

D R A F T

SUMMARY

Revises language regarding assumption of administration and enforcement of manufactured dwelling services, building inspection program or partial building inspection program after municipality ceases administration and enforcement.

Authorizes Department of Consumer and Business Services to accept joint or partial administration of municipal building inspection program under certain circumstances. Allows department to enter into agreements with municipality administering program or with other municipalities or independent contractors to ensure adequate resources for administration of program.

Allows existing one percent permit or hourly rate surcharge to be used for paying department expenses of joint or partial administration of municipal building inspection program.

A BILL FOR AN ACT

1
2 Relating to building inspection programs; creating new provisions; and
3 amending ORS 446.253, 455.148, 455.150, 455.160, 455.220 and 479.855.

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

5 **SECTION 1. Sections 2 to 5 of this 2013 Act are added to and made**
6 **a part of ORS chapter 455.**

7 **SECTION 2. (1) If the Department of Consumer and Business Ser-**
8 **vices assumes the administration and enforcement of a municipal**
9 **building inspection program under ORS 455.148 or a full municipal**
10 **building inspection program under 455.150, subject to subsection (2) of**
11 **this section, the Director of the Department of Consumer and Business**
12 **Services may:**

13 **(a) Enter into an agreement for another municipality to assume**

1 **administration and enforcement of the building inspection program;**

2 **(b) Enter into an agreement for a private independent contractor,**
3 **acting as agent for the department, to assume the administration and**
4 **enforcement of the building inspection program; or**

5 **(c) Have the department assume administration and enforcement**
6 **of the building inspection program.**

7 **(2) A state employee may not be displaced as a result of using**
8 **municipality or contract personnel to administer and enforce a build-**
9 **ing inspection program under this section.**

10 **(3) A municipality assuming the administration and enforcement**
11 **of a building inspection program under this section may establish**
12 **reasonable fees as provided under ORS 455.210 (3) for services provided**
13 **in connection with the building inspection program.**

14 **(4) If the municipality that surrenders the administration and**
15 **enforcement of a building inspection program under ORS 455.148 or a**
16 **full building inspection program under ORS 455.150 has adopted a fee**
17 **under ORS 455.210 (3) that is higher than the fee allowed under ORS**
18 **455.210 (1) for the same building inspection program services, not-**
19 **withstanding ORS 455.210 (1) an independent contractor described in**
20 **subsection (1)(b) of this section or the department may charge the**
21 **municipal fee amount adopted under ORS 455.210 (3) for those services**
22 **within the municipality. Fees described in this subsection or sub-**
23 **section (3) of this section are subject to any applicable permit fee**
24 **surcharges imposed under ORS 455.210, 455.220 or 455.447.**

25 **(5) Notwithstanding ORS 455.447, unless an agreement under sub-**
26 **section (1)(b) of this section provides otherwise, all fees and surcharges**
27 **collected by the independent contractor or by the department for the**
28 **building inspection program services must be paid into the Consumer**
29 **and Business Services Fund created by ORS 705.145 and credited to the**
30 **account responsible for paying the expenses incurred by the depart-**
31 **ment in administering and enforcing the state building code, including**

1 but not limited to any payment for the independent contractor ser-
2 vices.

3 (6) An agreement described in this section is not subject to the
4 four-year period requirement under ORS 455.148 (2) or 455.150 (2).

5 SECTION 3. (1) If the Department of Consumer and Business Ser-
6 vices assumes the joint or partial administration and enforcement of
7 a municipal building inspection program under ORS 455.148 (12)(b) or
8 455.150, the administration and enforcement of a partial program un-
9 der ORS 455.150 or the duties described in ORS 446.250, the Director
10 of the Department of Consumer and Business Services may:

11 (a) Enter into agreements with the municipality for the department
12 to jointly administer and enforce one or more parts of the municipal
13 building inspection program or to assume the partial administration
14 and enforcement of a program, the administration and enforcement
15 of a partial program or any combination of joint and partial adminis-
16 tration and enforcement. An agreement described in this paragraph is
17 not subject to the four-year period requirement under ORS 455.148 (2)
18 or 455.150 (2).

19 (b) Enter into agreements with other municipalities or with private
20 independent contractors to act as agents for the department in carry-
21 ing out duties under an agreement described in paragraph (a) of this
22 subsection. An agreement described in this paragraph may not provide
23 for a municipal employee or independent contractor to displace a de-
24 partment employee from a job position occupied by the department
25 employee.

26 (2) If the municipality that shares duties with the department has
27 adopted a fee under ORS 455.210 (3) that is higher than the fee allowed
28 under ORS 455.210 (1) for the same building inspection program ser-
29 vices, notwithstanding ORS 455.210 (1) the department or agents for
30 the department may charge the municipal fee amount adopted under
31 ORS 455.210 (3) for those services within the municipality. Fees de-

1 scribed in this subsection are subject to any applicable permit fee
2 surcharges imposed under ORS 455.210, 455.220 or 455.447.

3 (3) Unless an agreement described in subsection (1)(b) of this sec-
4 tion provides otherwise, notwithstanding ORS 455.447, all fees and
5 surcharges collected by the department or agents for the department
6 under this section shall be paid into the Consumer and Business Ser-
7 vices Fund created by ORS 705.145 and credited to the account re-
8 sponsible for paying the expenses incurred by the department in
9 administering and enforcing the state building code, including but not
10 limited to any payment to the agents for the department under this
11 section.

12 (4) The director may take any reasonable actions to ensure the
13 availability of sufficient combined resources for the joint or partial
14 administration of a municipal building inspection program described
15 in this section. The director shall consult with appropriate advisory
16 boards regarding the department's joint or partial administration of a
17 municipal building inspection program under this section.

18 (5) The director shall report annually to the Legislative Assembly
19 as provided under ORS 192.230 to 192.250 regarding any activities of the
20 department under this section and regarding any projected need for
21 an increase in department resources to handle the joint or partial ad-
22 ministration of municipal building inspection programs under this
23 section.

24 **SECTION 4.** (1) Subject to subsection (2) of this section, a munici-
25 pality may enter an intergovernmental agreement under ORS 190.003
26 to 190.130 with one or more municipalities or the Department of Con-
27 sumer and Business Services, or both, to provide for the sharing of
28 resources, duties, functions and powers to carry out the adminis-
29 tration and enforcement of the state building code within an area
30 covered by the agreement. The area covered by an agreement under
31 this section need not correspond with any other jurisdictional bound-

1 aries.

2 (2) Notwithstanding ORS 190.010, an agreement under this section
3 is subject to review and approval by the Director of the Department
4 of Consumer and Business Services. The approval, denial or condi-
5 tioning of an agreement is at the discretion of the director and is not
6 subject to appeal.

7 (3) An agreement under this section may provide for the divided,
8 mutual or joint administration and enforcement of the state building
9 code within the area covered by the agreement. The agreement may
10 provide for any combinations of plan review or specialty code admin-
11 istration and enforcement functions to be performed by one or more
12 parties to the agreement acting alone, in concert or as otherwise de-
13 termined by the parties to be reasonable.

14 (4) An agreement under this section may be for a specific term or
15 may be for purposes of a specific project or group of projects.

16 (5) If an agreement is entered into under this section, notwith-
17 standing ORS 455.210 the fees charged under the agreement for ser-
18 vices shall be established by municipal ordinance or regulation
19 regardless of which party to the agreement performs the services. The
20 fees adopted by a municipality are deemed to belong to the munici-
21 pality regardless of which party to the agreement collects the fees on
22 behalf of the municipality. Any payments that a municipality makes
23 from fee moneys to reimburse a party for services performed under the
24 agreement are deemed to be expenditures of the municipality imposing
25 the fee and not of the party that performed the services.

26 SECTION 5. In addition to any other authorized use, the Depart-
27 ment of Consumer and Business Services may use moneys collected
28 from the surcharge imposed under ORS 455.210 (4)(c) for carrying out
29 a municipal building inspection program partially or jointly adminis-
30 tered by the department, including but not limited to the reimburse-
31 ment of municipalities and independent contractors acting as agents

1 **for the department under section 2 or 3 of this 2013 Act.**

2 **SECTION 6.** ORS 446.253 is amended to read:

3 446.253. (1) The authority of the Director of the Department of Consumer
4 and Business Services under ORS 446.250 shall be in addition to the pro-
5 visions of ORS chapter 455. Where the provisions of ORS 446.252 and this
6 section conflict with the provisions under ORS chapter 455, the provisions
7 of ORS 446.252 and this section shall control.

8 (2) Except as otherwise provided by this subsection, any municipality that
9 establishes a program [*under ORS 446.252 and 455.150 and this section*] **de-**
10 **scribed in ORS 446.250** to administer and enforce installations of manufac-
11 tured dwellings and manufactured structure accessory buildings and
12 structures shall assume full responsibility for permit issuance and in-
13 spections under that program including related electrical, plumbing, struc-
14 tural and mechanical installations for a manufactured dwelling and
15 manufactured structure accessory buildings and structures as defined in ORS
16 446.003.

17 (3) The director may by order relieve a municipality from compliance with
18 the requirements of subsection (2) of this section under the following condi-
19 tions:

- 20 (a) Budget limitations of the municipality;
21 (b) Inadequate staffing of the municipality;
22 (c) Inability to contract services with another municipality; or
23 (d) Where the public is inconvenienced by increased cost, travel distance
24 or time loss.

25 (4) The Department of Consumer and Business Services, subject to ORS
26 chapter 183, may revoke any authority of a local government to conduct in-
27 spections, administration or enforcement of manufactured dwelling installa-
28 tions and manufactured structure accessory building installations and
29 manufactured dwelling alterations under ORS 455.150 if the director deter-
30 mines that the municipality is not effectively carrying out duties assumed
31 by the municipality.

1 **(5) If the director orders relief for a municipality under subsection**
2 **(3) of this section or if the department revokes the authority of a**
3 **municipality under subsection (4) of this section, the director may**
4 **provide for the assumption of municipal duties described in ORS**
5 **446.250 in the same manner as provided for the assumption of a build-**
6 **ing inspection program described in ORS 455.148 or a full or partial**
7 **building inspection program described in ORS 455.150.**

8 **SECTION 7.** ORS 455.148 is amended to read:

9 455.148. (1)(a) **Except as provided in subsection (12)(b) of this section,**
10 a municipality that assumes the administration and enforcement of a build-
11 ing inspection program shall administer and enforce the program for all of
12 the following:

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

15 (B) Manufactured structure installation requirements under ORS 446.155,
16 446.185 (1) and 446.230.

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

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

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

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

22 (G) Manufactured structure accessory buildings and structures under ORS
23 446.253.

24 (H) Boilers and pressure vessels described in rules adopted under ORS
25 480.525 (5).

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

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

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

30 (C) Amusement ride regulation under ORS 460.310 to 460.370;

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

1 (E) Manufacture of manufactured structures programs under ORS 446.155
2 to 446.285, including the administration and enforcement of federal manu-
3 factured dwelling construction and safety standards adopted under ORS
4 446.155 or the National Manufactured Housing Construction and Safety
5 Standards Act of 1974;

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

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

9 (2) A municipality that administers a building inspection program as al-
10 lowed under this section shall do so for periods of four years. The Depart-
11 ment of Consumer and Business Services shall adopt rules to adjust time
12 periods for administration of a building inspection program to allow for
13 variations in the needs of the department and participants.

14 (3) When a municipality administers a building inspection program, the
15 governing body of the municipality shall, unless other means are already
16 provided, appoint a person to administer and enforce the building inspection
17 program, who shall be known as the building official. A building official
18 shall, in the municipality for which appointed, attend to all aspects of code
19 enforcement, including the issuance of all building permits. Two or more
20 municipalities may combine in the appointment of a single building official
21 for the purpose of administering a building inspection program within their
22 communities.

23 (4)(a) By January 1 of the year preceding the expiration of the four-year
24 period described in subsection (2) of this section, the governing body of the
25 municipality shall notify the Director of the Department of Consumer and
26 Business Services and, if the municipality is not a county, notify the county
27 whether the municipality will continue to administer and enforce the build-
28 ing inspection program after expiration of the four-year period.

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

1 March 1.

2 *[(5) If a city does not notify the director, or notifies the director that it will*
3 *not administer the building inspection program, the county or counties in*
4 *which the city is located shall administer and enforce the county program*
5 *within the city in the same manner as the program is administered and en-*
6 *forced outside the city, except as provided by subsection (6) of this section.]*

7 *[(6) If a county does not notify the director, or notifies the director that it*
8 *will not administer and enforce a building inspection program, the director*
9 *shall contract with a municipality or other person or use such state employees*
10 *or state agencies as are necessary to administer and enforce a building in-*
11 *spection program, and permit or other fees arising therefrom shall be paid into*
12 *the Consumer and Business Services Fund created by ORS 705.145 and cred-*
13 *ited to the account responsible for paying the expenses thereof. A state em-*
14 *ployee may not be displaced as a result of using contract personnel.]*

15 **(5) If a city does not notify the director under subsection (4) of this**
16 **section that the city will continue to administer and enforce the**
17 **building inspection program, or notifies the director that the city will**
18 **not continue to administer and enforce the building inspection pro-**
19 **gram, except as provided in subsection (6) of this section the county**
20 **or counties in which the city is located shall administer and enforce**
21 **the county program within the city in the same manner as the pro-**
22 **gram is administered and enforced outside the city.**

23 **(6) If a county does not notify the director that the county will as-**
24 **sume the administration and enforcement of a city building inspection**
25 **program as described in subsection (5) of this section or a county**
26 **building inspection program, or notifies the director that the county**
27 **will not administer and enforce a county building inspection program**
28 **or a city building inspection program as described in subsection (5) of**
29 **this section, the director may take action under section 2 of this 2013**
30 **Act to ensure the administration and enforcement of the state building**
31 **code within the municipality.**

1 (7) The governing body of a municipality may commence responsibility for
2 the administration and enforcement of a building inspection program begin-
3 ning July 1 of any year by notifying the director no later than January 1
4 of the same year and obtaining the director's approval of an assumption plan
5 as described in subsection (11)(c) of this section.

6 (8) The department shall adopt rules to require the governing body of
7 each municipality assuming or continuing a building inspection program
8 under this section to submit a written plan with the notice required under
9 subsection (4) or (7) of this section. If the department is the governing body,
10 the department shall have a plan on file. The plan must specify how coop-
11 eration with the State Fire Marshal or a designee of the State Fire Marshal
12 will be achieved and how a uniform fire code will be considered in the review
13 process of the design and construction phases of buildings or structures.

14 (9) A municipality that administers and enforces a building inspection
15 program pursuant to this section shall recognize and accept the performances
16 of state building code activities by businesses and persons authorized under
17 ORS 455.457 to perform the activities as if the activities were performed by
18 the municipality. A municipality is not required to accept an inspection, a
19 plan or a plan review that does not meet the requirements of the state
20 building code.

21 (10) The department or a municipality that accepts an inspection or plan
22 review as required by this section by a person licensed under ORS 455.457
23 has no responsibility or liability for the activities of the licensee.

24 (11) In addition to the requirements of ORS 455.100 and 455.110, the di-
25 rector shall regulate building inspection programs that municipalities as-
26 sume on or after January 1, 2002. Regulation under this subsection shall
27 include but not be limited to:

28 (a) Creating building inspection program application and amendment re-
29 quirements and procedures;

30 (b) Granting or denying applications for building inspection program au-
31 thority and amendments;

1 (c) Requiring a municipality assuming a building inspection program to
2 submit with the notice given under subsection (7) of this section an as-
3 sumption plan that includes, at a minimum:

4 (A) A description of the intended availability of program services, in-
5 cluding proposed service agreements for carrying out the program during at
6 least the first two years;

7 (B) Demonstration of the ability and intent to provide building inspection
8 program services for at least two years;

9 (C) An estimate of proposed permit revenue and program operating ex-
10 penses;

11 (D) Proposed staffing levels; and

12 (E) Proposed service levels;

13 (d) Reviewing procedures and program operations of municipalities;

14 (e) Creating standards for efficient, effective, timely and acceptable
15 building inspection programs;

16 (f) Creating standards for justifying increases in building inspection pro-
17 gram fees adopted by a municipality;

18 (g) Creating standards for determining whether a county or department
19 building inspection program is economically impaired in its ability to rea-
20 sonably continue providing the program throughout a county, if another
21 municipality is allowed to provide a building inspection program within the
22 same county; and

23 (h) Enforcing the requirements of this section.

24 [(12) *The department may assume administration of a building inspection*
25 *program.*]

26 [(a) *During the pendency of activities under ORS 455.770;*]

27 [(b) *If a municipality abandons or is no longer able to administer the*
28 *building inspection program; and*]

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

31 [(13) *A municipality that abandons or otherwise ceases to administer a*

1 *building inspection program that the municipality assumed under this section*
2 *may not resume the administration or enforcement of the program for at least*
3 *two years. The municipality may resume the administration and enforcement*
4 *of the abandoned program only on July 1 of an odd-numbered year. Prior to*
5 *resuming the administration and enforcement of the program, the municipality*
6 *must follow the notification procedure set forth in subsection (7) of this*
7 *section.]*

8 **(12)(a) The department may assume administration and enforce-**
9 **ment 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**
12 **the building inspection program; or**

13 **(C) If a municipality fails to substantially comply with any pro-**
14 **vision of this section or of ORS 455.465, 455.467 and 455.469.**

15 **(b) Upon a request by the municipality, the department may assume**
16 **joint or partial administration of a municipal building inspection pro-**
17 **gram if:**

18 **(A) The municipality is unable to continue fully administering the**
19 **building inspection program without department assistance; or**

20 **(B) The demand for building inspection program resources is ex-**
21 **pected to exceed municipal resources for a specific period or during**
22 **one or more specific building projects.**

23 **(13) A municipality that abandons or otherwise ceases to administer**
24 **a building inspection program described in this section may not re-**
25 **sume the administration and enforcement of the program for at least**
26 **two years. The municipality may resume the administration and**
27 **enforcement of the program only on July 1 of an odd-numbered year.**
28 **To resume administration and enforcement, the municipality must**
29 **follow the notification procedure set forth in subsection (7) of this**
30 **section. This subsection does not apply to a municipality that contin-**
31 **ues the joint or partial administration of a building inspection pro-**

1 **gram shared with the department under subsection (12)(b) of this**
2 **section.**

3 **SECTION 8.** ORS 455.150 is amended to read:

4 455.150. (1) Except as provided in subsection (14) of this section, a
5 municipality that assumes the administration and enforcement of a building
6 inspection program prior to January 1, 2002, may administer and enforce [*all*
7 *or part of*] a **full or partial** building inspection program. A **full** building
8 inspection program:

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

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

12 (B) Manufactured structure installation requirements under ORS 446.155,
13 446.185 (1) and 446.230.

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

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

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

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

19 (G) Manufactured structure accessory buildings and structures under ORS
20 446.253.

21 (H) Boilers and pressure vessels described in rules adopted under ORS
22 480.525 (5).

23 (b) Is not a program that includes:

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

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

27 (C) Amusement ride regulation under ORS 460.310 to 460.370;

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

29 (E) Manufacture of manufactured structures programs under ORS 446.155
30 to 446.285, including the administration and enforcement of federal manu-
31 factured dwelling construction and safety standards adopted under ORS

1 446.155 or the National Manufactured Housing Construction and Safety
2 Standards Act of 1974;

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

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

6 (2) A municipality that administers a **full or partial** building inspection
7 program as allowed under this section shall do so for periods of four years.
8 The Department of Consumer and Business Services shall adopt rules to ad-
9 just time periods for administration of a building inspection program to al-
10 low for variations in the needs of the department and participants.

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

20 (4)(a) By January 1 of the year preceding the expiration of the four-year
21 period described in subsection (2) of this section, the governing body of the
22 municipality shall notify the Director of the Department of Consumer and
23 Business Services and, if not a county, notify the county whether the
24 municipality will continue to administer the building inspection program[,
25 *or parts thereof*,] after expiration of the four-year period. If [*parts of a*
26 *building inspection program are to be administered and enforced by a*
27 *municipality*] **the municipality is administering and enforcing a partial**
28 **building inspection program**, the parts shall correspond to a classification
29 designated by the director as reasonable divisions of work.

30 (b) Notwithstanding the January 1 date set forth in paragraph (a) of this
31 subsection, the director and the municipality and, if the municipality is not

1 a county, the county may by agreement extend that date to no later than
2 March 1.

3 *[(5) If a city does not notify the director, or notifies the director that it will
4 not administer certain specialty codes or parts thereof under the building in-
5 spection program, the county or counties in which the city is located shall
6 administer and enforce those codes or parts thereof within the city in the same
7 manner as it administers and enforces them outside the city, except as provided
8 by subsection (6) of this section.]*

9 *[(6) If a county does not notify the director, or notifies the director that it
10 will not administer and enforce certain specialty codes or parts thereof under
11 the building inspection program, the director shall contract with a munici-
12 pality or other person or use such state employees or state agencies as are
13 necessary to administer and enforce those codes or parts thereof, and permit
14 or other fees arising therefrom shall be paid into the Consumer and Business
15 Services Fund created by ORS 705.145 and credited to the account responsible
16 for paying such expenses. A state employee may not be displaced as a result
17 of using contract personnel.]*

18 **(5) If a city does not notify the director under subsection (4) of this**
19 **section that the city will continue to administer and enforce the full**
20 **or partial building inspection program, or notifies the director that the**
21 **city will not continue to administer and enforce the full or partial**
22 **program, except as provided in subsection (6) of this section the**
23 **county or counties in which the city is located shall administer and**
24 **enforce the full or partial program within the city in the same manner**
25 **as the full or partial program is administered and enforced outside the**
26 **city.**

27 **(6) If a county does not notify the director that the county will as-**
28 **sume the administration and enforcement of a city's full or partial**
29 **building inspection program as described in subsection (5) of this sec-**
30 **tion or a county's full or partial program, or notifies the director that**
31 **the county will not administer and enforce a county's full or partial**

1 **program or a city's full or partial program as described in subsection**
2 **(5) of this section, the director may take action under section 2 or 3**
3 **of this 2013 Act, as applicable, to ensure the complete administration**
4 **and enforcement of the state building code within the municipality.**
5 **If the county notifies the director that the county will assume the**
6 **administration and enforcement of less than all of the city's full or**
7 **partial program, the director may take action under section 3 of this**
8 **2013 Act to ensure the administration and enforcement of any parts**
9 **of the city's program that are not assumed by the county.**

10 (7) If a municipality administering a building inspection program under
11 this section seeks to administer additional parts of a program, the munici-
12 pality must comply with ORS 455.148, including the requirement that the
13 municipality administer and enforce all aspects of the building inspection
14 program. Thereafter, the municipality is subject to ORS 455.148 and ceases
15 to be subject to this section.

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

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

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

31 (11) In addition to the requirements of ORS 455.100 and 455.110, the di-

1 rector shall regulate building inspection programs of municipalities assumed
2 prior to January 1, 2002. Regulation under this subsection shall include but
3 not be limited to:

4 (a) Creating building inspection program application and amendment re-
5 quirements and procedures;

6 (b) Granting or denying applications for building inspection program au-
7 thority and amendments;

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

9 (d) Creating standards for efficient, effective, timely and acceptable
10 building inspection programs;

11 (e) Creating standards for justifying increases in building inspection pro-
12 gram fees adopted by a municipality;

13 (f) Creating standards for determining whether a county or department
14 building inspection program is economically impaired in its ability to rea-
15 sonably continue providing the program or part of the program throughout
16 a county, if another municipality is allowed to provide a building inspection
17 program or part of a program within the same county; and

18 (g) Enforcing the requirements of this section.

19 [(12) *The department may assume administration of a building inspection*
20 *program.*]

21 [(a) *During the pendency of activities under ORS 455.770;*]

22 [(b) *If a municipality abandons any part of the building inspection program*
23 *or is no longer able to administer the building inspection program; and]*

24 [(c) *If a municipality fails to substantially comply with any provision of*
25 *this section or of ORS 455.465, 455.467 and 455.469.*]

26 [(13) *If a municipality abandons or otherwise ceases to administer all or*
27 *part of a building inspection program described in this section, the munici-*
28 *pality may not resume the administration and enforcement of the abandoned*
29 *program or part of a program for at least two years. The municipality may*
30 *resume the administration and enforcement of the abandoned program or part*
31 *of a program only on July 1 of an odd-numbered year. To resume the admin-*

1 *istration and enforcement of the abandoned program or part of a program, the*
2 *municipality must comply with ORS 455.148, including the requirement that*
3 *the municipality administer and enforce all aspects of the building inspection*
4 *program. Thereafter, the municipality is subject to ORS 455.148 and ceases*
5 *to be subject to this section.]*

6 **(12)(a) The department may assume administration of a building**
7 **inspection program:**

8 **(A) During the pendency of activities under ORS 455.770;**

9 **(B) If a municipality abandons any part of the building inspection**
10 **program or is no longer able to administer the building inspection**
11 **program; or**

12 **(C) If a municipality fails to substantially comply with any pro-**
13 **vision of this section or of ORS 455.465, 455.467 and 455.469.**

14 **(b) Upon a request by the municipality, the department may assume**
15 **joint or partial administration of a municipal building inspection pro-**
16 **gram if:**

17 **(A) The municipality is unable to continue fully administering the**
18 **full or partial building inspection program without department assist-**
19 **ance; or**

20 **(B) The demand for building inspection program resources is ex-**
21 **pected to exceed municipal resources for a specific period or during**
22 **one or more specific building projects.**

23 **(13) A municipality that abandons or otherwise ceases to administer**
24 **a full or partial building inspection program described in this section**
25 **may not resume the administration and enforcement of the program**
26 **or partial program for at least two years. The municipality may re-**
27 **sume the administration and enforcement of the program or partial**
28 **program only on July 1 of an odd-numbered year. To resume admin-**
29 **istration and enforcement, the municipality must comply with ORS**
30 **455.148, including the requirement that the municipality administer**
31 **and enforce all aspects of the program. Thereafter, the municipality**

1 **is subject to ORS 455.148 and ceases to be subject to this section. This**
2 **subsection does not apply to a municipality that continues the joint**
3 **or partial administration of a building inspection program shared with**
4 **the department under subsection (12)(b) of this section.**

5 (14) A municipality that administers and enforces a building inspection
6 program under this section shall include in the program the inspection of
7 boilers and pressure vessels described in subsection (1)(a)(H) of this section.

8 **SECTION 9.** ORS 455.160 is amended to read:

9 455.160. (1) The municipality that is responsible for state building code
10 administration and enforcement in a municipality pursuant to ORS 455.148
11 or 455.150, or the Department of Consumer and Business Services if the de-
12 partment is responsible for state building code administration and enforce-
13 ment pursuant to ORS 455.148 or 455.150, may not engage in a pattern of
14 conduct of failing to provide timely inspections or plan reviews without
15 reasonable cause.

16 (2) Any person adversely affected by a pattern of conduct prohibited in
17 subsection (1) of this section may serve the municipality or the department
18 with a written demand to provide timely inspections or plan reviews.

19 (3) If a municipality, within five days of receipt of the demand, fails to
20 provide timely inspections or plan reviews without reasonable cause, the
21 person who served the demand may seek to compel the inspections or plan
22 reviews through a writ of mandamus pursuant to ORS 34.105 to 34.240. If the
23 court finds that the municipality has engaged in a pattern of conduct of
24 failing to provide timely inspections or plan reviews without reasonable
25 cause, it may direct the municipality to provide timely inspections or plan
26 reviews or to transfer the administration and enforcement of the code in
27 question under procedures outlined in ORS 455.148 [(5) and (6)] or 455.150
28 [(5) and (6)].

29 (4) If the department, within five days of receipt of the demand, fails to
30 provide timely inspections or plan reviews without reasonable cause, the
31 person who served the demand may seek to compel the inspections or plan

1 reviews through a writ of mandamus pursuant to ORS 34.105 to 34.240. If the
2 court finds that the department has engaged in a pattern of conduct of fail-
3 ing to provide timely inspections or plan reviews without reasonable cause,
4 it may direct the department to provide timely inspections or plan reviews
5 or to transfer the administration and enforcement of the code in question to
6 an appropriate municipality, if the municipality accepts the responsibility.
7 A municipality may accept the transfer of the administration and enforce-
8 ment of a code under this subsection without becoming subject to ORS
9 455.148 as a result of accepting the transfer.

10 **SECTION 10.** ORS 455.220 is amended to read:

11 455.220. (1) There is hereby imposed a surcharge in the amount of one
12 percent of the total building permit fees or, if the applicant chooses to pay
13 an hourly rate instead of purchasing a permit, one percent of the total hourly
14 charges collected in connection with the construction of, or addition or al-
15 teration to, buildings and equipment or appurtenances. Up to one-half of the
16 surcharge collected under this subsection may be used to fund the activities
17 described in ORS 455.042 and 455.046. The remainder of the surcharge col-
18 lected under this subsection shall be used for the purpose of defraying the
19 costs of training and other educational programs administered by the De-
20 partment of Consumer and Business Services under this chapter.

21 (2) Permit surcharges shall be collected by each municipality and remitted
22 to the Director of the Department of Consumer and Business Services. Each
23 municipality having a population greater than 40,000 shall, on a monthly
24 basis, prepare and submit to the director a report of permits and certificates
25 issued in each class or category and fees and surcharges thereon collected
26 during the month, together with other statistical information as required by
27 the director concerning construction activity regulated by the parts of the
28 state building code administered by the municipality. All other munici-
29 palities shall submit a report described in this subsection on a quarterly
30 basis. The report shall be in a form prescribed by the director and shall be
31 submitted, together with a remittance covering the surcharges collected, by

1 no later than the 15th day following the month or quarter in which the
2 surcharges are collected.

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

7 (b) Notwithstanding subsection (1) of this section, the surcharge imposed
8 under subsection (1) of this section for permits established under ORS 446.062
9 (3), 446.176, 446.405 (2), 446.430 (2) and 455.170 (2) shall be deposited in the
10 Consumer and Business Services Fund established under ORS 705.145 and is
11 continuously appropriated to the department for use as provided in ORS
12 446.423.

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

17 (5) The director may:

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

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

26 **SECTION 11.** ORS 479.855 is amended to read:

27 479.855. (1) In addition to the provisions of ORS 455.010 to 455.310 and
28 455.410 to 455.740, any inspection and enforcement program established by a
29 city or county under ORS 455.148 or 455.150 is subject to the provisions of
30 this section. Where the provisions of this section conflict with provisions
31 under ORS 455.010 to 455.310 and 455.410 to 455.740, the provisions of this

1 section shall control.

2 (2)(a) Except as otherwise provided in this section, any city or county
3 that wishes to establish a program under ORS 455.150 to enforce and ad-
4 minister ORS 479.510 to 479.945 and 479.995, including a program for in-
5 spection under a master permit pursuant to ORS 479.560 (3), must first make
6 application to the Department of Consumer and Business Services. The pro-
7 gram for inspection under a master permit shall be delegated separately from
8 the general electrical program authorization. The department may authorize
9 the city or county to administer and enforce the provisions of this section
10 and ORS 479.540 and 479.560 if it finds that the city or county can comply
11 with the minimum standards and meet the qualifications for inspections,
12 permit applications and other matters to assure adequate administration and
13 enforcement of electrical inspection programs. The department may authorize
14 the city or county to administer and enforce ORS 479.510 to 479.945 and
15 479.995 if the department finds that the city or county:

16 (A) Can comply with minimum standards adopted by the Electrical and
17 Elevator Board by rule for inspections, permit applications and other matters
18 to assure adequate administration and enforcement of ORS 479.510 to 479.945
19 and 479.995.

20 (B) Can conduct the electrical plan review, if required by the city or
21 county, in a timely manner and by qualified personnel who meet the stan-
22 dards adopted by rule by the board.

23 (b) The city or county must assume full responsibility allowed under ORS
24 455.010 to 455.310 and 455.410 to 455.740 for the enforcement, inspection and
25 administration of the electrical safety laws under that specialty code and
26 ORS 479.510 to 479.945 and 479.995. This subsection does not require a city
27 or county to assume full responsibility for enforcement, inspection and ad-
28 ministration of the electrical safety laws if the only enforcement performed
29 by the city or county involves manufactured dwelling electrical utility con-
30 nections.

31 (3) The department, subject to ORS chapter 183, shall revoke any au-

1 thority of a city or county to carry on inspections, enforcement or adminis-
2 tration of electrical installations and electrical products under ORS 455.148
3 or 455.150 if the department determines that the city or county fails to
4 comply with standards adopted by the board or otherwise is not effectively
5 carrying out duties assumed by the city or county under this section. **If the**
6 **department revokes the authority of a city or county under this sub-**
7 **section, the Director of the Department of Consumer and Business**
8 **Services may provide for assumption of the revoked authority as pro-**
9 **vided under ORS 455.148 and 455.150 and sections 2 and 3 of this 2013**
10 **Act.**

11 (4)(a) Except as provided in paragraph (b) of this subsection, a city or
12 county may not contract with competing electrical contractors to provide
13 permit inspection of electrical installations.

14 (b) A city or county may contract with competing electrical contractors
15 to provide permit inspection of electrical installations on a temporary basis
16 by a supervising electrician if:

17 (A) Emergency circumstances exist; and

18 (B) The city or county has requested that the department perform permit
19 inspections and the department is unable to respond in a timely manner.

20 (c) Nothing in this subsection prohibits a city or county from contracting
21 with another city or county to perform permit inspections of electrical in-
22 stallations by a supervising electrician.

23 (5) A city or county that performs electrical installation inspections shall
24 perform license enforcement inspections as a part of routine installation in-
25 spections.

26 **SECTION 12. Sections 2 to 5 of this 2013 Act and the amendments**
27 **to ORS 446.253, 455.148, 455.150, 455.160, 455.220 and 479.855 by sections**
28 **6 to 11 of this 2013 Act apply to duties described in ORS 446.250, build-**
29 **ing inspection programs and partial building inspection programs for**
30 **which a municipality ceases full administration and enforcement on**
31 **or after the effective date of this 2013 Act.**

