

# House Bill 2978

Sponsored by COMMITTEE ON BUSINESS AND LABOR (at the request of PACWest)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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 90.145, 446.405, 446.686,  
3 446.995, 447.233, 455.070, 455.129, 455.156, 455.770, 455.775, 455.895, 460.045, 460.047, 460.061,  
4 460.085, 460.125, 479.550, 479.620 and 480.530; and repealing ORS 446.190, 447.040, 460.155 and  
5 693.105.

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 a part of ORS chapter**  
8 **455.**

9 **SECTION 2. (1) Notwithstanding any fee amounts established in, or adopted by rule un-**  
10 **der, ORS 446.062, 446.175, 446.430, 447.095, 455.020, 455.046, 455.154, 455.210, 455.220, 455.380,**  
11 **455.465, 455.466, 455.471 (2), 455.705, 460.165 (1), 479.560, 479.565, 480.525 (4)(b), 480.595, 480.600**  
12 **or 480.605, if the construction, alteration, repair or installation of a structure is commenced**  
13 **without a required plan review or building permit, the Department of Consumer and Business**  
14 **Services, an appropriate advisory board or a municipality administering and enforcing a**  
15 **building inspection program under ORS 455.148 or 455.150 may impose, in addition to any**  
16 **other sanction or penalty allowed by law, plan review fees, building permit fees and sur-**  
17 **charges and inspection fees that are twice the amount of the plan review fees, building per-**  
18 **mit fees and surcharges and inspection fees that would otherwise be charged for the project.**  
19 **This subsection does not apply to an emergency repair required for health, safety, the pre-**  
20 **vention of property damage or the prevention of financial harm if the required building per-**  
21 **mit for the repair is obtained no later than five business days after commencement of the**  
22 **repair. This subsection does not apply to any project for which construction, alteration, re-**  
23 **pair or installation in a structure prior to obtaining a permit is expressly authorized by law.**

24 **(2) Except as provided in this subsection, subsection (1) of this section does not apply to**  
25 **plan review or inspections conducted by private parties, regardless of whether authorized by**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 or performed under contract with the department, an advisory board or a municipality.  
 2 Subsection (1) of this section applies to surcharges required under ORS 455.471 (2) to be in-  
 3 cluded in fees charged under ORS 455.471.

4 (3) In addition to any other fee authorized by law, the department, an appropriate advi-  
 5 sory board or a municipality administering and enforcing a building inspection program un-  
 6 der ORS 455.148 or 455.150 may impose an investigation fee against a person who, after  
 7 investigation by the department, advisory board or municipality, is found to have caused the  
 8 construction, alteration, repair or installation of a structure to commence without a re-  
 9 quired plan review or building permit.

10 **SECTION 3.** (1) Except as provided in subsections (2) and (3) of this section, if the De-  
 11 partment of Consumer and Business Services, an appropriate advisory board or a munici-  
 12 pality administering and enforcing a building inspection program under ORS 455.148 or  
 13 455.150 has reason to believe that any person has been engaged, or is engaging, or is about  
 14 to engage in any violation of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420,  
 15 479.510 to 479.945, 479.950 or 480.510 to 480.670 or this chapter or ORS chapter 447, 460 or 693  
 16 or any rule adopted under ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510  
 17 to 479.945, 479.950 or 480.510 to 480.670 or this chapter or ORS chapter 447, 460 or 693, the  
 18 department, appropriate advisory board or municipality may, without bond, bring suit in the  
 19 name and on behalf of the State of Oregon in the circuit court of any county of this state  
 20 to enjoin the acts or practices and to enforce compliance with ORS 446.003 to 446.200, 446.225  
 21 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 or 480.510 to 480.670 or this chapter  
 22 or ORS chapter 447, 460 or 693 or any rule adopted under ORS 446.003 to 446.200, 446.225 to  
 23 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 or 480.510 to 480.670 or this chapter or  
 24 ORS chapter 447, 460 or 693. Upon a proper showing, a permanent or temporary injunction,  
 25 restraining order or writ of mandamus shall be granted.

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

35 (3) Subsection (1) of this section does not authorize any advisory board or municipality  
 36 to administer and enforce any code, law or rule that is not otherwise subject to adminis-  
 37 tration and enforcement by the advisory board or municipality.

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

39 (1) Perform work without appropriate licensing, certification or registration or employ  
 40 individuals to perform work without appropriate licensing, certification or registration.

41 (2) Falsely advertise or otherwise hold out as being a licensed specialty code contractor.

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

44 (4) Engage in business as a specialty code contractor without holding a valid specialty  
 45 code contractor license, registration or certificate required for the business.

1           **(5) Perform work or operate equipment within the scope of a specialty code license, cer-**  
 2 **tificate or registration in a manner that violates an applicable minimum safety standard.**

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

4           446.405. (1) If a manufactured dwelling or cabana is not installed in accordance with the rules  
 5 adopted under ORS 446.003 and 446.395 to 446.420, the owner of the manufactured dwelling or  
 6 cabana, at the time of installation, may, within one year of the completion date of such installation,  
 7 file a written complaint with [*the Director of*] the Department of Consumer and Business Services.  
 8 The [*director*] **department** shall provide a copy of the complaint to the installer and shall also notify  
 9 the dealer, if any, that arranged for such installation and may then investigate the complaint. If [*it*  
 10 *is determined by the director*] **the department determines** that the installation fails to comply with  
 11 licensure requirements as provided by ORS 446.003 and 446.395 to 446.420 or the installation rules  
 12 adopted by the Director of the Department of Consumer and Business Services, the [*director*]  
 13 **department** shall provide notice of such failure to the installer and shall order the installer to bring  
 14 the installation into compliance [*within 30 days of date of notice*].

15           (2) The director shall establish, by rule, fees and a procedure for inspection of manufactured  
 16 dwellings and cabanas to carry out the provisions of this section.

17           (3) If the installer fails to bring the installation into compliance as ordered, the [*director*] **de-**  
 18 **partment** may suspend or revoke the installer's license as provided [*by department of Consumer and*  
 19 *Business Services rules adopted*] under ORS 455.129.

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

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

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

31           446.686. (1) If the Department of Consumer and Business Services proceeds under ORS 446.681  
 32 or [*455.895*] **446.995**, the department may post a notice on any manufactured structure held in in-  
 33 ventory by a person alleged to be acting as a manufactured structure dealer without a license. The  
 34 notice must state that the person offering the manufactured structure for sale is currently the sub-  
 35 ject of a proceeding to determine whether the person has a manufactured structure dealer license  
 36 and that it may be unlawful for the person to sell the manufactured structure to a retail customer.

37           (2) A person may remove a notice posted in accordance with subsection (1) of this section only  
 38 upon authorization by the department. The department shall authorize removal within 10 days after  
 39 any one of the following occurs:

40           (a) The dismissal or termination of the proceeding instituted under ORS 446.681 or [*455.895*]  
 41 **446.995**;

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

44           (c) A finding by the department or a court that the manufactured structure is being offered for  
 45 sale by a licensed manufactured structure dealer or a person who is exempt from the licensing re-

quirement under ORS 446.676.

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

446.995. (1) The Department of Consumer and Business Services may impose a civil penalty [as provided in ORS 455.895] for each violation, against a licensed manufactured structure dealer or against a person required by a rule adopted pursuant to ORS 446.666 to be licensed, if the dealer or person violates a provision of ORS 446.661 to 446.756 or a rule adopted by the department relating to the sale of manufactured structures. **The civil penalty must be in an amount of not more than \$5,000 for each offense or, for a continuing offense, not more than \$1,000 per day.** If the dealer authorizes a person licensed pursuant to ORS 446.666 to commit a violation, the dealer and person are both subject to civil penalty. Notwithstanding subsection (2) of this section, if a dealer expressly or by implication authorizes an act by a real estate agent described in ORS 446.676 (14) that is a violation, the dealer is subject to the civil penalty for the violation.

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

(a) Violates a provision of ORS 446.661 to 446.756 or a rule adopted by the department relating to the sale of manufactured structures if the person does not possess a license required by ORS 446.671 or by a rule [pursuant to] **adopted under** ORS 446.666; or

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

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

**(4) Any officer, director, shareholder or agent of a corporation, or member or agent of a partnership or association, who personally participates in or is an accessory to any violation by the partnership, association or corporation of a provision or rule described in subsection (1) of this section is subject to the penalties prescribed in this section.**

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

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

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

---

Total Parking In Lot	Required Minimum Number of Accessible Spaces	Required Minimum Number of Van Accessible Spaces	Required Minimum Number of "Wheelchair User Only" Spaces
1 to 25	1	1	-
26 to 50	2	1	-
51 to 75	3	1	-
76 to 100	4	1	-

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

---

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

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

20 (d) The access aisle shall be located on the passenger side of the parking space except that two  
 21 adjacent accessible parking spaces may share a common access aisle.

22 (e) A sign *[shall]* **must** be posted for each accessible parking space. The sign *[shall]* **must** be  
 23 clearly visible to a person parking in the space, *[shall]* be marked with the International Symbol of  
 24 Access and *[shall]* indicate that the spaces are reserved for persons with disabled person parking  
 25 permits. A van accessible parking space *[shall]* **must** have an additional sign marked “Van Acces-  
 26 sible” mounted below the sign. A van accessible parking space reserved for wheelchair users  
 27 *[shall]* **must** have a sign that includes the words “Wheelchair User Only.”

28 (f) Accessible parking spaces and signs *[shall]* **must** be designed in compliance with the stan-  
 29 dards set forth by the Oregon Transportation Commission in consultation with the Oregon Disabili-  
 30 ties Commission.

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

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

35 (5) The *[director is]* **Department of Consumer and Business Services and the Building Codes**  
 36 **Structures Board** are authorized to inspect parking spaces and facilities and buildings subject to  
 37 the provisions of this section, and to do whatever is necessary to enforce the requirements, including  
 38 the maintenance requirements, of this section. Municipalities *[and counties]* may administer and en-  
 39 force the requirements of this section *[in the manner provided under ORS 455.148 or 455.150 for*  
 40 *administration and enforcement of specialty codes.]* **under the building inspection programs of the**  
 41 **municipalities as provided under ORS 455.148 and 455.150.** All plans for parking spaces subject  
 42 to the provisions of this section must be approved by the *[director]* **department, board or munici-**  
 43 **pality** prior to the creation of the spaces.

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

(7) Any reported violation of this section shall be investigated by the *[administrative authority]* **department or the board or by a municipality, if any, having authority to administer and enforce this section under a building inspection program.** The *[administrative authority]* **department, board or municipality** shall make a final decision and order correction, if necessary, within 30 days of notification. *[Any aggrieved person may appeal within 30 days of the decision by the administrative authority to the appropriate municipal appeals board or, at the option of the local jurisdiction, directly to the Building Codes Structures Board established under ORS 455.132. The appeal shall be acted upon within 60 days of filing. The decision of the municipal appeals board may be appealed to the board. The board shall act on the appeal within 60 days of filing. All appeals to the board shall be filed in accordance with ORS 455.690.]* **Any final decision by a municipality regarding the application of this section may be appealed to the Building Codes Structures Board under ORS 455.690.**

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

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

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

**(3)** If, after five working days, no remedial action has taken place, the complainant has standing to appeal the matter to the appeals board of the municipality, where one is established, or directly to the *[applicable state]* **appropriate** advisory board where there is no local appeals board. The municipal appeals board or state advisory board shall reach a final decision within 14 days of the complainant's appeal. A municipal appeals board decision shall then be subject to appeal to a state advisory board under ORS 455.690, provided that the state advisory board shall reach a final determination within 14 days of notice of an appeal. A record of the written complaint and the findings of the appeals and advisory boards may be introduced into evidence in any judicial proceeding for damages brought against the complainant by any person suffering damages as a result of the complaint.

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

455.129. (1) **As used in this section, "relative" means an individual related within the third degree as determined by the common law, a spouse, an individual related to a spouse within the third degree as determined by the common law or an individual in an adoptive relationship within the third degree as determined by the common law.**

*[(1)]* **(2)** Subject to ORS chapter 183, except as provided in subsection *[(4)]* **(5)** of this section, a regulatory body listed in subsection *[(2)]* **(3)** of this section may deny a license, certificate, registration or application or may suspend, revoke, condition or refuse to renew a license, certificate or registration if the regulatory body finds that the licensee, certificate holder, registrant or applicant:

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

1 (b) Has failed to comply with an order of the regulatory body or the Director of the Department  
2 of Consumer and Business Services, including but not limited to the failure to pay a civil penalty.

3 (c) Has filed an application for a license, certificate or registration that, as of the date the li-  
4 cense, certificate or registration was issued or the date of an order denying the application, was  
5 incomplete in any material respect or contained a statement that, in light of the circumstances un-  
6 der which it was made, was incorrect or misleading in any respect.

7 (d) Has performed work without appropriate licensing, certification or registration or has em-  
8 ployed individuals to perform work without appropriate licensing, certification or registration.

9 **(e) Has falsely advertised or otherwise held out as being a licensed specialty code con-**  
10 **tractor.**

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

13 **(g) Has engaged in business as a specialty code contractor without holding a valid spe-**  
14 **cialty code contractor license, registration or certificate required for the business.**

15 [(e)] (h) Has failed to meet any condition or requirement to obtain or maintain a license, cer-  
16 tificate or registration.

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

18 **(j) Has performed work or operated equipment within the scope of a specialty code li-**  
19 **cence, certificate or registration in a manner that violates an applicable minimum safety**  
20 **standard.**

21 [(g)] (k) Has been subject to a revocation, cancellation or suspension order or to other disci-  
22 plinary action by the Construction Contractors Board or has failed to pay a civil penalty imposed  
23 by the board.

24 [(h)] (L) Has been subject to a revocation, cancellation or suspension order or to other disci-  
25 plinary action by another state in regard to construction standards, permit requirements or  
26 construction-related licensing violations or has failed to pay a civil penalty imposed by the other  
27 state in regard to construction standards, permit requirements or construction-related licensing vi-  
28 olations.

29 [(i)] (m) Has, while performing work that requires or that is related to work that requires a  
30 valid license or certificate under ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420,  
31 479.510 to 479.945, 479.950 or 480.510 to 480.670, this chapter or ORS chapter 447, 460 or 693, vio-  
32 lated any statute or rule related to the state building code.

33 **(n) Has performed a code inspection or plan review on a project to construct, alter, re-**  
34 **pair or make an installation in a structure if the inspector or reviewer, or an employer or**  
35 **relative of the inspector or reviewer, has a financial interest in or business affiliation with**  
36 **the project or structure;**

37 [(j)] (o) Is a business, the owner or an officer of which has an outstanding obligation to pay a  
38 civil penalty assessed under ORS 455.895 or has been the subject of action against the license, cer-  
39 tificate or registration by the Department of Consumer and Business Services, the director or [any]  
40 **an appropriate** advisory board.

41 [(k)] (p) Is a business, owner or officer of a reorganized business entity as defined in ORS  
42 657.682, if an owner, officer, shareholder or partner of the reorganized business entity, or a member  
43 if the reorganized business entity is a member-managed limited liability company, has been subject  
44 to a revocation or suspension order or to a condition or civil penalty under ORS 446.003 to 446.200,  
45 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 or 480.510 to 480.670, this chapter

1 or ORS chapter 447, 460, 693 or 701, or by another state in regard to construction standards, permit  
 2 requirements or construction-related licensing violations.

3 [(L)] (q) Is ordered to pay damages under a judgment or arbitration award that relates to con-  
 4 struction and that has become final by operation of law or on appeal.

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

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

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

11 [(2)] (3) Subsection [(1)] (2) of this section applies to:

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

14 (b) The Electrical and Elevator Board for purposes of licenses issued under ORS 446.210 or  
 15 479.510 to 479.945.

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

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

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

20 (f) The department, subject to Residential and Manufactured Structures Board approval, for  
 21 purposes of licenses, certificates and registrations issued under ORS 446.003 to 446.200, 446.225 to  
 22 446.285 and 446.395 to 446.420.

23 [(3)] (4) The department may administer and enforce subsection [(1)] (2) of this section in the  
 24 same manner and to the same extent as any advisory board.

25 [(4)] (5) This section does not apply to licenses, certificates, registrations or applications for  
 26 licensure, certification or registration involving inspectors or involving persons engaged in the  
 27 manufacture, conversion or repair of prefabricated structures, prefabricated components or recre-  
 28 ational vehicles.

29 **(6) The director may adopt rules requiring that notice of intent to suspend, revoke, con-**  
 30 **dition or refuse to renew a license, certificate or registration be given to the licensee, cer-**  
 31 **tificate holder or registrant and allowing the licensee, certificate holder or registrant to**  
 32 **appeal. Notwithstanding subsection (2) of this section, if the department or a regulatory body**  
 33 **provides notice of intent to suspend, revoke, condition or refuse to renew a license, certif-**  
 34 **icate or registration and a timely appeal is filed, the department or the regulatory body may**  
 35 **not suspend, revoke, condition or refuse to renew a license, certificate or registration prior**  
 36 **to the regulatory body hearing the appeal under ORS 455.690 unless the reason for the sus-**  
 37 **pension, revocation, conditioning or refusal to renew constitutes an imminent and serious**  
 38 **threat to health or safety.**

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

40 455.156. [(1) Notwithstanding any other provision of this chapter, ORS chapter 693 or ORS 447.010  
 41 to 447.156, 447.992, 479.510 to 479.945, 479.990 or 479.995, the Department of Consumer and Business  
 42 Services shall carry out the provisions of this section.]

43 [(2)(a) A municipality that establishes a building inspection program under ORS 455.148 or a  
 44 plumbing inspection program under ORS 455.150 covering installations under the plumbing specialty  
 45 code or Low-Rise Residential Dwelling Code may act on behalf of the State Plumbing Board to inves-



1 *tigate violations of and enforce ORS 447.040, 693.030 and 693.040 and to issue notices of proposed as-*  
 2 *essment of civil penalties for those violations.]*

3 *[(b) A municipality that establishes a building inspection program under ORS 455.148 or an elec-*  
 4 *trical inspection program under ORS 455.150 covering installations under the electrical specialty code*  
 5 *or Low-Rise Residential Dwelling Code may act on behalf of the Electrical and Elevator Board to in-*  
 6 *vestigate violations of and enforce ORS 479.550 (1) and 479.620 and to issue notices of proposed as-*  
 7 *essment of civil penalties for those violations.]*

8 *[(c) (1) A municipality that establishes a building inspection program under ORS 455.148 or*  
 9 *455.150 may investigate violations and enforce any provisions of the program administered by the*  
 10 *municipality.*

11 *[(3) (2) The Department of Consumer and Business Services shall establish:*

12 *(a) Procedures, forms and standards to carry out the provisions of this section, including but*  
 13 *not limited to creating preprinted notices of proposed assessment of penalties that can be completed*  
 14 *and served by municipal inspectors;*

15 *(b) A program to provide that all of the moneys recovered by the department, less collection*  
 16 *expenses, be paid to the municipality that initiated the charges when a person charged with a vio-*  
 17 *lation [as provided in subsection (2) of this section,] other than a violation of a licensing*  
 18 *requirement[,] agrees to the entry of an assessment of civil penalty or does not request a hearing,*  
 19 *and an order assessing a penalty is entered against the person;*

20 *(c) A uniform citation process to be used in all jurisdictions of the state for violation of a li-*  
 21 *censing requirement. The process may include but need not be limited to all program areas admin-*  
 22 *istered by a municipality under ORS 455.148 or 455.150 and may provide a uniform method for*  
 23 *checking license status and issuing citations for violation of a licensing requirement, and a con-*  
 24 *sistent basis for enforcement of licensing requirements and treatment of violations, including fine*  
 25 *amounts; and*

26 *(d) A program to provide a division of the moneys recovered by the department with the*  
 27 *municipality that initiated the charges, when a person charged with a violation [as provided in*  
 28 *subsection (2) of this section,] other than a violation of a licensing requirement[,] requests a hearing*  
 29 *and is assessed a penalty. One-half of the amounts recovered shall be paid to the municipality. The*  
 30 *department shall keep an amount equal to [its] the department's costs of processing the proceeding*  
 31 *and collection expenses out of the remaining one-half and remit the balance, if any, to the muni-*  
 32 *cipality.]; and]*

33 *[(e) A program to require municipalities to investigate violations of the department's permit re-*  
 34 *quirements for plumbing installations and services under the plumbing specialty code and for plumbing*  
 35 *and electrical installations and services under the Low-Rise Residential Dwelling Code, and to:]*

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

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

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

42 *[(5)(a) (4) It shall be a defense for any person charged with a penalty for violation of a building*  
 43 *inspection program permit requirement [covering plumbing installations under the plumbing specialty*  
 44 *code, electrical permit requirements under ORS 479.550 or plumbing or electrical requirements under*  
 45 *the Low-Rise Residential Dwelling Code] that the person was previously [penalized] assessed a civil*

1 **penalty under ORS 455.895** for the same occurrence.

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

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

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

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

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

13 *[(iv) A municipal penalty, other than an investigative fee, for making an electrical installation un-*  
 14 *der the electrical specialty code or the Low-Rise Residential Dwelling Code without a permit; or]*

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

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

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

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

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

24 455.770. (1) In addition to any other authority and power granted to the Director of the De-  
 25 partment of Consumer and Business Services **or advisory boards** under ORS 446.003 to 446.200,  
 26 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 and 480.510 to 480.670 and this  
 27 chapter and ORS chapters 447, 460 and 693, with respect to municipalities, building officials and  
 28 inspectors, if the director **or advisory board** has reason to believe that there is a failure to enforce  
 29 or a violation of any provision of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420,  
 30 479.510 to 479.945, 479.995 *[and]* **or** 480.510 to 480.670, *[and]* this chapter or ORS chapter 447, 460  
 31 or 693 or any rule adopted *[thereunder]* **under ORS 446.003 to 446.200, 446.225 to 446.285, 446.395**  
 32 **to 446.420, 479.510 to 479.945, 479.995 or 480.510 to 480.670, this chapter or ORS chapter 447,**  
 33 **460 or 693, the director or the appropriate advisory board** may:

34 (a) Examine building code activities of the municipality;

35 (b) Take sworn testimony; and

36 (c) With the authorization of the Office of the Attorney General, subpoena persons and records  
 37 to obtain testimony on official actions that were taken or omitted or to obtain documents otherwise  
 38 subject to public inspection under ORS 192.410 to 192.505.

39 (2) The investigative authority authorized in subsection (1) of this section covers the violation  
 40 or omission by a municipality related to enforcement of codes or administrative rules, certification  
 41 of inspectors or financial transactions dealing with permit fees and surcharges under any of the  
 42 following circumstances when:

43 (a) The duties are clearly established by law, rule or agreement;

44 (b) The duty involves procedures for which the means and methods are clearly established by  
 45 law, rule or agreement; or

1 (c) The duty is described by clear performance standards.

2 (3) Prior to starting an investigation under subsection (1) of this section, the director **or advisory board** shall notify the municipality in writing setting forth the allegation and the rules or  
3 statutes pertaining to the allegation and give the municipality 30 days to respond to the allegation.  
4 If the municipality does not satisfy the [*director's*] concerns **of the director or the advisory**  
5 **board**, the director **or advisory board** may then commence an investigation.  
6

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

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

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

12 (c) A reasonable time shall be provided to the municipality for compliance.

13 (5) The director may revoke any authority of the municipality to administer any part of ORS  
14 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.995 and 480.510 to  
15 480.670 and this chapter or ORS chapter 447, 460 or 693 or any rule adopted thereunder if the di-  
16 rector determines after a hearing conducted under ORS 183.413 to 183.497 that:

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

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

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

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

22 455.775. In addition to any other authority and power granted [*to the Director of the Department*  
23 *of Consumer and Business Services*] under this chapter and ORS chapters 446, 447, 460, 479, 480 and  
24 693:

25 **(1) The Director of the Department of Consumer and Business Services or an appropriate**  
26 **advisory board[:]**

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

32 (a) Make an investigation;

33 (b) Take sworn testimony;

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

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

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

38 (2) If the director **or an advisory board** has reason to believe that any person has been en-  
39 gaged, or is engaging, or is about to engage in any violation of ORS 446.003 to 446.200, 446.225 to  
40 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 and 480.510 to 480.670 [*and*] **or** this chapter  
41 [*and*] **or** ORS [*chapters*] **chapter** 447, 460 [*and*] **or** 693 [*and*] **or** any rule adopted thereunder, the  
42 director **or the appropriate advisory board** may issue an order, subject to ORS 183.413 to 183.497,  
43 directed to the person to cease and desist from the violation or threatened violation.

44 [(3) *If the director has reason to believe that any person has been engaged, or is engaging, or is*  
45 *about to engage in any violation of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420,*

1 479.510 to 479.945, 479.950 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and  
 2 693 and any rule adopted thereunder, the director may, without bond, bring suit in the name and on  
 3 behalf of the State of Oregon in the circuit court of any county of this state to enjoin the acts or prac-  
 4 tices and to enforce compliance with ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420,  
 5 479.510 to 479.945, 479.950 and 480.510 to 480.670 and this chapter and ORS chapters 447, 460 and  
 6 693 and any rule adopted thereunder. Upon a proper showing, a permanent or temporary injunction,  
 7 restraining order or writ of mandamus shall be granted.]

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

9 455.895. [(1)(a) The State Plumbing Board may impose a civil penalty against a person as provided  
 10 under ORS 447.992 and 693.992. Amounts recovered under this paragraph are subject to ORS  
 11 693.165.]

12 [(b) The Electrical and Elevator Board may impose a civil penalty against a person as provided  
 13 under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.]

14 [(c) The Board of Boiler Rules may impose a civil penalty against a person as provided under ORS  
 15 480.670. Amounts recovered under this paragraph are subject to ORS 480.670.]

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

29 **(2) Subsection (1) of this section does not authorize an advisory board to administer and**  
 30 **enforce any code, law or rule that is not otherwise subject to administration and enforce-**  
 31 **ment by the advisory board. Subsection (1) of this section does not authorize an advisory**  
 32 **board to assess any civil penalty that the advisory board is not expressly authorized by law**  
 33 **to assess.**

34 (3) Each violation of ORS 446.003 to 446.200 or 446.225 to 446.285, or any rule or order issued  
 35 [thereunder] **under ORS 446.003 to 446.200 or 446.225 to 446.285**, constitutes a separate violation  
 36 with respect to each manufactured structure or with respect to each failure or refusal to allow or  
 37 perform an act required thereby, except that the maximum civil penalty may not exceed \$1 million  
 38 for any related series of violations occurring within one year from the date of the first violation.

39 (4) The [director] **department** may impose a civil penalty of not more than \$25,000 against a  
 40 public body responsible for administering and enforcing a building inspection program. As used in  
 41 this subsection, "public body" has the meaning given that term in ORS 174.109.

42 (5) The maximum penalty established by this section for a violation may be imposed only upon  
 43 a finding that the person has engaged in a pattern of violations. The department [of Consumer and  
 44 Business Services], by rule, shall define what constitutes a pattern of violations. Except as provided  
 45 in [subsections (1) and] **subsection** (10) of this section, moneys received from any civil penalty under

1 this section are appropriated continuously for and shall be used by the *[director]* **department** for  
 2 enforcement and administration of provisions and rules described in subsection [(2)] (1) of this sec-  
 3 tion.

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

5 (7) A civil penalty imposed under this section may be remitted or reduced upon such terms and  
 6 conditions as the *[director]* **department** or the appropriate **advisory** board considers proper and  
 7 consistent with the public health and safety. In any judicial review of a civil penalty imposed under  
 8 this section, the court may, in its discretion, reduce the penalty.

9 (8) Any officer, director, shareholder or agent of a corporation, or member or agent of a part-  
 10 nership or association, who personally participates in or is an accessory to any violation by the  
 11 partnership, association or corporation of a provision or rule described in subsection [(2)] (1) of this  
 12 section is subject to the penalties prescribed in this section.

13 (9) In addition to the civil penalty set forth in subsection (1) [*or* (2)] of this section, any person  
 14 who violates a provision or rule described in subsection [(2)] (1) of this section may be required by  
 15 the *[director]* **department** or the appropriate **advisory** board to forfeit and pay to the General Fund  
 16 of the State Treasury a civil penalty in an amount determined by the *[director]* **department** or **ad-**  
 17 **visory** board that [*shall*] **does** not exceed five times the amount by which such person profited in  
 18 any transaction that violates a provision or rule described in subsection [(2)] (1) of this section.

19 (10) If a civil penalty is imposed for a violation of a provision of ORS 446.566 to 446.646 and the  
 20 violation relates to a filing or failure to file with a county assessor functioning as agent of the de-  
 21 partment, the department, after deducting an amount equal to the department's procedural, col-  
 22 lection and other related costs and expenses, shall forward one-half of the remaining civil penalty  
 23 amount to the county in which the manufactured structure is located at the time of the violation.

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

25 460.045. A person may not:

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

28 [(2)] (1) Install, alter, repair or maintain an elevator unless the person possesses a valid license  
 29 issued under ORS 460.059 or 479.630 (6).

30 [(3)] (2) Install, alter, or commence to install or alter, an elevator covered by ORS 460.005 to  
 31 460.175 unless the Department of Consumer and Business Services has issued an installation permit.

32 [(4)] (3) Permit or suffer an elevator to be operated, without a valid temporary operation au-  
 33 thorization or current operating permit, on property that the person owns, controls, manages or  
 34 supervises.

35 [(5)] (4) Act or offer to act as a certified elevator inspector unless the person has a current  
 36 certificate of competency as an elevator inspector issued by the department.

37 [(6)] (5) Place in service a new or altered elevator without a current operating permit issued  
 38 after a satisfactory acceptance inspection made by the department and satisfactory acceptance tests  
 39 performed in the presence of a member of the department's staff of elevator inspectors.

40 [(7)] (6) Place in service an elevator that has caused an injury to a person or persons unless  
 41 permission has been obtained from the department.

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

43 460.047. Notwithstanding ORS 460.045 [(2)] (1), the following persons may conduct electrical and  
 44 mechanical repairs on an elevator located in an industrial plant:

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

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

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

3 460.061. (1) As used in this section, "reciprocating conveyor" means a self-contained, power-  
4 driven stationary device that moves objects on a platform equipped with safety guards, or that  
5 moves individuals on a motorized chair, along a predetermined horizontal, inclined or vertical path  
6 between loading and discharge points.

7 (2) The Department of Consumer and Business Services may adopt rules establishing a  
8 reciprocating conveyor mechanic license and a restricted reciprocating conveyor mechanic license  
9 that allow the holder to install, alter, repair and maintain the mechanical portions of reciprocating  
10 conveyors.

11 (3) If the department adopts rules under this section, the rules shall include, but need not be  
12 limited to, rules that establish:

13 (a) Subject to subsection (4) of this section, the type of work experience and training required  
14 to qualify for a reciprocating conveyor mechanic license or restricted reciprocating conveyor me-  
15 chanic license;

16 (b) Supervision and oversight requirements for reciprocating conveyor mechanics or restricted  
17 reciprocating conveyor mechanics; and

18 (c) Procedures for administering and enforcing this section and the rules adopted under this  
19 section.

20 (4) An applicant for a reciprocating conveyor mechanic license must demonstrate 3,000 hours  
21 of work experience in the installation, alteration, repair and maintenance of reciprocating conveyors  
22 or of other forms of elevators identified by the department by rule.

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

26 (6) Department rules adopted under this section may not prohibit a person who holds a license  
27 issued under ORS 460.057, 460.059 or 479.630 (6) from installing, altering, repairing or maintaining  
28 reciprocating conveyors or prohibit a limited journeyman electrician licensed under ORS 479.630 (5)  
29 from repairing or maintaining a reciprocating conveyor located in an industrial plant.

30 (7) Notwithstanding ORS 460.045 [(2)] (1), a person is exempt from any licensing requirement  
31 established by rules adopted under this section or established under ORS 460.057, 460.059 or 479.630  
32 (6) when engaging in the installation, alteration, repair or maintenance of the mechanical portions  
33 of a reciprocating conveyor that is located in a residence and designed for moving an individual on  
34 a motorized chair.

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

37 (b) The fee for the issuance or renewal of a restricted reciprocating conveyor mechanic license  
38 is \$50 for a three-year period.

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

40 479.620. Subject to ORS 479.540, a person may not:

41 [(1) Without an electrical contractor's license, engage in the business of making electrical installa-  
42 tions, advertise as or otherwise purport to be licensed to make electrical installations or purport to be  
43 acting as a business that makes electrical installations.]

44 [(2)] (1) Except as provided in ORS 479.630 (10)(c) and (11)(f), direct, supervise or control the  
45 making of an electrical installation without a supervising electrician's license.

1        [(3)] (2) Except as provided in subsection [(5)] (4) of this section, make any electrical installation  
2 without a supervising or journeyman electrician's license.

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

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

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

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

11        480.530. The [*Department of Consumer and Business Services*] **Board of Boiler Rules** may:

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

23        [(2)] (1) Keep a complete record of the types, dimensions, maximum allowable working pressures,  
24 age, location and date of the last recorded inspection of all boilers and pressure vessels to which  
25 ORS 480.510 to 480.670 apply.

26        [(3)] (2) Publish and distribute copies of the rules [*and regulations*] **and codes applicable to**  
27 **boilers and pressure vessels.**

28        [(4)] (3) Check or cause to be checked the authenticity, appropriateness and expiration dates of  
29 licenses and certificates issued under ORS 480.510 to 480.670.

30        [(5)] (4) Administer written, oral or practical examinations to all applicants for certification as  
31 chief boiler inspector, deputy inspector or special inspector under ORS 480.565.

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

33        90.145. (1) A tenant who occupies or an applicant who will occupy a dwelling unit and who  
34 conducts repairs, routine maintenance or cleaning services on that dwelling unit in exchange for a  
35 reduction in rent pursuant to a written or oral agreement with the landlord is not an employee of  
36 the landlord.

37        (2) A tenant or an applicant described in subsection (1) of this section may not conduct elec-  
38 trical or plumbing installation, maintenance or repair unless properly licensed under ORS 479.510  
39 to 479.945 or ORS chapter 693. The tenant or applicant is not required to obtain a plumbing con-  
40 tractor license [*under ORS 447.040*] to perform work under this section.

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

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

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

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

4 (a) Establishing safety standards applicable to the installation of elevators.

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

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

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

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

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

16 (g) Establishing standards, criteria and intervals for the periodic inspection under ORS 460.125  
 17 of the various types of elevators.

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

20 (i) Establishing reasonable fees, in addition to the fees established by ORS 460.165, that the de-  
 21 partment considers appropriate for the purpose of administering and enforcing ORS 460.005 to  
 22 460.175.

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

24 (a) Technological advances in the elevator industry.

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

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

28 (d) Safety standards followed, proposed or approved by responsible members of the elevator in-  
 29 dustry.

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

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

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

38 460.125. (1) The Department of Consumer and Business Services shall:

39 (a) Except as provided in this subsection, periodically inspect each elevator to ascertain if the  
 40 elevator is being operated and maintained in accordance with ORS 460.005 to 460.175. The depart-  
 41 ment is not required to inspect an elevator if the department is notified in writing, by the employer  
 42 of a certified elevator inspector, that inspection will be made by the certified inspector and a copy  
 43 of the inspection report is filed with the department within 30 days of the date the elevator is due  
 44 for inspection.

45 (b) Periodically check the authenticity, appropriateness and expiration date of elevator operat-



1 ing permits.

2 (c) Review with the Electrical and Elevator Board any appeals from the decisions of the in-  
3 spectors.

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

6 (2) Inspection reports provided to owners, users or other affected parties shall contain a notifi-  
7 cation of the right of appeal as provided in ORS [460.155] **455.070**.

8 (3) If the department finds that an elevator is not being operated in compliance with ORS  
9 460.005 to 460.175, and the rules adopted under ORS 460.005 to 460.175, the department may cause  
10 the elevator to be disconnected from the source of power for the elevator. The department shall give  
11 reasonable notice to the owner or operator prior to causing the elevator to be disconnected unless  
12 continued operation of the elevator would constitute an immediate hazard to the health and safety  
13 of persons.

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

15 479.550. [(1)] Except as provided in ORS 479.540, no person shall work on any new electrical  
16 installation for which a permit has not been issued.

17 [(2) *The Electrical and Elevator Board shall adopt by rule provisions to require a city or a county*  
18 *to issue a temporary permit to be used for emergency or unanticipated work which will be valid for*  
19 *seven days to a licensed electrical contractor prior to the start of an electrical installation to allow*  
20 *contractor response prior to purchase of the actual electrical permit.*]

21 [(3) *The board shall require a city or a county to revoke the temporary permit of the licensed*  
22 *electrical contractor who fails to comply with the Electrical Safety Law.*]

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

24 **SECTION 25.** Section 2 of this 2013 Act applies to fees and surcharges that are assessed  
25 on or after the effective date of this 2013 Act for plan reviews, permits and inspections for  
26 construction, alterations, repairs and installations commenced before, on or after the effec-  
27 tive date of this 2013 Act.

28