughout this state is a matter of state concern.

(2) If a municipality administers a building inspection program under ORS 455.148 or 455.150, a monetary penalty assessed under the program for a violation must be assessed as a civil penalty. This subsection does not prohibit a municipality from charging a violator an increased permit fee or investigative fee, seeking injunctive relief from a violation or taking any enforcement action that does not include a monetary penalty. This subsection does not limit the terms or conditions of any voluntary agreement for the resolution of a violation.

(3) A municipality may not assess a civil penalty for a violation under a building inspection program unless the municipality provides to the party that is subject to the civil penalty:

(a) Notice that:

(A) Describes the alleged violation, including any relevant code provision numbers, ordinance numbers or other identifying references;

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 **(B) States that the municipality intends to assess a civil penalty for the violation and**
2 **states the amount of the civil penalty;**

3 **(C) States that the party may challenge the assessment of a civil penalty; and**

4 **(D) Describes the means and the deadline for informing the municipality that the party**
5 **is challenging the assessment of the civil penalty; and**

6 **(b) A municipal administrative process other than a judicial proceeding in a court of law,**
7 **that affords the party an opportunity to challenge the civil penalty assessment before an**
8 **individual, department or body that is other than the municipality's building inspector or**
9 **building official.**

10 **(4) If the municipality assesses a civil penalty for a violation under a building inspection**
11 **program, the amount of the civil penalty assessed for the violation may not exceed the**
12 **maximum civil penalty amount authorized for an equivalent specialty code violation under**
13 **ORS 455.895.**

14 **(5) The costs incurred by a municipality in providing notice and administrative process**
15 **under this section are building inspection program administration and enforcement costs for**
16 **the purpose of fee adoption under ORS 455.210.**

17 **SECTION 3. Section 2 of this 2009 Act applies to a civil penalty assessed on or after the**
18 **effective date of this 2009 Act for a violation occurring before, on or after the effective date**
19 **of this 2009 Act.**

20