

# House Bill 2089

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## 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**.

Reduces Department of Consumer and Business Services' role in regulating amusement rides, amusement devices and rental amusement devices.

Requires person engaging in occupation of inspecting amusement rides, amusement devices or rental amusement devices to meet and maintain professional qualifications established by department by rule. Changes timing requirement for mandatory annual inspection of ride or device by insurance carrier.

Imposes strict liability on owner of amusement ride, amusement device or rental amusement device for damages caused by operation of ride or device that is contrary to statute, rules or insurer restrictions or conditions.

Makes violation of department rules regulating amusement rides, amusement devices or rental amusement devices punishable by maximum penalty of \$2,500 fine, six months' imprisonment, or both.

## A BILL FOR AN ACT

1  
2 Relating to the amusement industry; creating new provisions; amending ORS 455.010, 455.022,  
3 455.148, 455.150, 455.230, 460.035, 460.310, 460.340, 460.990 and 705.145; and repealing ORS  
4 460.320, 460.330, 460.340, 460.345, 460.350, 460.352, 460.355, 460.360 and 460.370.

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

6 **SECTION 1. Sections 2 to 5 of this 2011 Act are added to and made a part of ORS 460.310**  
7 **to 460.370.**

8 **SECTION 2. A person who engages in the occupation of inspecting amusement rides,**  
9 **amusement devices or rental amusement devices must meet and maintain professional**  
10 **qualifications as established by the Department of Consumer and Business Services by rule.**  
11 **The qualifications established by the department may include, but need not be limited to,**  
12 **active certification of the person as an inspector by an amusement industry organization.**

13 **SECTION 3. (1) An owner of an amusement ride, amusement device or rental amusement**  
14 **device may not operate, or allow another to operate, the ride or device without first having**  
15 **obtained insurance from a company authorized to transact insurance in this state or an eli-**  
16 **gible surplus lines insurer as defined in ORS 735.405. The insurance policy must insure the**  
17 **public and all persons riding or otherwise in contact with the ride or device against loss or**  
18 **injury, in an amount not less than \$1 million per occurrence and an aggregate total of not**  
19 **less than \$2 million.**

20 **(2) An owner of an amusement ride, amusement device or rental amusement device may**  
21 **not allow the ride or device to be in service unless the ride or device has been inspected by**  
22 **an amusement ride inspector on or after the preceding December 15. The inspector must be**  
23 **employed or otherwise authorized to inspect the ride or device by the insurance carrier in-**  
24 **sureing the ride or device. The inspector shall note any restrictions and conditions that, in**  
25 **the inspector's judgment, should be imposed upon the operation of the ride or device to**

**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 protect human life and property. In addition, the inspector shall indicate whether the ride  
2 or device:

3 (a) Meets the insurance carrier's standards;

4 (b) Meets safety standards approved by the American Society for Testing and Materials;  
5 and

6 (c) Is assembled and operated in compliance with the manual supplied by the manufac-  
7 turer of the ride or device.

8 (3) If an insurance carrier notifies the insured that the insurance carrier will no longer  
9 insure an amusement ride, amusement device or rental amusement device, or that insurance  
10 on a ride or device is no longer in force, the owner shall immediately remove the ride or  
11 device from service. The owner may not return the ride or device to service unless the ride  
12 or device is inspected and insurance coverage for the ride or device is obtained as required  
13 by subsection (1) of this section.

14 (4) An owner shall keep records demonstrating that the owner has complied with insur-  
15 ance coverage and annual inspection requirements for the amusement ride, amusement de-  
16 vice or rental amusement device. The owner shall make the records available for public  
17 inspection during reasonable business hours. The owner shall provide copies of the records  
18 to the Department of Consumer and Business Services upon request of the department.

19 **SECTION 4.** (1) The Department of Consumer and Business Services may adopt rules for  
20 the administration and enforcement of ORS 460.310 to 460.370. In adopting rules under this  
21 section, the department shall consider:

22 (a) Safety standards followed, proposed or approved by responsible members of the  
23 amusement ride industry and by the American Society for Testing and Materials.

24 (b) The practicability of following the standards under consideration, if adopted.

25 (c) Technological advances in the amusement ride industry.

26 (d) The probability, extent and gravity of the injury to the public or property that would  
27 result from failure to follow the standards under consideration.

28 (2) Rules adopted under subsection (1) of this section may include rules to:

29 (a) Subject a game, device or associated structure otherwise excluded under ORS 460.310  
30 (1)(b), or any other item commercially used to convey persons for purposes of amusement,  
31 to regulation as an amusement device;

32 (b) Exempt a structure, contrivance or combination of structures and contrivances de-  
33 scribed in ORS 460.310 (1)(a) from regulation as an amusement device;

34 (c) Subject a device, structure or equipment not described in ORS 460.310 (8), or any  
35 other item that is commercially rented and used to convey people for amusement purposes,  
36 to regulation as a rental amusement device; or

37 (d) Exempt a device, structure or equipment described in ORS 460.310 (8) from regulation  
38 as a rental amusement device.

39 (3) The owner of equipment described in ORS 460.310 (2)(a)(B) is not a common carrier.  
40 Subject to ORS 30.970 to 30.990, the owner of the equipment must exercise the highest degree  
41 of care to ensure the safety of persons using the equipment. If the department finds that the  
42 United States Forest Service or other agency of government has jurisdiction over, and reg-  
43 ulates and provides inspection of, equipment described in ORS 460.310 (2)(a)(B) under safety  
44 standards adopted by the service or other agency that are not lower than standards adopted  
45 by the department by rule, the department may not apply the department's standards to the

1 equipment.

2 **SECTION 5. (1) An owner of an amusement ride, amusement device or rental amusement**  
 3 **device is strictly liable for damages caused by the ride or device being operated in a manner**  
 4 **that violates:**

5 (a) A provision of ORS 460.310 to 460.370;

6 (b) A rule adopted under ORS 460.310 to 460.370; or

7 (c) A restriction or condition on operation of the ride or device that is imposed by the  
 8 insurance carrier to protect human life and property.

9 (2) Subsection (1) of this section does not apply to damages caused by a rental  
 10 amusement device due to tampering or alteration by the renter. This subsection does not  
 11 affect any other basis or standard for imposing liability on a rental amusement device owner.

12 **SECTION 6.** ORS 460.310 is amended to read:

13 460.310. As used in ORS 460.310 to 460.370, unless the context requires otherwise:

14 (1) "Amusement [*devices*]" **device," except as provided in section 4 (2) of this 2011 Act:**

15 (a) Means a structure, electrical or mechanical contrivance or a combination [*thereof which*]  
 16 **of structures or contrivances that** is intended to supply revenue to the owner [*or operator*] of the  
 17 device by providing or offering to provide amusement, pleasures, thrills or excitement at carnivals,  
 18 fairs or amusement parks. [*"Amusement device"*]

19 (b) Does not [*include*] **mean** games, concessions and associated structures.

20 (2) "Amusement ride":

21 (a) **Except as provided in this subsection,** means [*any*] a vehicle, boat or other mechanical  
 22 device [*except "water slides" moving*] **used to convey one or more individuals for amusement,**  
 23 **entertainment, diversion or recreation** upon or within a flow perimeter or structure, along ca-  
 24 bles, rails or ground, through the air by centrifugal force or otherwise, or across water, [*that is used*  
 25 *to convey one or more individuals for amusement, entertainment, diversion or recreation. The term*  
 26 *"amusement ride" includes, but is not limited to*] **such as the following:**

27 [(a)] (A) [*Rides*] **A ride** commonly known as [*Ferris wheels, carousels, parachute towers, bungee*  
 28 *jumping, tunnels of love and roller coasters*] **a Ferris wheel, carousel, parachute tower, bungee**  
 29 **jump, tunnel of love or roller coaster.**

30 [(b)] (B) Equipment generally associated with winter sports activities, such as [*ski lifts, ski tows,*  
 31 *j-bars, t-bars, ski mobiles, chair lifts and aerial tramways*] **a ski lift, ski tow, j-bar, t-bar, ski mo-**  
 32 **bile, chair lift or aerial tramway.**

33 [(c)] (C) **A crane, lifting device or other type of** equipment not originally designed to be used  
 34 as an amusement ride, [*such as cranes or other lifting devices, when used as part of an amusement*  
 35 *ride or device*] **if used for amusement ride purposes or in conjunction with an amusement**  
 36 **device or rental amusement device.**

37 (D) **Model railroad equipment.**

38 (b) **Does not mean:**

39 (A) **A water slide, a go-cart, playground equipment or a coin-operated ride; or**

40 (B) **A privately owned ride located on private property, if the ride is open only to selec-**  
 41 **tively admitted or specifically invited persons who do not pay a fee or other charge for access**  
 42 **to or use of the ride.**

43 (3) "Amusement ride inspector" means an employee or representative of a casualty insurance  
 44 company or companies who is qualified and regularly employed **by,** or otherwise authorized by, the  
 45 insurance company to inspect amusement rides, **amusement devices** and **rental amusement de-**

1 vices for safety.

2 (4) "Department" means the Department of Consumer and Business Services.

3 (5) "Director" means the Director of the Department of Consumer and Business Services.

4 (6) **"Inflatable device or structure" means an air-supported amusement attraction that:**

5 (a) **Incorporates a structure and mechanical system; and**

6 (b) **Uses a high-strength fabric or film that achieves strength, shape and stability by**  
7 **tensioning from internal air pressure.**

8 (7) **"Owner" means:**

9 (a) **A proprietor, managing partner, corporate officer or other person having directional**  
10 **control over a business, partnership, corporation or other entity engaged in the amusement**  
11 **ride, amusement device or rental amusement device industry;**

12 (b) **A lessee of an amusement ride or amusement device; or**

13 (c) **A lessor of a rental amusement device.**

14 (8) **"Rental amusement device," except as provided in section 4 (2) of this 2011 Act, means**  
15 **an inflatable device or structure or a portable rock wall, and any equipment associated with**  
16 **the device, structure or wall, that the owner makes available for rental by consumers.**

17 [(6)] (9) "Water slide" means a recreational device designed to provide a descending ride on a  
18 flowing water film into a splash down pool at the base of the slide.

19 **SECTION 7.** ORS 460.310, as amended by section 6 of this 2011 Act, is amended to read:

20 460.310. As used in ORS 460.310 to 460.370, unless the context requires otherwise:

21 (1) "Amusement device," except as provided in section 4 (2) of this 2011 Act:

22 (a) Means a structure, electrical or mechanical contrivance or a combination of structures or  
23 contrivances that is intended to supply revenue to the owner of the device by providing or offering  
24 to provide amusement, pleasures, thrills or excitement at carnivals, fairs or amusement parks.

25 (b) Does not mean games, concessions and associated structures.

26 (2) "Amusement ride":

27 (a) Except as provided in this subsection, means a vehicle, boat or other mechanical device used  
28 to convey one or more individuals for amusement, entertainment, diversion or recreation upon or  
29 within a flow perimeter or structure, along cables, rails or ground, through the air by centrifugal  
30 force or otherwise, or across water, such as the following:

31 (A) A ride commonly known as a Ferris wheel, carousel, parachute tower, bungee jump, tunnel  
32 of love or roller coaster.

33 (B) Equipment generally associated with winter sports activities, such as a ski lift, ski tow, j-bar,  
34 t-bar, ski mobile, chair lift or aerial tramway.

35 (C) A crane, lifting device or other type of equipment not originally designed to be used as an  
36 amusement ride, if used for amusement ride purposes or in conjunction with an amusement device  
37 or rental amusement device.

38 (D) Model railroad equipment.

39 (b) Does not mean:

40 (A) A water slide, a go-cart, playground equipment or a coin-operated ride; or

41 (B) A privately owned ride located on private property, if the ride is open only to selectively  
42 admitted or specifically invited persons who do not pay a fee or other charge for access to or use  
43 of the ride.

44 (3) "Amusement ride inspector" means an employee or representative of a casualty insurance  
45 company or companies who is qualified as described in section 2 of this 2011 Act and regularly

1 employed by, or otherwise authorized by, the insurance company to inspect amusement rides,  
2 amusement devices and rental amusement devices for safety.

3 (4) "Department" means the Department of Consumer and Business Services.

4 (5) "Director" means the Director of the Department of Consumer and Business Services.

5 (6) "Inflatable device or structure" means an air-supported amusement attraction that:

6 (a) Incorporates a structure and mechanical system; and

7 (b) Uses a high-strength fabric or film that achieves strength, shape and stability by tensioning  
8 from internal air pressure.

9 (7) "Owner" means:

10 (a) A proprietor, managing partner, corporate officer or other person having directional control  
11 over a business, partnership, corporation or other entity engaged in the amusement ride, amusement  
12 device or rental amusement device industry;

13 (b) A lessee of an amusement ride or amusement device; or

14 (c) A lessor of a rental amusement device.

15 (8) "Rental amusement device," except as provided in section 4 (2) of this 2011 Act, means an  
16 inflatable device or structure or a portable rock wall, and any equipment associated with the device,  
17 structure or wall, that the owner makes available for rental by consumers.

18 (9) "Water slide" means a recreational device designed to provide a descending ride on a flowing  
19 water film into a splash down pool at the base of the slide.

20 **SECTION 8.** ORS 460.340 is amended to read:

21 460.340. (1) *[Permits issued under ORS 460.330 are valid until]* **An annual inspection per-**  
22 **formed under section 3 of this 2011 Act becomes invalid if** the amusement ride, **amusement**  
23 **device or rental amusement** device is materially rebuilt or materially modified so as to change the  
24 original action of the *[said amusement]* ride or device. **The owner of a ride or device described**  
25 **in this subsection must obtain a new inspection prior to returning the ride or device to ser-**  
26 **vice.***[, but in no case for longer than one year after the date of issuance as follows:]*

27 *[(1) If an amusement ride or device is altered so as to change the original action of the said*  
28 *amusement ride or device, such amusement ride or device shall be subject to a new inspection and shall*  
29 *apply for a new permit under ORS 460.330.]*

30 (2) If an amusement ride, **amusement device** or **rental amusement** device is moved and in-  
31 stalled in another place, but is not altered so as to change the original action of the *[said amusement*  
32 *ride or device, no new permit shall be required; provided, however, a permit has been issued previously*  
33 *under ORS 460.330 and has not been operative for longer than a one-year period]* **ride or device, the**  
34 **movement and installation does not invalidate the annual inspection performed on the ride**  
35 **or device.**

36 **SECTION 9.** ORS 460.990 is amended to read:

37 460.990. (1) Violation of any of the provisions of ORS 460.005 to 460.175 is punishable, upon  
38 conviction, by a fine not to exceed \$100 or by imprisonment in the county jail for not more than 60  
39 days, or both.

40 (2) Violation of any **of the** provisions of ORS 460.310 to 460.370 **or rules adopted under ORS**  
41 **460.310 to 460.370** is a Class B misdemeanor.

42 **SECTION 10.** ORS 455.010 is amended to read:

43 455.010. As used in this chapter, unless the context requires otherwise:

44 (1)(a) "Advisory board" means the board with responsibility for assisting in the adoption,  
45 amendment or administration of a specialty code, specifically:

- 1 (A) The Building Codes Structures Board established under ORS 455.132;
- 2 (B) The Electrical and Elevator Board established under ORS 455.138;
- 3 (C) The State Plumbing Board established under ORS 693.115;
- 4 (D) The Board of Boiler Rules established under ORS 480.535;
- 5 (E) The Residential and Manufactured Structures Board established under ORS 455.135;
- 6 (F) The Mechanical Board established under ORS 455.140; or
- 7 (G) The Construction Industry Energy Board established under ORS 455.492.

8 (b) "Appropriate advisory board" means the advisory board that has jurisdiction over a partic-  
9 ular code, standard, license, certification or matter.

10 (2) "Department" means the Department of Consumer and Business Services.

11 (3) "Director" means the Director of the Department of Consumer and Business Services.

12 (4) "Low-Rise Residential Dwelling Code" means the adopted specialty code prescribing stan-  
13 dards for the construction of residential dwellings that are three stories or less above grade and  
14 have an exterior door for each dwelling unit, but are not facilities or homes described in ORS  
15 443.400 or transient lodging.

16 (5) "Municipality" means a city, county or other unit of local government otherwise authorized  
17 by law to administer a building code.

18 (6) "Prefabricated structure" means a building or subassembly that has been in whole or sub-  
19 stantial part manufactured or assembled using closed construction at an off-site location to be  
20 wholly or partially assembled on-site. "Prefabricated structure" does not include a manufactured  
21 dwelling, recreational structure or recreational vehicle, as those terms are defined in ORS 446.003.

22 (7) "Specialty code" means a code of regulations adopted under ORS 446.062, 446.185, 447.020 (2),  
23 455.020 (2), 455.496, 455.610, 455.680, 460.085, [460.360,] 479.730 (1) or 480.545 **or section 4 of this**  
24 **2011 Act**, but does not include regulations adopted by the State Fire Marshal pursuant to ORS  
25 chapter 476 or ORS 479.015 to 479.200 and 479.210 to 479.220.

26 (8) "State building code" means the combined specialty codes.

27 (9) "Structural code" means the specialty code prescribing structural standards for building  
28 construction.

29 (10) "Unsafe condition" means a condition caused by earthquake which is determined by the  
30 department or any representative of the department to be dangerous to life and property. "Unsafe  
31 condition" includes but is not limited to:

32 (a) Any portion, member or appurtenance of a building that has become detached or dislodged  
33 or appears likely to fail or collapse and thereby injure persons or damage property; or

34 (b) Any portion, of a building or structure that has been damaged by earthquake, or by fire or  
35 explosion resulting from an earthquake, to the extent that the structural strength or stability of the  
36 building is substantially less than it was prior to the earthquake.

37 **SECTION 11.** ORS 455.022 is amended to read:

38 455.022. All moneys deposited to the Consumer and Business Services Fund that are derived  
39 pursuant to ORS 455.240 [or 460.370], or from state building code or specialty code program fees for  
40 which the amounts are established by Department of Consumer and Business Services rule pursuant  
41 to ORS 455.020 (2), are continuously appropriated to the department for carrying out any of the  
42 duties, functions and powers of the department under ORS 455.240 [or 460.310 to 460.370] or under  
43 a program for which a fee amount is established by department rule pursuant to ORS 455.020 (2),  
44 without regard to the source of the moneys.

45 **SECTION 12.** ORS 455.148 is amended to read:

1 455.148. (1)(a) A municipality that assumes the administration and enforcement of a building in-  
 2 spection program shall administer and enforce the program for all of the following:

3 (A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of  
 4 this subsection.

5 (B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.

6 (C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.

7 (D) Park and camp programs regulated under ORS 455.680.

8 (E) Tourist facilities regulated under ORS 446.310 to 446.350.

9 (F) Manufactured dwelling alterations regulated under ORS 446.155.

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

11 (H) Boilers and pressure vessels described in rules adopted under ORS 480.525 (5).

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

13 (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described  
 14 in rules adopted under ORS 480.525 (5);

15 (B) Elevator programs under ORS 460.005 to 460.175;

16 (C) Amusement ride, **amusement device or rental amusement device** regulation under ORS  
 17 460.310 to 460.370;

18 (D) Prefabricated structure regulation under ORS chapter 455;

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

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

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

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

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

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

42 (b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director  
 43 and the municipality and, if the municipality is not a county, the county may by agreement extend  
 44 that date to no later than March 1.

45 (5) If a city does not notify the director, or notifies the director that it will not administer the

1 building inspection program, the county or counties in which the city is located shall administer and  
2 enforce the county program within the city in the same manner as the program is administered and  
3 enforced outside the city, except as provided by subsection (6) of this section.

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

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

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

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

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

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

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

34 (b) Granting or denying applications for building inspection program authority and amendments;

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 a  
3 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 program;  
12 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 13.** ORS 455.150 is amended to read:

22 455.150. (1) Except as provided in subsection (14) of this section, a municipality that assumes the  
23 administration and enforcement of a building inspection program prior to January 1, 2002, may ad-  
24 minister and enforce all or part of a building inspection program. A building inspection program:

25 (a) Is a program that includes the following:

26 (A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of  
27 this subsection.

28 (B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.

29 (C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.

30 (D) Park and camp programs regulated under ORS 455.680.

31 (E) Tourist facilities regulated under ORS 446.310 to 446.350.

32 (F) Manufactured dwelling alterations regulated under ORS 446.155.

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

34 (H) Boilers and pressure vessels described in rules adopted under ORS 480.525 (5).

35 (b) Is not a program that includes:

36 (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described  
37 in rules adopted under ORS 480.525 (5);

38 (B) Elevator programs under ORS 460.005 to 460.175;

39 (C) Amusement ride, **amusement device or rental amusement device** regulation under ORS  
40 460.310 to 460.370;

41 (D) Prefabricated structure regulation under ORS chapter 455;

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

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

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

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

8 (3) When a municipality administers a building inspection program, the governing body of the  
 9 municipality shall, unless other means are already provided, appoint a person to administer and  
 10 enforce the building inspection program or parts thereof, who shall be known as the building official.  
 11 A building official shall, in the municipality for which appointed, attend to all aspects of code  
 12 enforcement, including the issuance of all building permits. Two or more municipalities may combine  
 13 in the appointment of a single building official for the purpose of administering a building inspection  
 14 program within their communities.

15 (4)(a) By January 1 of the year preceding the expiration of the four-year period described in  
 16 subsection (2) of this section, the governing body of the municipality shall notify the Director of the  
 17 Department of Consumer and Business Services and, if not a county, notify the county whether the  
 18 municipality will continue to administer the building inspection program, or parts thereof, after ex-  
 19 piration of the four-year period. If parts of a building inspection program are to be administered and  
 20 enforced by a municipality, the parts shall correspond to a classification designated by the director  
 21 as reasonable divisions of work.

22 (b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director  
 23 and the municipality and, if the municipality is not a county, the county may by agreement extend  
 24 that date to no later than March 1.

25 (5) If a city does not notify the director, or notifies the director that it will not administer cer-  
 26 tain specialty codes or parts thereof under the building inspection program, the county or counties  
 27 in which the city is located shall administer and enforce those codes or parts thereof within the city  
 28 in the same manner as it administers and enforces them outside the city, except as provided by  
 29 subsection (6) of this section.

30 (6) If a county does not notify the director, or notifies the director that it will not administer  
 31 and enforce certain specialty codes or parts thereof under the building inspection program, the di-  
 32 rector shall contract with a municipality or other person or use such state employees or state  
 33 agencies as are necessary to administer and enforce those codes or parts thereof, and permit or  
 34 other fees arising therefrom shall be paid into the Consumer and Business Services Fund created  
 35 by ORS 705.145 and credited to the account responsible for paying such expenses. A state employee  
 36 may not be displaced as a result of using contract personnel.

37 (7) If a municipality administering a building inspection program under this section seeks to  
 38 administer additional parts of a program, the municipality must comply with ORS 455.148, including  
 39 the requirement that the municipality administer and enforce all aspects of the building inspection  
 40 program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this  
 41 section.

42 (8) The department shall adopt rules to require the governing body of each municipality to  
 43 submit a written plan with the notice required under subsection (4) of this section. If the department  
 44 is the governing body, the department shall have a plan on file. The plan shall specify how coop-  
 45 eration with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and

1 how a uniform fire code will be considered in the review process of the design and construction  
 2 phases of buildings or structures.

3 (9) A municipality that administers a code for which persons or businesses are authorized under  
 4 ORS 455.457 to perform activities shall recognize and accept those activities as if performed by the  
 5 municipality. A municipality is not required to accept an inspection, a plan or a plan review that  
 6 does not meet the requirements of the state building code.

7 (10) The department or a municipality that accepts an inspection or plan review as required by  
 8 this section by a person licensed under ORS 455.457 has no responsibility or liability for the activ-  
 9 ities of the licensee.

10 (11) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate  
 11 building inspection programs of municipalities assumed prior to January 1, 2002. Regulation under  
 12 this subsection shall include but not be limited to:

13 (a) Creating building inspection program application and amendment requirements and proce-  
 14 dures;

15 (b) Granting or denying applications for building inspection program authority and amendments;

16 (c) Reviewing procedures and program operations of municipalities;

17 (d) Creating standards for efficient, effective, timely and acceptable building inspection pro-  
 18 grams;

19 (e) Creating standards for justifying increases in building inspection program fees adopted by a  
 20 municipality;

21 (f) Creating standards for determining whether a county or department building inspection pro-  
 22 gram is economically impaired in its ability to reasonably continue providing the program or part  
 23 of the program throughout a county, if another municipality is allowed to provide a building in-  
 24 spection program or part of a program within the same county; and

25 (g) Enforcing the requirements of this section.

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

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

28 (b) If a municipality abandons any part of the building inspection program or is no longer able  
 29 to administer the building inspection program; and

30 (c) If a municipality fails to substantially comply with any provision of this section or of ORS  
 31 455.465, 455.467 and 455.469.

32 (13) If a municipality abandons or otherwise ceases to administer all or part of a building in-  
 33 spection program described in this section, the municipality may not resume the administration and  
 34 enforcement of the abandoned program or part of a program for at least two years. The municipality  
 35 may resume the administration and enforcement of the abandoned program or part of a program only  
 36 on July 1 of an odd-numbered year. To resume the administration and enforcement of the abandoned  
 37 program or part of a program, the municipality must comply with ORS 455.148, including the re-  
 38 quirement that the municipality administer and enforce all aspects of the building inspection pro-  
 39 gram. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this  
 40 section.

41 (14) A municipality that administers and enforces a building inspection program under this sec-  
 42 tion shall include in the program the inspection of boilers and pressure vessels described in sub-  
 43 section (1)(a)(H) of this section.

44 **SECTION 14.** ORS 455.230 is amended to read:

45 455.230. (1) Except as otherwise provided by law, all moneys appropriated or credited to the

1 Consumer and Business Services Fund and received under this chapter, ORS 447.010 to 447.156,  
 2 447.992, 460.005 to 460.175, [~~460.310 to 460.370,~~] 479.510 to 479.945, 479.995, 480.510 to 480.670 and  
 3 ORS chapter 693 hereby are appropriated continuously for and shall be used by the director for the  
 4 purpose of carrying out the duties and responsibilities imposed upon the department under this  
 5 chapter, ORS 446.566 to 446.646, 446.666 to 446.756, 447.010 to 447.156, 447.992, 460.005 to 460.175,  
 6 460.310 to 460.370, 479.510 to 479.945, 479.995 and 480.510 to 480.670 and ORS chapter 693.

7 (2) Except as otherwise provided by law, all moneys appropriated or credited to the Consumer  
 8 and Business Services Fund and received under ORS 446.003 to 446.200, 446.210, 446.225 to 446.285,  
 9 446.395 to 446.420, 446.566 to 446.646, 446.666 to 446.756 and 455.220 (1) hereby are appropriated  
 10 continuously for and shall be used by the director for the purpose of carrying out the duties and  
 11 responsibilities imposed upon the department under ORS 446.003 to 446.200, 446.210, 446.225 to  
 12 446.285, 446.395 to 446.420, 446.566 to 446.646 and 446.666 to 446.756, and education and training  
 13 programs pertaining thereto.

14 **SECTION 15.** ORS 460.035 is amended to read:

15 460.035. (1) Fees are not required under ORS 460.005 to 460.175 to install, alter, repair, operate  
 16 or maintain an elevator:

- 17 (a) Under the supervision of the United States Government.
- 18 (b) That is a nonpower-driven lifting device.
- 19 (c) Located in a private residence, except for initial installation.

20 (2) The owner or user of an elevator described in subsection (1) of this section may request that  
 21 the Department of Consumer and Business Services inspect the elevator. If the department performs  
 22 the inspection, the department, notwithstanding subsection (1) of this section, may collect the ap-  
 23 propriate fee for performing the inspection.

24 (3) Pipes installed in an elevator hoistway prior to July 1, 1961, that do not convey gases or  
 25 liquids that would endanger life if discharged into the hoistway need not be removed.

26 (4) ORS 460.005 to 460.175 do not apply to:

- 27 (a) Belt, bucket, scoop, roller or similar type material conveyors.
- 28 (b) Hoists for raising or lowering materials and that are provided with unguided hooks, slings  
 29 and similar means for attachment to the materials.
- 30 (c) Material hoists used only to raise and lower building material in buildings under con-  
 31 struction.
- 32 (d) Stackers that serve one floor only.
- 33 (e) Window-washing scaffolds.
- 34 (f) Nonpower-driven lifting devices.
- 35 (g) Amusement rides, **amusement devices or rental amusement devices.**
- 36 (h) Mine elevators.
- 37 (i) Elevators under the supervision of the United States Government.
- 38 (j) Elevators located in private residences, except for initial installation permits and installation  
 39 inspections.
- 40 (k) Other elevators and equipment as provided by the department by rule.

41 **SECTION 16.** ORS 705.145 is amended to read:

42 705.145. (1) There is created in the State Treasury a fund to be known as the Consumer and  
 43 Business Services Fund, separate and distinct from the General Fund. All moneys collected or re-  
 44 ceived by the Department of Consumer and Business Services, except moneys collected pursuant to  
 45 ORS 735.612 and those moneys required to be paid into the Workers' Benefit Fund, shall be paid into

1 the State Treasury and credited to the Consumer and Business Services Fund. Moneys in the fund  
2 may be invested in the same manner as other state moneys and any interest earned shall be credited  
3 to the fund.

4 (2) The department shall keep a record of all moneys deposited in the Consumer and Business  
5 Services Fund that shall indicate, by separate account, the source from which the moneys are de-  
6 rived, the interest earned and the activity or program against which any withdrawal is charged.

7 (3) If moneys credited to any one account are withdrawn, transferred or otherwise used for  
8 purposes other than the program or activity for which the account is established, interest shall ac-  
9 crue on the amount withdrawn from the date of withdrawal and until such funds are restored.

10 (4) Moneys in the fund are continuously appropriated to the department for its administrative  
11 expenses and for its expenses in carrying out its functions and duties under any provision of law.

12 (5) Except as provided in ORS 705.165, it is the intention of the Legislative Assembly that the  
13 performance of the various duties and functions of the department in connection with each of its  
14 programs shall be financed by the fees, assessments and charges established and collected in con-  
15 nection with those programs.

16 (6) There is created by transfer from the Consumer and Business Services Fund a revolving ad-  
17 ministrative account in the amount of \$100,000. The revolving account shall be disbursed by checks  
18 or orders issued by the director or the Workers' Compensation Board and drawn upon the State  
19 Treasury, to carry on the duties and functions of the department and the board. All checks or orders  
20 paid from the revolving account shall be reimbursed by a warrant drawn in favor of the department  
21 charged against the Consumer and Business Services Fund and recorded in the appropriate subsid-  
22 iary record.

23 (7) For the purposes of ORS chapter 656, the revolving account created pursuant to subsection  
24 (6) of this section may also be used to:

25 (a) Pay compensation benefits; and

26 (b) Refund to employers amounts paid to the Consumer and Business Services Fund in excess  
27 of the amounts required by ORS chapter 656.

28 (8) Notwithstanding subsections (2), (3) and (5) of this section and except as provided in ORS  
29 455.220 (1), the moneys derived pursuant to ORS 446.003 to 446.200, 446.210, 446.225 to 446.285,  
30 446.395 to 446.420, 446.566 to 446.646, 446.666 to 446.756 and 455.220 (1) and deposited to the fund,  
31 interest earned on those moneys and withdrawals of moneys for activities or programs under ORS  
32 446.003 to 446.200, 446.210, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646 and 446.666 to  
33 446.756, or education and training programs pertaining thereto, must be assigned to a single account  
34 within the fund.

35 (9) Notwithstanding subsections (2), (3) and (5) of this section, the moneys derived pursuant to  
36 ORS 455.240 [*or 460.370*] or from state building code or specialty code program fees for which the  
37 amount is established by department rule pursuant to ORS 455.020 (2) and deposited to the fund,  
38 interest earned on those moneys and withdrawals of moneys for activities or programs described  
39 under ORS 455.240 or 446.566 to 446.646, 446.666 to 446.756 and 460.310 to 460.370, structural or  
40 mechanical specialty code programs or activities for which a fee is collected under ORS 455.020 (2),  
41 or programs described under subsection (10) of this section that provide training and education for  
42 persons employed in producing, selling, installing, delivering or inspecting manufactured structures  
43 or manufactured dwelling parks or recreation parks, must be assigned to a single account within the  
44 fund.

45 (10) Notwithstanding ORS 279.835 to 279.855 and ORS chapters 279A and 279B, the department

1 may, after consultation with the appropriate specialty code advisory boards established under ORS  
2 455.132, 455.135, 455.138, 480.535 and 693.115, contract for public or private parties to develop or  
3 provide training and education programs relating to the state building code and associated licensing  
4 or certification programs.

5 **SECTION 17. ORS 460.320, 460.330, 460.340, 460.345, 460.350, 460.352, 460.355, 460.360 and**  
6 **460.370 are repealed.**

7 **SECTION 18. The Department of Consumer and Business Services shall adopt initial rules**  
8 **establishing professional qualifications as described in section 2 of this 2011 Act in time for**  
9 **the rules to become effective no later than July 1, 2012.**

10 **SECTION 19. (1) Section 2 of this 2011 Act applies to persons engaging in the inspection**  
11 **of amusement rides, amusement devices or rental amusement devices on or after January**  
12 **1, 2013.**

13 **(2) Section 5 of this 2011 Act applies to damages caused by the operation of an**  
14 **amusement ride, amusement device or rental amusement device on or after the effective**  
15 **date of this 2011 Act.**

16 **SECTION 20. The amendments to ORS 460.310 by section 7 of this 2011 Act become op-**  
17 **erative on January 1, 2013.**

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