

DRAFT

SUMMARY

Sets out uniform provisions for certain aspects of state building code administration and enforcement. Eliminates certain specific specialty code provisions regarding matters regulated under new uniform provisions.

Allows charging higher permit fees if construction, alteration, repair or installation is commenced without permit. Creates exceptions. Allows assessment of investigation fee if investigation results in finding that construction, alteration, repair or installation was commenced without permit. Allows bringing suit to enjoin violation of state building code.

Prohibits engaging in business as specialty code contractor without required license. Prohibits falsely holding out as licensed specialty code contractor. Prohibits performance of work in unsafe manner. Prohibits building inspector from inspecting work if relative has interest in or affiliation with property. Revises civil penalty language.

Specifies authority of department, advisory boards and municipalities conducting building inspection programs.

A BILL FOR AN ACT

1
2 Relating to the state building code; creating new provisions; amending ORS
3 90.145, 446.405, 446.686, 446.995, 447.233, 455.070, 455.129, 455.156, 455.770,
4 455.775, 455.895, 460.045, 460.047, 460.061, 460.085, 460.125, 479.550, 479.620
5 and 480.530; and repealing ORS 446.190, 447.040, 460.155 and 693.105.

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

7 **SECTION 1. Sections 2 to 4 of this 2013 Act are added to and made**
8 **a part of ORS chapter 455.**

9 **SECTION 2. (1) Notwithstanding any fee amounts established in,**
10 **or adopted by rule under, ORS 446.062, 446.175, 446.430, 447.095, 455.020,**
11 **455.046, 455.154, 455.210, 455.220, 455.380, 455.465, 455.466, 455.471 (2),**
12 **455.705, 460.165 (1), 479.560, 479.565, 480.525 (4)(b), 480.595, 480.600 or**

1 480.605, if the construction, alteration, repair or installation of a
2 structure is commenced without a required plan review or building
3 permit, the Department of Consumer and Business Services, an ap-
4 propriate advisory board or a municipality administering and enforc-
5 ing a building inspection program under ORS 455.148 or 455.150 may
6 impose, in addition to any other sanction or penalty allowed by law,
7 plan review fees, building permit fees and surcharges and inspection
8 fees that are twice the amount of the plan review fees, building permit
9 fees and surcharges and inspection fees that would otherwise be
10 charged for the project. This subsection does not apply to an emer-
11 gency repair required for health, safety, the prevention of property
12 damage or the prevention of financial harm if the required building
13 permit for the repair is obtained no later than five business days after
14 commencement of the repair. This subsection does not apply to any
15 project for which construction, alteration, repair or installation in a
16 structure prior to obtaining a permit is expressly authorized by law.

17 (2) Except as provided in this subsection, subsection (1) of this
18 section does not apply to plan review or inspections conducted by pri-
19 vate parties, regardless of whether authorized by or performed under
20 contract with the department, an advisory board or a municipality.
21 Subsection (1) of this section applies to surcharges required under ORS
22 455.471 (2) to be included in fees charged under ORS 455.471.

23 (3) In addition to any other fee authorized by law, the department,
24 an appropriate advisory board or a municipality administering and
25 enforcing a building inspection program under ORS 455.148 or 455.150
26 may impose an investigation fee against a person who, after investi-
27 gation by the department, advisory board or municipality, is found to
28 have caused the construction, alteration, repair or installation of a
29 structure to commence without a required plan review or building
30 permit.

31 SECTION 3. (1) Except as provided in subsections (2) and (3) of this

1 section, if the Department of Consumer and Business Services, an
2 appropriate advisory board or a municipality administering and en-
3 forcing a building inspection program under ORS 455.148 or 455.150 has
4 reason to believe that any person has been engaged, or is engaging,
5 or is about to engage in any violation of ORS 446.003 to 446.200, 446.225
6 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 or 480.510 to
7 480.670 or this chapter or ORS chapter 447, 460 or 693 or any rule
8 adopted under ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to
9 446.420, 479.510 to 479.945, 479.950 or 480.510 to 480.670 or this chapter
10 or ORS chapter 447, 460 or 693, the department, appropriate advisory
11 board or municipality may, without bond, bring suit in the name and
12 on behalf of the State of Oregon in the circuit court of any county of
13 this state to enjoin the acts or practices and to enforce compliance
14 with ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510
15 to 479.945, 479.950 or 480.510 to 480.670 or this chapter or ORS chapter
16 447, 460 or 693 or any rule adopted under ORS 446.003 to 446.200, 446.225
17 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 or 480.510 to
18 480.670 or this chapter or ORS chapter 447, 460 or 693. Upon a proper
19 showing, a permanent or temporary injunction, restraining order or
20 writ of mandamus shall be granted.

21 (2) The Director of the Department of Consumer and Business Ser-
22 vices may adopt rules requiring that notice of intent to seek an in-
23 junction be given to the person that is the subject of the proposed
24 injunction and allowing the person to appeal the proposed action.
25 Notwithstanding subsection (1) of this section, if the department, an
26 appropriate advisory board or a municipality provides a person with
27 notice that an injunction will be sought and the person files a timely
28 appeal, the department, advisory board or municipality may not seek
29 the injunction prior to the department or appropriate advisory board
30 hearing the appeal under ORS 455.690 unless the reason for the in-
31 junction constitutes an imminent threat to public health or safety.

1 **(3) Subsection (1) of this section does not authorize any advisory**
2 **board or municipality to administer and enforce any code, law or rule**
3 **that is not otherwise subject to administration and enforcement by the**
4 **advisory board or municipality.**

5 **SECTION 4.** **A person may not:**

6 **(1) Perform work without appropriate licensing, certification or**
7 **registration or employ individuals to perform work without appropri-**
8 **ate licensing, certification or registration.**

9 **(2) Falsely advertise or otherwise hold out as being a licensed spe-**
10 **cialty code contractor.**

11 **(3) As a partner, officer, member or employee of a business, falsely**
12 **advertise or hold out that the business is a licensed, registered or**
13 **certified specialty code contractor.**

14 **(4) Engage in business as a specialty code contractor without hold-**
15 **ing a valid specialty code contractor license, registration or certificate**
16 **required for the business.**

17 **(5) Perform work or operate equipment within the scope of a spe-**
18 **cialty code license, certificate or registration in a manner that violates**
19 **an applicable minimum safety standard.**

20 **SECTION 5.** **ORS 446.405 is amended to read:**

21 446.405. (1) If a manufactured dwelling or cabana is not installed in ac-
22 cordance with the rules adopted under ORS 446.003 and 446.395 to 446.420,
23 the owner of the manufactured dwelling or cabana, at the time of installa-
24 tion, may, within one year of the completion date of such installation, file
25 a written complaint with [*the Director of*] the Department of Consumer and
26 Business Services. The [*director*] **department** shall provide a copy of the
27 complaint to the installer and shall also notify the dealer, if any, that ar-
28 ranged for such installation and may then investigate the complaint. If [*it*
29 *is determined by the director*] **the department determines** that the instal-
30 lation fails to comply with licensure requirements as provided by ORS
31 446.003 and 446.395 to 446.420 or the installation rules adopted by the Di-

1 rector **of the Department of Consumer and Business Services**, the [*di-*
2 *rector*] **department** shall provide notice of such failure to the installer and
3 shall order the installer to bring the installation into compliance [*within 30*
4 *days of date of notice*].

5 (2) The director shall establish, by rule, fees and a procedure for in-
6 spection of manufactured dwellings and cabanas to carry out the provisions
7 of this section.

8 (3) If the installer fails to bring the installation into compliance as or-
9 dered, the [*director*] **department** may suspend or revoke the installer's li-
10 cense as provided [*by department of Consumer and Business Services rules*
11 *adopted*] under ORS 455.129.

12 (4) If the installer fails to bring the installation into compliance, the
13 [*director*] **department** shall order the dealer, if any, that arranged for such
14 installation to bring the installation into compliance with the provisions of
15 ORS 446.003 and 446.395 to 446.420 and the rules adopted [*pursuant thereto*]
16 **under ORS 446.003 and 446.395 to 446.420**. The dealer is responsible to bring
17 only those installation activities into compliance [*which*] **that** the dealer
18 arranged. The dealer shall have 30 days from the date of the order to bring
19 the installation into compliance. If the dealer fails to bring the installation
20 into compliance within 30 days of the date of the order, the dealer shall be
21 subject to civil penalties as provided by ORS 446.416.

22 (5) Hearings, penalties and appeals resulting from violation of this section
23 shall be carried out in conformance with ORS 183.325 to 183.497 and this
24 section.

25 **SECTION 6.** ORS 446.686 is amended to read:

26 446.686. (1) If the Department of Consumer and Business Services proceeds
27 under ORS 446.681 or [*455.895*] **446.995**, the department may post a notice on
28 any manufactured structure held in inventory by a person alleged to be act-
29 ing as a manufactured structure dealer without a license. The notice must
30 state that the person offering the manufactured structure for sale is cur-
31 rently the subject of a proceeding to determine whether the person has a

1 manufactured structure dealer license and that it may be unlawful for the
2 person to sell the manufactured structure to a retail customer.

3 (2) A person may remove a notice posted in accordance with subsection
4 (1) of this section only upon authorization by the department. The depart-
5 ment shall authorize removal within 10 days after any one of the following
6 occurs:

7 (a) The dismissal or termination of the proceeding instituted under ORS
8 446.681 or [455.895] **446.995**;

9 (b) Full payment of any lawfully owing civil penalty and compliance with
10 ORS 446.661 to 446.756; or

11 (c) A finding by the department or a court that the manufactured struc-
12 ture is being offered for sale by a licensed manufactured structure dealer or
13 a person who is exempt from the licensing requirement under ORS 446.676.

14 **SECTION 7.** ORS 446.995 is amended to read:

15 446.995. (1) The Department of Consumer and Business Services may im-
16 pose a civil penalty [*as provided in ORS 455.895*] for each violation, against
17 a licensed manufactured structure dealer or against a person required by a
18 rule adopted pursuant to ORS 446.666 to be licensed, if the dealer or person
19 violates a provision of ORS 446.661 to 446.756 or a rule adopted by the de-
20 partment relating to the sale of manufactured structures. **The civil penalty**
21 **must be in an amount of not more than \$5,000 for each offense or, for**
22 **a continuing offense, not more than \$1,000 per day.** If the dealer au-
23 thORIZES a person licensed pursuant to ORS 446.666 to commit a violation, the
24 dealer and person are both subject to civil penalty. Notwithstanding sub-
25 section (2) of this section, if a dealer expressly or by implication authorizes
26 an act by a real estate agent described in ORS 446.676 (14) that is a violation,
27 the dealer is subject to the civil penalty for the violation.

28 (2) The department may impose a civil penalty, in an amount not to ex-
29 ceed \$5,000 for each manufactured structure improperly sold, brokered or
30 exchanged, or offered or displayed for sale, against a person that:

31 (a) Violates a provision of ORS 446.661 to 446.756 or a rule adopted by the

1 department relating to the sale of manufactured structures if the person does
 2 not possess a license required by ORS 446.671 or by a rule [*pursuant to*]
 3 **adopted under** ORS 446.666; or

4 (b) Violates a rule adopted by the department relating to the sale of
 5 manufactured structures if the person is exempt from licensing under ORS
 6 446.676.

7 **(3) A civil penalty imposed under this section may be remitted or**
 8 **reduced upon such terms and conditions as the department considers**
 9 **proper and consistent with the public health and safety. In any judicial**
 10 **review of a civil penalty imposed under this section, the court may,**
 11 **in its discretion, reduce the penalty.**

12 **(4) Any officer, director, shareholder or agent of a corporation, or**
 13 **member or agent of a partnership or association, who personally par-**
 14 **ticipates in or is an accessory to any violation by the partnership, as-**
 15 **sociation or corporation of a provision or rule described in subsection**
 16 **(1) of this section is subject to the penalties prescribed in this section.**

17 **SECTION 8.** ORS 447.233 is amended to read:

18 447.233. (1) The Director of the Department of Consumer and Business
 19 Services shall include in the state building code, as defined in ORS 455.010,
 20 a requirement that the number of accessible parking spaces specified in
 21 subsection (2) of this section be provided for affected buildings subject to the
 22 state building code and that the spaces be signed as required by subsection
 23 (2) of this section. Spaces may also be marked in a manner specified in the
 24 state building code.

25 (2)(a) The number of accessible parking spaces shall be:

		Required	Required
		Minimum Number	Minimum Number of
Total Parking	Minimum Number of	of Van	“Wheelchair User
In Lot	Accessible Spaces	Accessible Spaces	Only” Spaces
1 to 25	1	1	-

1	26	to	50	2	1	-
2	51	to	75	3	1	-
3	76	to	100	4	1	-
4	101	to	150	5	-	1
5	151	to	200	6	-	1
6	201	to	300	7	-	1
7	301	to	400	8	-	1
8	401	to	500	9	-	2
9	501	to	1,000	2% of total	-	1 in every 8
10						accessible spaces or
11						portion thereof
12	1,001	and over	20 plus 1 for each		-	1 in every 8
13			100 over 1,000			accessible spaces or
14						portion thereof

16 (b) In addition, one in every eight accessible spaces, but not less than one,
 17 shall be van accessible. Where five or more parking spaces are designated
 18 accessible, any space that is designated as van accessible shall be reserved
 19 for wheelchair users. A van accessible parking space shall be at least nine
 20 feet wide and shall have an adjacent access aisle that is at least eight feet
 21 wide.

22 (c) Accessible parking spaces shall be at least nine feet wide and shall
 23 have an adjacent access aisle that is at least six feet wide.

24 (d) The access aisle shall be located on the passenger side of the parking
 25 space except that two adjacent accessible parking spaces may share a com-
 26 mon access aisle.

27 (e) A sign *[shall]* **must** be posted for each accessible parking space. The
 28 sign *[shall]* **must** be clearly visible to a person parking in the space,
 29 *[shall]* be marked with the International Symbol of Access and *[shall]* indi-
 30 cate that the spaces are reserved for persons with disabled person parking
 31 permits. A van accessible parking space *[shall]* **must** have an additional sign

1 marked “Van Accessible” mounted below the sign. A van accessible parking
2 space reserved for wheelchair users *[shall]* **must** have a sign that includes
3 the words “Wheelchair User Only.”

4 (f) Accessible parking spaces and signs *[shall]* **must** be designed in com-
5 pliance with the standards set forth by the Oregon Transportation Commis-
6 sion in consultation with the Oregon Disabilities Commission.

7 (3) *[No]* **A** ramp or obstacle may **not** extend into the parking space or the
8 aisle.*[, and]* Curb cuts and ramps may not be situated in such a way that
9 they could be blocked by a legally parked vehicle.

10 (4) Parking spaces required by this section shall be maintained so as to
11 meet the requirements of this section at all times and to meet the standards
12 established by the state building code.

13 (5) The *[director is]* **Department of Consumer and Business Services**
14 **and the Building Codes Structures Board** are authorized to inspect
15 parking spaces and facilities and buildings subject to the provisions of this
16 section, and to do whatever is necessary to enforce the requirements, in-
17 cluding the maintenance requirements, of this section. Municipalities *[and*
18 *counties]* may administer and enforce the requirements of this section *[in the*
19 *manner provided under ORS 455.148 or 455.150 for administration and*
20 *enforcement of specialty codes.]* **under the building inspection programs**
21 **of the municipalities as provided under ORS 455.148 and 455.150.** All
22 plans for parking spaces subject to the provisions of this section must be
23 approved by the *[director]* **department, board or municipality** prior to the
24 creation of the spaces.

25 (6) Requirements adopted under this section do not apply to long-term
26 parking facilities at the Portland International Airport.

27 (7) Any reported violation of this section shall be investigated by the
28 *[administrative authority]* **department or the board or by a municipality,**
29 **if any, having authority to administer and enforce this section under**
30 **a building inspection program.** The *[administrative authority]* **department,**
31 **board or municipality** shall make a final decision and order correction, if

1 necessary, within 30 days of notification. *[Any aggrieved person may appeal*
 2 *within 30 days of the decision by the administrative authority to the appro-*
 3 *priate municipal appeals board or, at the option of the local jurisdiction, di-*
 4 *rectly to the Building Codes Structures Board established under ORS 455.132.*
 5 *The appeal shall be acted upon within 60 days of filing. The decision of the*
 6 *municipal appeals board may be appealed to the board. The board shall act*
 7 *on the appeal within 60 days of filing. All appeals to the board shall be filed*
 8 *in accordance with ORS 455.690.]* **Any final decision by a municipality**
 9 **regarding the application of this section may be appealed to the**
 10 **Building Codes Structures Board under ORS 455.690.**

11 **SECTION 9.** ORS 455.070 is amended to read:

12 455.070. (1) Any person may report a suspected violation of the state
 13 building code[, *which*] **that** poses an imminent threat to public health or
 14 safety[,] to the local building official or, where the code is state-
 15 administered, to the Department of Consumer and Business Services. The
 16 complaint shall be in writing and submitted under rules adopted by the de-
 17 partment. The rules of the department shall provide for the disposition of
 18 frivolous or harassing complaints by requiring detailed descriptions of the
 19 alleged violation and reference to the code sections allegedly violated. *[A*
 20 *copy of the complaint shall be given by the municipality or agency]*

21 **(2) The municipality or the department shall give notice of the**
 22 **complaint** to the contractor, building owner and subcontractor, if any, in-
 23 volved in the project alleged to be in violation. The municipality or
 24 *[agency]* **the department** may charge the complainant for the necessary
 25 costs of supplying, copying and distributing the complaint form.

26 **(3)** If, after five working days, no remedial action has taken place, the
 27 complainant has standing to appeal the matter to the appeals board of the
 28 municipality, where one is established, or directly to the *[applicable state]*
 29 **appropriate** advisory board where there is no local appeals board. The mu-
 30 nicipal appeals board or state advisory board shall reach a final decision
 31 within 14 days of the complainant's appeal. A municipal appeals board deci-

1 sion shall then be subject to appeal to a state advisory board under ORS
2 455.690, provided that the state advisory board shall reach a final determi-
3 nation within 14 days of notice of an appeal. A record of the written com-
4 plaint and the findings of the appeals and advisory boards may be introduced
5 into evidence in any judicial proceeding for damages brought against the
6 complainant by any person suffering damages as a result of the complaint.

7 **SECTION 10.** ORS 455.129 is amended to read:

8 455.129. (1) **As used in this section, “relative” means an individual**
9 **related within the third degree as determined by the common law, a**
10 **spouse, an individual related to a spouse within the third degree as**
11 **determined by the common law or an individual in an adoptive re-**
12 **lationship within the third degree as determined by the common law.**

13 [(1)] (2) Subject to ORS chapter 183, except as provided in subsection
14 [(4)] (5) of this section, a regulatory body listed in subsection [(2)] (3) of this
15 section may deny a license, certificate, registration or application or may
16 suspend, revoke, condition or refuse to renew a license, certificate or regis-
17 tration if the regulatory body finds that the licensee, certificate holder, reg-
18 istrant or applicant:

19 (a) Has failed to comply with the laws administered by the regulatory
20 body or with the rules adopted by the regulatory body.

21 (b) Has failed to comply with an order of the regulatory body or the Di-
22 rector of the Department of Consumer and Business Services, including but
23 not limited to the failure to pay a civil penalty.

24 (c) Has filed an application for a license, certificate or registration that,
25 as of the date the license, certificate or registration was issued or the date
26 of an order denying the application, was incomplete in any material respect
27 or contained a statement that, in light of the circumstances under which it
28 was made, was incorrect or misleading in any respect.

29 (d) Has performed work without appropriate licensing, certification or
30 registration or has employed individuals to perform work without appropri-
31 ate licensing, certification or registration.

1 **(e) Has falsely advertised or otherwise held out as being a licensed**
2 **specialty code contractor.**

3 **(f) As a partner, officer, member or employee of a business, has**
4 **falsely advertised or held out that the business is a licensed, registered**
5 **or certified specialty code contractor.**

6 **(g) Has engaged in business as a specialty code contractor without**
7 **holding a valid specialty code contractor license, registration or cer-**
8 **tificate required for the business.**

9 [(e)] **(h)** Has failed to meet any condition or requirement to obtain or
10 maintain a license, certificate or registration.

11 [(f)] **(i)** Has acted in a manner creating a serious danger to the public
12 health or safety.

13 **(j) Has performed work or operated equipment within the scope of**
14 **a specialty code license, certificate or registration in a manner that**
15 **violates an applicable minimum safety standard.**

16 [(g)] **(k)** Has been subject to a revocation, cancellation or suspension or-
17 der or to other disciplinary action by the Construction Contractors Board
18 or has failed to pay a civil penalty imposed by the board.

19 [(h)] **(L)** Has been subject to a revocation, cancellation or suspension or-
20 der or to other disciplinary action by another state in regard to construction
21 standards, permit requirements or construction-related licensing violations
22 or has failed to pay a civil penalty imposed by the other state in regard to
23 construction standards, permit requirements or construction-related licensing
24 violations.

25 [(i)] **(m)** Has, while performing work that requires or that is related to
26 work that requires a valid license or certificate under ORS 446.003 to 446.200,
27 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 or 480.510 to
28 480.670, this chapter or ORS chapter 447, 460 or 693, violated any statute or
29 rule related to the state building code.

30 **(n) Has performed a code inspection or plan review on a project to**
31 **construct, alter, repair or make an installation in a structure if the**

1 **inspector or reviewer, or an employer or relative of the inspector or**
2 **reviewer, has a financial interest in or business affiliation with the**
3 **project or structure;**

4 [(j)] (o) Is a business, the owner or an officer of which has an outstanding
5 obligation to pay a civil penalty assessed under ORS 455.895 or has been the
6 subject of action against the license, certificate or registration by the De-
7 partment of Consumer and Business Services, the director or [any] **an ap-**
8 **propriate** advisory board.

9 [(k)] (p) Is a business, owner or officer of a reorganized business entity
10 as defined in ORS 657.682, if an owner, officer, shareholder or partner of the
11 reorganized business entity, or a member if the reorganized business entity
12 is a member-managed limited liability company, has been subject to a revo-
13 cation or suspension order or to a condition or civil penalty under ORS
14 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945,
15 479.950 or 480.510 to 480.670, this chapter or ORS chapter 447, 460, 693 or 701,
16 or by another state in regard to construction standards, permit requirements
17 or construction-related licensing violations.

18 [(L)] (q) Is ordered to pay damages under a judgment or arbitration award
19 that relates to construction and that has become final by operation of law
20 or on appeal.

21 [(m)] (r) Is a business, the owner or an officer of which was an owner or
22 officer in another business at the time:

23 (A) The other business was assessed a civil penalty under ORS 455.895
24 that remains unpaid; or

25 (B) An act or failure to act by any owner or officer of the other business
26 resulted in action being taken against the license, certificate or registration
27 of the other business by the department, the director or any advisory board.

28 [(2)] (3) Subsection [(1)] (2) of this section applies to:

29 (a) The State Plumbing Board for purposes of licenses issued under ORS
30 447.010 to 447.156 or ORS chapter 693.

31 (b) The Electrical and Elevator Board for purposes of licenses issued un-

1 der ORS 446.210 or 479.510 to 479.945.

2 (c) The Board of Boiler Rules for purposes of licenses issued under ORS
3 480.510 to 480.670.

4 (d) The department for purposes of licenses issued under this chapter.

5 (e) The department, subject to Electrical and Elevator Board approval, for
6 purposes of licenses issued under ORS 460.005 to 460.175.

7 (f) The department, subject to Residential and Manufactured Structures
8 Board approval, for purposes of licenses, certificates and registrations issued
9 under ORS 446.003 to 446.200, 446.225 to 446.285 and 446.395 to 446.420.

10 [(3)] (4) The department may administer and enforce subsection [(1)] (2)
11 of this section in the same manner and to the same extent as any advisory
12 board.

13 [(4)] (5) This section does not apply to licenses, certificates, registrations
14 or applications for licensure, certification or registration involving inspec-
15 tors or involving persons engaged in the manufacture, conversion or repair
16 of prefabricated structures, prefabricated components or recreational vehi-
17 cles.

18 (6) **The director may adopt rules requiring that notice of intent to**
19 **suspend, revoke, condition or refuse to renew a license, certificate or**
20 **registration be given to the licensee, certificate holder or registrant**
21 **and allowing the licensee, certificate holder or registrant to appeal.**
22 **Notwithstanding subsection (2) of this section, if the department or a**
23 **regulatory body provides notice of intent to suspend, revoke, condition**
24 **or refuse to renew a license, certificate or registration and a timely**
25 **appeal is filed, the department or the regulatory body may not sus-**
26 **pend, revoke, condition or refuse to renew a license, certificate or**
27 **registration prior to the regulatory body hearing the appeal under ORS**
28 **455.690 unless the reason for the suspension, revocation, conditioning**
29 **or refusal to renew constitutes an imminent and serious threat to**
30 **health or safety.**

31 **SECTION 11.** ORS 455.156 is amended to read:

1 455.156. [(1) *Notwithstanding any other provision of this chapter, ORS*
2 *chapter 693 or ORS 447.010 to 447.156, 447.992, 479.510 to 479.945, 479.990 or*
3 *479.995, the Department of Consumer and Business Services shall carry out the*
4 *provisions of this section.*]

5 [(2)(a) *A municipality that establishes a building inspection program under*
6 *ORS 455.148 or a plumbing inspection program under ORS 455.150 covering*
7 *installations under the plumbing specialty code or Low-Rise Residential*
8 *Dwelling Code may act on behalf of the State Plumbing Board to investigate*
9 *violations of and enforce ORS 447.040, 693.030 and 693.040 and to issue notices*
10 *of proposed assessment of civil penalties for those violations.*]

11 [(b) *A municipality that establishes a building inspection program under*
12 *ORS 455.148 or an electrical inspection program under ORS 455.150 covering*
13 *installations under the electrical specialty code or Low-Rise Residential*
14 *Dwelling Code may act on behalf of the Electrical and Elevator Board to in-*
15 *vestigate violations of and enforce ORS 479.550 (1) and 479.620 and to issue*
16 *notices of proposed assessment of civil penalties for those violations.*]

17 [(c)] (1) A municipality that establishes a building inspection program
18 under ORS 455.148 or 455.150 may investigate violations and enforce any
19 provisions of the program administered by the municipality.

20 [(3)] (2) The Department **of Consumer and Business Services** shall es-
21 tablish:

22 (a) Procedures, forms and standards to carry out the provisions of this
23 section, including but not limited to creating preprinted notices of proposed
24 assessment of penalties that can be completed and served by municipal in-
25 spectors;

26 (b) A program to provide that all of the moneys recovered by the depart-
27 ment, less collection expenses, be paid to the municipality that initiated the
28 charges when a person charged with a violation [*as provided in subsection*
29 *(2) of this section,*] other than a violation of a licensing requirement[,] agrees
30 to the entry of an assessment of civil penalty or does not request a hearing,
31 and an order assessing a penalty is entered against the person;

1 (c) A uniform citation process to be used in all jurisdictions of the state
 2 for violation of a licensing requirement. The process may include but need
 3 not be limited to all program areas administered by a municipality under
 4 ORS 455.148 or 455.150 and may provide a uniform method for checking li-
 5 cense status and issuing citations for violation of a licensing requirement,
 6 and a consistent basis for enforcement of licensing requirements and treat-
 7 ment of violations, including fine amounts; **and**

8 (d) A program to provide a division of the moneys recovered by the de-
 9 partment with the municipality that initiated the charges, when a person
 10 charged with a violation [*as provided in subsection (2) of this section,*] other
 11 than a violation of a licensing requirement[,] requests a hearing and is as-
 12 sessed a penalty. One-half of the amounts recovered shall be paid to the
 13 municipality. The department shall keep an amount equal to [*its*] **the**
 14 **department's** costs of processing the proceeding and collection expenses out
 15 of the remaining one-half and remit the balance, if any, to the
 16 municipality.[; *and*]

17 [*(e) A program to require municipalities to investigate violations of the*
 18 *department's permit requirements for plumbing installations and services un-*
 19 *der the plumbing specialty code and for plumbing and electrical installations*
 20 *and services under the Low-Rise Residential Dwelling Code, and to:]*

21 [(A) *Initiate notices of proposed assessment of civil penalties as agents of*
 22 *the boards designated in subsection (2) of this section; and]*

23 [(B) *Pay the agents of the boards out of net civil penalty recoveries as if*
 24 *the recoveries were under paragraphs (b) and (d) of this subsection.]*

25 [(4) *The assessment of a civil penalty under this section by a municipality*
 26 *is subject to the amount limitations set forth in ORS 455.895.]*

27 [(5)(a)] (4) It shall be a defense for any person charged with a penalty for
 28 violation of a building inspection program permit requirement [*covering*
 29 *plumbing installations under the plumbing specialty code, electrical permit*
 30 *requirements under ORS 479.550 or plumbing or electrical requirements under*
 31 *the Low-Rise Residential Dwelling Code]* that the person was previously [*pe-*

1 *nalized]* **assessed a civil penalty under ORS 455.895** for the same occur-
2 *rence.*

3 *[(b) A building inspection program permit requirement is a requirement*
4 *contained in a specialty code or municipal ordinance or rule requiring a permit*
5 *before the particular installations covered by the codes are commenced.]*

6 *[(c) A penalty for the same occurrence includes a combination of two or*
7 *more of the following that are based on the same plumbing or electrical in-*
8 *stallation:]*

9 *[(A)(i) An investigative or other fee added to an electrical permit fee when*
10 *a permit was obtained after the electrical installation was started;]*

11 *[(ii) A civil penalty pursuant to ORS 479.995 for violation of ORS 479.550*
12 *for failure to obtain an electrical permit;]*

13 *[(iii) A civil penalty pursuant to ORS 455.895 for failure to obtain an*
14 *electrical permit under the Low-Rise Residential Dwelling Code; or]*

15 *[(iv) A municipal penalty, other than an investigative fee, for making an*
16 *electrical installation under the electrical specialty code or the Low-Rise Resi-*
17 *dential Dwelling Code without a permit; or]*

18 *[(B)(i) An investigative or other fee added to a plumbing permit fee when*
19 *a permit was obtained after the plumbing installation was started;]*

20 *[(ii) A civil penalty pursuant to ORS 447.992 for failure to obtain a*
21 *plumbing permit as required under the plumbing specialty code;]*

22 *[(iii) A civil penalty pursuant to ORS 455.895 for failure to obtain a*
23 *plumbing permit under the Low-Rise Residential Dwelling Code; or]*

24 *[(iv) A municipal penalty, other than an investigative fee, for making a*
25 *plumbing installation under the plumbing specialty code or the Low-Rise Resi-*
26 *dential Dwelling Code without a permit.]*

27 **SECTION 12.** ORS 455.770 is amended to read:

28 455.770. (1) In addition to any other authority and power granted to the
29 Director of the Department of Consumer and Business Services **or advisory**
30 **boards** under ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420,
31 479.510 to 479.945, 479.995 and 480.510 to 480.670 and this chapter and ORS

1 chapters 447, 460 and 693, with respect to municipalities, building officials
 2 and inspectors, if the director **or advisory board** has reason to believe that
 3 there is a failure to enforce or a violation of any provision of ORS 446.003
 4 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995
 5 [and] **or** 480.510 to 480.670, [and] this chapter or ORS chapter 447, 460 or 693
 6 or any rule adopted [thereunder] **under ORS 446.003 to 446.200, 446.225 to**
 7 **446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 or 480.510 to 480.670,**
 8 **this chapter or ORS chapter 447, 460 or 693,** the director **or the appro-**
 9 **priate advisory board** may:

- 10 (a) Examine building code activities of the municipality;
- 11 (b) Take sworn testimony; and
- 12 (c) With the authorization of the Office of the Attorney General, subpoena
 13 persons and records to obtain testimony on official actions that were taken
 14 or omitted or to obtain documents otherwise subject to public inspection
 15 under ORS 192.410 to 192.505.

16 (2) The investigative authority authorized in subsection (1) of this section
 17 covers the violation or omission by a municipality related to enforcement
 18 of codes or administrative rules, certification of inspectors or financial
 19 transactions dealing with permit fees and surcharges under any of the fol-
 20 lowing circumstances when:

- 21 (a) The duties are clearly established by law, rule or agreement;
- 22 (b) The duty involves procedures for which the means and methods are
 23 clearly established by law, rule or agreement; or
- 24 (c) The duty is described by clear performance standards.

25 (3) Prior to starting an investigation under subsection (1) of this section,
 26 the director **or advisory board** shall notify the municipality in writing set-
 27 ting forth the allegation and the rules or statutes pertaining to the
 28 allegation and give the municipality 30 days to respond to the allegation. If
 29 the municipality does not satisfy the [director's] concerns **of the director**
 30 **or the advisory board,** the director **or advisory board** may then commence
 31 an investigation.

1 (4) If the Department of Consumer and Business Services, **the director**
2 **or an advisory board** directs corrective action, the following shall be done:

3 (a) The corrective action shall be in writing and served on the building
4 official and the chief executive officers of all municipalities affected;

5 (b) The corrective action shall identify the facts and law relied upon for
6 the required action; and

7 (c) A reasonable time shall be provided to the municipality for compli-
8 ance.

9 (5) The director may revoke any authority of the municipality to admin-
10 ister any part of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420,
11 479.510 to 479.945, 479.995 and 480.510 to 480.670 and this chapter or ORS
12 chapter 447, 460 or 693 or any rule adopted thereunder if the director deter-
13 mines after a hearing conducted under ORS 183.413 to 183.497 that:

14 (a) All of the requirements of this section and ORS 455.775 and 455.895
15 were met; and

16 (b) The municipality did not comply with the corrective action required.

17 (6) Nothing in ORS 455.775 shall be construed to grant any authority over
18 a municipality or inspector employed by a municipality.

19 **SECTION 13.** ORS 455.775 is amended to read:

20 455.775. In addition to any other authority and power granted [*to the Di-*
21 *rector of the Department of Consumer and Business Services*] under this
22 chapter and ORS chapters 446, 447, 460, 479, 480 and 693:

23 **(1) The Director of the Department of Consumer and Business Ser-**
24 **vices or an appropriate advisory board[:]**

25 [*(1) Except where inconsistent with other provisions of law, the director*]
26 may enforce the provisions of ORS 446.003 to 446.200, 446.225 to 446.285,
27 446.395 to 446.420, 479.510 to 479.945, 479.950, 479.995 and 480.510 to 480.670
28 and this chapter and ORS chapters 447, 460 and 693 against any person re-
29 gardless of whether a permit, certificate, license or other indicia of authority
30 has been issued. The director **or advisory board** may:

31 (a) Make an investigation;

1 (b) Take sworn testimony;

2 (c) With the authorization of the Office of the Attorney General, subpoena
3 persons and records;

4 (d) **Subject to ORS 446.260 (2) and 447.233**, order corrective action; and

5 (e) If an immediate hazard to health and safety is imminent, issue an or-
6 der to stop all or any part of the work under the applicable specialty code.

7 (2) If the director **or an advisory board** has reason to believe that any
8 person has been engaged, or is engaging, or is about to engage in any vio-
9 lation of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510
10 to 479.945, 479.950 and 480.510 to 480.670 [*and*] **or** this chapter [*and*] **or** ORS
11 [*chapters*] **chapter** 447, 460 [*and*] **or** 693 [*and*] **or** any rule adopted there-
12 under, the director **or the appropriate advisory board** may issue an order,
13 subject to ORS 183.413 to 183.497, directed to the person to cease and desist
14 from the violation or threatened violation.

15 *[(3) If the director has reason to believe that any person has been engaged,*
16 *or is engaging, or is about to engage in any violation of ORS 446.003 to*
17 *446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 and*
18 *480.510 to 480.670 and this chapter and ORS chapters 447, 460 and 693 and*
19 *any rule adopted thereunder, the director may, without bond, bring suit in the*
20 *name and on behalf of the State of Oregon in the circuit court of any county*
21 *of this state to enjoin the acts or practices and to enforce compliance with ORS*
22 *446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945,*
23 *479.950 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and*
24 *693 and any rule adopted thereunder. Upon a proper showing, a permanent or*
25 *temporary injunction, restraining order or writ of mandamus shall be*
26 *granted.]*

27 **SECTION 14.** ORS 455.895 is amended to read:

28 455.895. *[(1)(a) The State Plumbing Board may impose a civil penalty*
29 *against a person as provided under ORS 447.992 and 693.992. Amounts recov-*
30 *ered under this paragraph are subject to ORS 693.165.]*

31 *[(b) The Electrical and Elevator Board may impose a civil penalty against*

1 *a person as provided under ORS 479.995. Amounts recovered under this para-*
 2 *graph are subject to ORS 479.850.]*

3 *[(c) The Board of Boiler Rules may impose a civil penalty against a person*
 4 *as provided under ORS 480.670. Amounts recovered under this paragraph are*
 5 *subject to ORS 480.670.]*

6 *[(2)] (1) [The Director of] **Subject to subsection (2) of this section,** the*
 7 *Department of Consumer and Business Services, [in] **after** consultation with*
 8 *the appropriate **advisory** board[,] if any, **an appropriate advisory board***
 9 ***or a municipality acting under ORS 455.156** may impose a civil penalty*
 10 *against any person who violates any provision of ORS 446.003 to 446.200,*
 11 *446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, [446.666 to 446.746,]*
 12 *479.510 to 479.945, 479.950 [and] **or** 480.510 to 480.670, [and] this chapter*
 13 *[and] **or** ORS [chapters] **chapter** 447, 460 [and] **or** 693, or any rule adopted*
 14 *or order issued for the administration and enforcement of [those provisions]*
 15 ***ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566 to***
 16 ***446.646, 479.510 to 479.945, 479.950 or 480.510 to 480.670, this chapter or***
 17 ***ORS chapters 447, 460 or 693.** Except as provided in subsections (3), (4) and*
 18 *(9) of this section or ORS 446.995, a civil penalty imposed under this section*
 19 *must be in an amount determined by the [appropriate] **advisory** board or the*
 20 *[director] **department** of not more than \$5,000 for each offense or, in the*
 21 *case of a continuing offense, not more than \$1,000 for each day of the offense.*

22 ***(2) Subsection (1) of this section does not authorize an advisory***
 23 ***board to administer and enforce any code, law or rule that is not***
 24 ***otherwise subject to administration and enforcement by the advisory***
 25 ***board. Subsection (1) of this section does not authorize an advisory***
 26 ***board to assess any civil penalty that the advisory board is not ex-***
 27 ***pressly authorized by law to assess.***

28 *(3) Each violation of ORS 446.003 to 446.200 or 446.225 to 446.285, or any*
 29 *rule or order issued [thereunder] **under ORS 446.003 to 446.200 or 446.225***
 30 ***to 446.285,** constitutes a separate violation with respect to each manufac-*
 31 *tured structure or with respect to each failure or refusal to allow or perform*

1 an act required thereby, except that the maximum civil penalty may not ex-
2 ceed \$1 million for any related series of violations occurring within one year
3 from the date of the first violation.

4 (4) The [*director*] **department** may impose a civil penalty of not more
5 than \$25,000 against a public body responsible for administering and enforc-
6 ing a building inspection program. As used in this subsection, “public
7 body” has the meaning given that term in ORS 174.109.

8 (5) The maximum penalty established by this section for a violation may
9 be imposed only upon a finding that the person has engaged in a pattern of
10 violations. The department [*of Consumer and Business Services*], by rule,
11 shall define what constitutes a pattern of violations. Except as provided in
12 [*subsections (1) and*] **subsection** (10) of this section, moneys received from
13 any civil penalty under this section are appropriated continuously for and
14 shall be used by the [*director*] **department** for enforcement and adminis-
15 tration of provisions and rules described in subsection [(2)] (1) of this sec-
16 tion.

17 (6) Civil penalties under this section shall be imposed as provided in ORS
18 183.745.

19 (7) A civil penalty imposed under this section may be remitted or reduced
20 upon such terms and conditions as the [*director*] **department** or the appro-
21 priate **advisory** board considers proper and consistent with the public health
22 and safety. In any judicial review of a civil penalty imposed under this sec-
23 tion, the court may, in its discretion, reduce the penalty.

24 (8) Any officer, director, shareholder or agent of a corporation, or member
25 or agent of a partnership or association, who personally participates in or
26 is an accessory to any violation by the partnership, association or corpo-
27 ration of a provision or rule described in subsection [(2)] (1) of this section
28 is subject to the penalties prescribed in this section.

29 (9) In addition to the civil penalty set forth in subsection (1) [*or* (2)] of
30 this section, any person who violates a provision or rule described in sub-
31 section [(2)] (1) of this section may be required by the [*director*] **department**

1 or the appropriate **advisory** board to forfeit and pay to the General Fund
2 of the State Treasury a civil penalty in an amount determined by the [*di-*
3 *rector*] **department** or **advisory** board that [*shall*] **does** not exceed five times
4 the amount by which such person profited in any transaction that violates
5 a provision or rule described in subsection [(2)] **(1)** of this section.

6 (10) If a civil penalty is imposed for a violation of a provision of ORS
7 446.566 to 446.646 and the violation relates to a filing or failure to file with
8 a county assessor functioning as agent of the department, the department,
9 after deducting an amount equal to the department's procedural, collection
10 and other related costs and expenses, shall forward one-half of the remaining
11 civil penalty amount to the county in which the manufactured structure is
12 located at the time of the violation.

13 **SECTION 15.** ORS 460.045 is amended to read:

14 460.045. A person may not:

15 [(1) *Engage in the business of installation, alteration, repair or maintenance*
16 *of an elevator without an elevator contractor license issued under ORS 460.005*
17 *to 460.175 or 479.510 to 479.945.*]

18 [(2)] **(1)** Install, alter, repair or maintain an elevator unless the person
19 possesses a valid license issued under ORS 460.059 or 479.630 (6).

20 [(3)] **(2)** Install, alter, or commence to install or alter, an elevator covered
21 by ORS 460.005 to 460.175 unless the Department of Consumer and Business
22 Services has issued an installation permit.

23 [(4)] **(3)** Permit or suffer an elevator to be operated, without a valid
24 temporary operation authorization or current operating permit, on property
25 that the person owns, controls, manages or supervises.

26 [(5)] **(4)** Act or offer to act as a certified elevator inspector unless the
27 person has a current certificate of competency as an elevator inspector is-
28 sued by the department.

29 [(6)] **(5)** Place in service a new or altered elevator without a current op-
30 erating permit issued after a satisfactory acceptance inspection made by the
31 department and satisfactory acceptance tests performed in the presence of a

1 member of the department's staff of elevator inspectors.

2 [(7)] (6) Place in service an elevator that has caused an injury to a person
3 or persons unless permission has been obtained from the department.

4 **SECTION 16.** ORS 460.047 is amended to read:

5 460.047. Notwithstanding ORS 460.045 [(2)] (1), the following persons may
6 conduct electrical and mechanical repairs on an elevator located in an in-
7 dustrial plant:

8 (1) A limited supervising electrician licensed under ORS 479.630 (3).

9 (2) A limited journeyman electrician licensed under ORS 479.630 (5).

10 **SECTION 17.** ORS 460.061 is amended to read:

11 460.061. (1) As used in this section, "reciprocating conveyor" means a
12 self-contained, power-driven stationary device that moves objects on a plat-
13 form equipped with safety guards, or that moves individuals on a motorized
14 chair, along a predetermined horizontal, inclined or vertical path between
15 loading and discharge points.

16 (2) The Department of Consumer and Business Services may adopt rules
17 establishing a reciprocating conveyor mechanic license and a restricted
18 reciprocating conveyor mechanic license that allow the holder to install, al-
19 ter, repair and maintain the mechanical portions of reciprocating conveyors.

20 (3) If the department adopts rules under this section, the rules shall in-
21 clude, but need not be limited to, rules that establish:

22 (a) Subject to subsection (4) of this section, the type of work experience
23 and training required to qualify for a reciprocating conveyor mechanic li-
24 cense or restricted reciprocating conveyor mechanic license;

25 (b) Supervision and oversight requirements for reciprocating conveyor
26 mechanics or restricted reciprocating conveyor mechanics; and

27 (c) Procedures for administering and enforcing this section and the rules
28 adopted under this section.

29 (4) An applicant for a reciprocating conveyor mechanic license must
30 demonstrate 3,000 hours of work experience in the installation, alteration,
31 repair and maintenance of reciprocating conveyors or of other forms of ele-

1 vators identified by the department by rule.

2 (5) ORS 460.045 [(2)] (1) does not apply to a reciprocating conveyor me-
3 chanic or restricted reciprocating conveyor mechanic engaged in installing,
4 altering, repairing or maintaining the mechanical portions of a reciprocating
5 conveyor.

6 (6) Department rules adopted under this section may not prohibit a person
7 who holds a license issued under ORS 460.057, 460.059 or 479.630 (6) from
8 installing, altering, repairing or maintaining reciprocating conveyors or
9 prohibit a limited journeyman electrician licensed under ORS 479.630 (5)
10 from repairing or maintaining a reciprocating conveyor located in an indus-
11 trial plant.

12 (7) Notwithstanding ORS 460.045 [(2)] (1), a person is exempt from any
13 licensing requirement established by rules adopted under this section or es-
14 tablished under ORS 460.057, 460.059 or 479.630 (6) when engaging in the in-
15 stallation, alteration, repair or maintenance of the mechanical portions of a
16 reciprocating conveyor that is located in a residence and designed for moving
17 an individual on a motorized chair.

18 (8)(a) The fee for the issuance or renewal of a reciprocating conveyor
19 mechanic license is \$100 per year.

20 (b) The fee for the issuance or renewal of a restricted reciprocating con-
21 veyor mechanic license is \$50 for a three-year period.

22 **SECTION 18.** ORS 479.620 is amended to read:

23 479.620. Subject to ORS 479.540, a person may not:

24 [(1) *Without an electrical contractor's license, engage in the business of*
25 *making electrical installations, advertise as or otherwise purport to be licensed*
26 *to make electrical installations or purport to be acting as a business that makes*
27 *electrical installations.*]

28 [(2)] (1) Except as provided in ORS 479.630 (10)(c) and (11)(f), direct, su-
29 pervise or control the making of an electrical installation without a super-
30 vising electrician's license.

31 [(3)] (2) Except as provided in subsection [(5)] (4) of this section, make

1 any electrical installation without a supervising or journeyman electrician's
2 license.

3 [(4)] (3) Perform work on an electrical installation as an electrical ap-
4 prentice without an electrical apprentice's license.

5 [(5)] (4) Make any electrical installation on a single or multifamily
6 dwelling unit not exceeding three floors above grade, as provided in ORS
7 479.630 (14), without a limited residential electrician's license.

8 [(6)] (5) Permit or suffer any electrical installation on property that the
9 person owns, controls, manages or supervises to be made by a person not li-
10 censed to make such an installation.

11 **SECTION 19.** ORS 480.530 is amended to read:

12 480.530. The [*Department of Consumer and Business Services*] **Board of**
13 **Boiler Rules** may:

14 [(1) *Where it appears that a person is engaging in or is about to engage in*
15 *an act or practice in violation of any provision of ORS 480.510 to 480.670, ob-*
16 *tain without furnishing a bond, a restraining order and injunction from the*
17 *circuit court in the county where the act or practice is occurring, or is threat-*
18 *ened, enjoining the act or practice. However, before obtaining a restraining*
19 *order and injunction, unless the act or practice constitutes an immediate threat*
20 *to health and safety, the department shall first notify the person concerned of*
21 *the department's intentions. The notice shall be in writing, shall advise the*
22 *person concerned of the department's intentions and shall advise the person*
23 *concerned of the right to appeal in writing within 10 days and that the appeal*
24 *will be heard by the Board of Boiler Rules. In case there is a timely request*
25 *for an appeal, proceedings will be stayed pending the appeal, unless the act*
26 *or practice constitutes an immediate menace to health or safety or the person*
27 *concerned fails to prosecute the appeal with diligence.]*

28 [(2)] (1) Keep a complete record of the types, dimensions, maximum al-
29 lowable working pressures, age, location and date of the last recorded in-
30 spection of all boilers and pressure vessels to which ORS 480.510 to 480.670
31 apply.

1 [(3)] (2) Publish and distribute copies of the rules [*and regulations*] **and**
2 **codes applicable to boilers and pressure vessels.**

3 [(4)] (3) Check or cause to be checked the authenticity, appropriateness
4 and expiration dates of licenses and certificates issued under ORS 480.510 to
5 480.670.

6 [(5)] (4) Administer written, oral or practical examinations to all appli-
7 cants for certification as chief boiler inspector, deputy inspector or special
8 inspector under ORS 480.565.

9 **SECTION 20.** ORS 90.145 is amended to read:

10 90.145. (1) A tenant who occupies or an applicant who will occupy a
11 dwelling unit and who conducts repairs, routine maintenance or cleaning
12 services on that dwelling unit in exchange for a reduction in rent pursuant
13 to a written or oral agreement with the landlord is not an employee of the
14 landlord.

15 (2) A tenant or an applicant described in subsection (1) of this section
16 may not conduct electrical or plumbing installation, maintenance or repair
17 unless properly licensed under ORS 479.510 to 479.945 or ORS chapter 693.
18 The tenant or applicant is not required to obtain a plumbing contractor li-
19 cense [*under ORS 447.040*] to perform work under this section.

20 (3) Nothing in this section diminishes the obligations of a landlord to
21 maintain the dwelling unit in a habitable condition under ORS 90.320 or
22 90.730.

23 (4) Any electrical or plumbing installation, maintenance or repair work
24 performed by a tenant or an applicant under this section must comply with
25 ORS 447.010 to 447.156 and 479.510 to 479.945.

26 **SECTION 21.** ORS 460.085 is amended to read:

27 460.085. (1) In accordance with the applicable provisions of ORS chapter
28 183, the Director of the Department of Consumer and Business Services, after
29 consultation with the Electrical and Elevator Board, shall adopt reasonable
30 rules:

31 (a) Establishing safety standards applicable to the installation of eleva-

1 tors.

2 (b) Establishing safety standards applicable to the alteration, repair or
3 maintenance of elevators. The director may provide differing standards for
4 elevators installed prior to July 1, 1961, and after July 1, 1961.

5 (c) Governing the issuance, renewal, suspension and revocation of permits
6 and certificates of competency issued under ORS 460.005 to 460.175.

7 (d) Prescribing the time, place and circumstances under which permits,
8 licenses and certificates of competency shall be exhibited for inspection.

9 (e) Governing the internal organization and procedure of the Department
10 of Consumer and Business Services for administering and enforcing ORS
11 460.005 to 460.175.

12 (f) Prescribing, requiring and governing reports by the department's staff
13 of elevator inspectors and certified elevator inspectors on elevators inspected
14 by them.

15 (g) Establishing standards, criteria and intervals for the periodic in-
16 spection under ORS 460.125 of the various types of elevators.

17 (h) Establishing standards for the inspection of, and safety testing on, a
18 new or altered elevator prior to placement of the elevator into service.

19 (i) Establishing reasonable fees, in addition to the fees established by ORS
20 460.165, that the department considers appropriate for the purpose of admin-
21 istering and enforcing ORS 460.005 to 460.175.

22 (2) In adopting rules under subsection (1) of this section, the director
23 shall consider:

24 (a) Technological advances in the elevator industry.

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

27 (c) The probability, extent and gravity of the injury to the public or
28 property that would result from failure to follow the standards under con-
29 sideration.

30 (d) Safety standards followed, proposed or approved by responsible mem-
31 bers of the elevator industry.

1 (3) The sole purpose of subsection (1)(b) of this section is to provide rea-
2 sonable safety for life and limb. In case of practical difficulty or unnecessary
3 hardship, the director shall grant exceptions from the literal requirements
4 or permit the use of other devices or methods than specified pursuant to
5 subsection (1)(b) of this section when it is evident that reasonable safety is
6 thereby secured.

7 (4) Any owner, user or other person aggrieved by the application by the
8 department of the minimum safety standards established by the director
9 pursuant to subsection (1)(b) of this section may appeal in the same manner
10 and for the same reasons as provided under ORS [460.155] **455.070**.

11 **SECTION 22.** ORS 460.125 is amended to read:

12 460.125. (1) The Department of Consumer and Business Services shall:

13 (a) Except as provided in this subsection, periodically inspect each ele-
14 vator to ascertain if the elevator is being operated and maintained in ac-
15 cordance with ORS 460.005 to 460.175. The department is not required to
16 inspect an elevator if the department is notified in writing, by the employer
17 of a certified elevator inspector, that inspection will be made by the certified
18 inspector and a copy of the inspection report is filed with the department
19 within 30 days of the date the elevator is due for inspection.

20 (b) Periodically check the authenticity, appropriateness and expiration
21 date of elevator operating permits.

22 (c) Review with the Electrical and Elevator Board any appeals from the
23 decisions of the inspectors.

24 (d) To the extent necessary to ensure safety, perform inspections and
25 witness safety tests of new or altered elevators before the elevators are
26 placed in service.

27 (2) Inspection reports provided to owners, users or other affected parties
28 shall contain a notification of the right of appeal as provided in ORS
29 [460.155] **455.070**.

30 (3) If the department finds that an elevator is not being operated in
31 compliance with ORS 460.005 to 460.175, and the rules adopted under ORS

1 460.005 to 460.175, the department may cause the elevator to be disconnected
2 from the source of power for the elevator. The department shall give rea-
3 sonable notice to the owner or operator prior to causing the elevator to be
4 disconnected unless continued operation of the elevator would constitute an
5 immediate hazard to the health and safety of persons.

6 **SECTION 23.** ORS 479.550 is amended to read:

7 479.550. [(1)] Except as provided in ORS 479.540, no person shall work on
8 any new electrical installation for which a permit has not been issued.

9 [(2) *The Electrical and Elevator Board shall adopt by rule provisions to*
10 *require a city or a county to issue a temporary permit to be used for emergency*
11 *or unanticipated work which will be valid for seven days to a licensed elec-*
12 *trical contractor prior to the start of an electrical installation to allow con-*
13 *tractor response prior to purchase of the actual electrical permit.]*

14 [(3) *The board shall require a city or a county to revoke the temporary*
15 *permit of the licensed electrical contractor who fails to comply with the Elec-*
16 *trical Safety Law.]*

17 **SECTION 24.** ORS 446.190, 447.040, 460.155 and 693.105 are repealed.

18 **SECTION 25.** Section 2 of this 2013 Act applies to fees and sur-
19 charges that are assessed on or after the effective date of this 2013 Act
20 for plan reviews, permits and inspections for construction, alterations,
21 repairs and installations commenced before, on or after the effective
22 date of this 2013 Act.

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