

Senate Bill 625

Sponsored by Senator OLSEN

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**.

Limits timing and scope of State Fire Marshal plan review for construction, reconstruction, alteration or repair of building or structure. Prohibits State Fire Marshal from imposing requirement that contradicts state building code. Provides for local building inspector or Department of Consumer and Business Services to perform inspection during construction, reconstruction, alteration or repair to ensure compliance with Fire and Life Safety Code.

A BILL FOR AN ACT

1
2 Relating to fire marshal duties; creating new provisions; and amending ORS 455.148, 455.150, 476.030,
3 476.150, 476.155, 479.165, 479.215, 479.217 and 479.220.

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

5 **SECTION 1. (1) The State Fire Marshal may conduct plan review for a building or**
6 **structure for the purpose of determining whether a proposed construction, reconstruction,**
7 **alteration or repair of the building or structure complies with the Fire and Life Safety Code.**
8 **Before a municipality or the Department of Consumer and Business Services issues a build-**
9 **ing permit for the construction, reconstruction, alteration or repair, the State Fire Marshal**
10 **may require plan modification as necessary for the building or structure to be in compliance**
11 **with the Fire and Life Safety Code. However, the State Fire Marshal may not require a plan**
12 **modification that conflicts with the state building code. If the State Fire Marshal requires**
13 **plan modification, the State Fire Marshal shall notify the municipality having building code**
14 **jurisdiction or, if none, the department, regarding the required plan modification. The State**
15 **Fire Marshal may not require plan modification after the municipality or the department**
16 **issues a building permit for the construction, reconstruction, alteration or repair.**

17 **(2) A building or structure is not subject to code compliance inspections by the State Fire**
18 **Marshal, or by a deputy or assistant of the State Fire Marshal, during construction, recon-**
19 **struction, alteration or repair of the building or structure. Any inspections for compliance**
20 **with the Fire and Life Safety Code, or with the regulations of a governmental subdivision**
21 **described in ORS 476.030 (3), prior to issuance of a certificate of occupancy for the building**
22 **or structure must be performed by the local building inspector or by the department.**

23 **(3)(a) A local building inspector or the department may inspect the systems, features or**
24 **components of a building or structure during construction, reconstruction, alteration or re-**
25 **pair to ensure conformance with the Fire and Life Safety Code or with the regulations of a**
26 **governmental subdivision described in ORS 476.030 (3). The building inspector or the depart-**
27 **ment must conduct the inspection before the part of the building or structure containing the**
28 **inspected systems, features or components are permanently enclosed from view. The building**
29 **inspector or the department may issue a notice of noncompliance with the Fire and Life**
30 **Safety Code or with the regulations of a governmental subdivision described in ORS 476.030**

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 **(3) and require compliance before a certificate of occupancy is issued for the building or**
 2 **structure.**

3 **(b) This subsection does not prohibit a building inspector or the department from con-**
 4 **ducting a reinspection for the sole purpose of verifying that changes ordered during the or-**
 5 **iginal inspection have been made.**

6 **(4) This section does not apply to the inspection of facilities dispensing Class 1 flammable**
 7 **liquids or facilities storing or handling liquefied petroleum gas.**

8 **SECTION 2.** ORS 455.148 is amended to read:

9 455.148. (1)(a) A municipality that assumes the administration and enforcement of a building in-
 10 spection program shall administer and enforce the program for all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (4)(a) By January 1 of the year preceding the expiration of the four-year period described in
 45 subsection (2) of this section, the governing body of the municipality shall notify the Director of the

1 Department of Consumer and Business Services and, if the municipality is not a county, notify the
 2 county whether the municipality will continue to administer and enforce the building inspection
 3 program after expiration of the four-year period.

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

7 (5) If a city does not notify the director, or notifies the director that it will not administer the
 8 building inspection program, the county or counties in which the city is located shall administer and
 9 enforce the county program within the city in the same manner as the program is administered and
 10 enforced outside the city, except as provided by subsection (6) of this section.

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

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

22 (8) **A municipality that administers and enforces a building inspection program under this**
 23 **section shall also be responsible during construction, reconstruction, alteration or repair of**
 24 **a building or structure for conducting inspections as provided under section 1 of this 2013**
 25 **Act to ensure compliance with the Fire and Life Safety Code or with the regulations of a**
 26 **governmental subdivision described in ORS 476.030 (3) that includes the municipality.** The
 27 department shall adopt rules to require the governing body of each municipality assuming or con-
 28 tinuing a building inspection program under this section to submit a written plan with the notice
 29 required under subsection (4) or (7) of this section. If the department is the governing body, the
 30 department shall have a plan on file. The plan must specify:

31 (a) How cooperation with the State Fire Marshal or a *[designee]* **deputy or assistant** of the
 32 State Fire Marshal will be achieved; *[and]*

33 (b) How a uniform fire code will be considered in the review process of the design *[and con-*
 34 *struction phases]* **phase** of buildings or structures*[.]; and*

35 (c) **How the Fire and Life Safety Code, or the regulations of a governmental subdivision**
 36 **described in ORS 476.030 (3), will be administered and enforced by the municipality during**
 37 **construction, reconstruction, alteration or repair of a building or structure.**

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

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

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

4 (a) Creating building inspection program application and amendment requirements and proce-
 5 dures;

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

7 (c) Requiring a municipality assuming a building inspection program to submit with the notice
 8 given under subsection (7) of this section an assumption plan that includes, at a minimum:

9 (A) A description of the intended availability of program services, including proposed service
 10 agreements for carrying out the program during at least the first two years;

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

13 (C) An estimate of proposed permit revenue and program operating expenses;

14 (D) Proposed staffing levels; and

15 (E) Proposed service levels;

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

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

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

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

25 (h) Enforcing the requirements of this section.

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

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

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

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

32 (13) A municipality that abandons or otherwise ceases to administer a building inspection pro-
 33 gram that the municipality assumed under this section may not resume the administration or
 34 enforcement of the program for at least two years. The municipality may resume the administration
 35 and enforcement of the abandoned program only on July 1 of an odd-numbered year. Prior to re-
 36 suming the administration and enforcement of the program, the municipality must follow the notifi-
 37 cation procedure set forth in subsection (7) of this section.

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

39 455.150. (1) Except as provided in subsection (14) of this section, a municipality that assumes the
 40 administration and enforcement of a building inspection program prior to January 1, 2002, may ad-
 41 minister and enforce all or part of a building inspection program. A building inspection program:

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

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

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

- 1 (C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.
2 (D) Park and camp programs regulated under ORS 455.680.
3 (E) Tourist facilities regulated under ORS 446.310 to 446.350.
4 (F) Manufactured dwelling alterations regulated under ORS 446.155.
5 (G) Manufactured structure accessory buildings and structures under ORS 446.253.
6 (H) Boilers and pressure vessels described in rules adopted under ORS 480.525 (5).
7 (b) Is not a program that includes:
8 (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described
9 in rules adopted under ORS 480.525 (5);
10 (B) Elevator programs under ORS 460.005 to 460.175;
11 (C) Amusement ride regulation under ORS 460.310 to 460.370;
12 (D) Prefabricated structure regulation under ORS chapter 455;
13 (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including
14 the administration and enforcement of federal manufactured dwelling construction and safety stan-
15 dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety
16 Standards Act of 1974;
17 (F) Licensing and certification, or the adoption of statewide codes and standards, under ORS
18 chapter 446, 447, 455, 479 or 693; and
19 (G) Review of plans and specifications as provided in ORS 455.685.
20 (2) A municipality that administers a building inspection program as allowed under this section
21 shall do so for periods of four years. The Department of Consumer and Business Services shall adopt
22 rules to adjust time periods for administration of a building inspection program to allow for vari-
23 ations in the needs of the department and participants.
24 (3) When a municipality administers a building inspection program, the governing body of the
25 municipality shall, unless other means are already provided, appoint a person to administer and
26 enforce the building inspection program or parts [*thereof*] **of a program**, who shall be known as the
27 building official. A building official shall, in the municipality for which appointed, attend to all as-
28 pects of code enforcement, including the issuance of all building permits. Two or more municipalities
29 may combine in the appointment of a single building official for the purpose of administering a
30 building inspection program within their communities.
31 (4)(a) By January 1 of the year preceding the expiration of the four-year period described in
32 subsection (2) of this section, the governing body of the municipality shall notify the Director of the
33 Department of Consumer and Business Services and, if not a county, notify the county whether the
34 municipality will continue to administer the building inspection program, or parts [*thereof*] **of a**
35 **program**, after expiration of the four-year period. If parts of a building inspection program are to
36 be administered and enforced by a municipality, the parts shall correspond to a classification des-
37 ignated by the director as reasonable divisions of work.
38 (b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director
39 and the municipality and, if the municipality is not a county, the county may by agreement extend
40 that date to no later than March 1.
41 (5) If a city does not notify the director, or notifies the director that it will not administer cer-
42 tain specialty codes or parts [*thereof*] **of specialty codes** under the building inspection program, the
43 county or counties in which the city is located shall administer and enforce those codes or parts
44 [*thereof*] **of codes** within the city in the same manner as [*it administers and enforces them*] outside
45 the city, except as provided by subsection (6) of this section.

1 (6) If a county does not notify the director, or notifies the director that *[it]* **the county** will not
2 administer and enforce certain specialty codes or parts *[thereof]* **of specialty codes** under the
3 building inspection program, the director shall contract with a municipality or other person or use
4 such state employees or state agencies as are necessary to administer and enforce those codes or
5 parts *[thereof]* **of codes**, and permit or other fees arising *[therefrom]* **from that administration and**
6 **enforcement** shall be paid into the Consumer and Business Services Fund created by ORS 705.145
7 and credited to the account responsible for paying such expenses. A state employee may not be
8 displaced as a result of using contract personnel.

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

14 (8) **A municipality that administers and enforces a building inspection program under this**
15 **section shall also be responsible during construction, reconstruction, alteration or repair of**
16 **a building or structure for conducting inspections as provided under section 1 of this 2013**
17 **Act to ensure compliance with the Fire and Life Safety Code or with the regulations of a**
18 **governmental subdivision described in ORS 476.030 (3) that includes the municipality.** The
19 department shall adopt rules to require the governing body of each municipality to submit a written
20 plan with the notice required under subsection (4) of this section. If the department is the governing
21 body, the department shall have a plan on file. The plan shall specify:

22 (a) How cooperation with the State Fire Marshal or a *[designee]* **deputy or assistant** of the
23 State Fire Marshal will be achieved; *[and]*

24 (b) How a uniform fire code will be considered in the review process of the design *[and con-*
25 *struction phases]* **phase** of buildings or structures*[.]*; **and**

26 (c) **How the Fire and Life Safety Code, or the regulations of a governmental subdivision**
27 **described in ORS 476.030 (3), will be administered and enforced by the municipality during**
28 **construction, reconstruction, alteration or repair of a building or structure.**

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

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

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

39 (a) Creating building inspection program application and amendment requirements and proce-
40 dures;

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

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

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

45 (e) Creating standards for justifying increases in building inspection program fees adopted by a

1 municipality;

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

6 (g) Enforcing the requirements of this section.

7 (12) The department may assume administration of a building 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 program or is no longer able
10 to administer the building inspection program; and

11 (c) If a municipality fails to substantially comply with any provision of this section or of ORS
12 455.465, 455.467 and 455.469.

13 (13) If a municipality abandons or otherwise ceases to administer all or part of a building in-
14 spection program described in this section, the municipality may not resume the administration and
15 enforcement of the abandoned program or part of a program for at least two years. The municipality
16 may resume the administration and enforcement of the abandoned program or part of a program only
17 on July 1 of an odd-numbered year. To resume the administration and enforcement of the abandoned
18 program or part of a program, the municipality must comply with ORS 455.148, including the re-
19 quirement that the municipality administer and enforce all aspects of the building inspection pro-
20 gram. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this
21 section.

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

25 **SECTION 4.** ORS 476.030 is amended to read:

26 476.030. (1) **Except as provided in subsection (4) of this section,** the State Fire Marshal shall
27 enforce all statutes, and make rules relating to:

28 (a) The prevention of fires.

29 (b) The storage and use of combustibles and explosives.

30 (c) The maintenance and regulation of structural fire safety features in occupied structures and
31 overseeing the safety of and directing the means and adequacy of exit in case of fire from factories,
32 asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private
33 residences, [*which*] **that** are occupied for sleeping purposes[,] and all other places where large
34 numbers of persons work, live or congregate from time to time for any purpose, except that struc-
35 tural changes [*shall*] **may** not be required in buildings built, occupied and maintained in conformity
36 with state building code regulations applicable at the time of construction.

37 (d) Standards for equipment used for fire protection purposes within this state including stand-
38 ard thread for fire hose couplings and hydrant fittings.

39 (2) The State Fire Marshal and deputies shall have such powers and perform such other duties
40 as are prescribed by law.

41 (3) If, in the opinion of the State Fire Marshal, a governmental subdivision of the state has en-
42 acted adequate regulations generally conforming to state and national standards concerning fire
43 prevention, fire safety measures and building construction requirements for safety, and if the gov-
44 ernmental subdivision provides reasonable enforcement of its regulations, the State Fire Marshal
45 may exempt the area subject to [*such*] **the governmental subdivision** regulation either partially

1 or fully from the statutes, rules and regulations administered by the State Fire Marshal. Prior to
 2 adoption of any such exemption, the State Fire Marshal may request from the Department of Public
 3 Safety Standards and Training consideration of and recommendations regarding the exemption. The
 4 exemption may extend for a two-year period, and may be renewed from time to time, but may be
 5 canceled by the State Fire Marshal following 30 days' written notice if the State Fire Marshal finds
 6 that the governmental subdivision's regulations or enforcement [*thereof*] are not reasonably suffi-
 7 cient. The governmental subdivision shall furnish a copy of such regulations to the State Fire Mar-
 8 shal and shall file with the State Fire Marshal any amendment [*thereto*] **to the regulations** within
 9 30 days before the effective date of such amendment. The State Fire Marshal shall designate a per-
 10 son or division within such governmental subdivision as an approved authority for exercising func-
 11 tions relating to fire prevention[,] **and** fire safety measures [*and building construction*]. Upon request
 12 of a local official having enforcement responsibility and a showing of unusual fire hazard or other
 13 special circumstances, the State Fire Marshal shall make investigation and appropriate recommen-
 14 dations.

15 **(4) If a building or structure is being constructed, reconstructed, altered or repaired,**
 16 **inspection of the building or structure to ensure compliance with the Fire and Life Safety**
 17 **Code, or with the regulations of a governmental subdivision described in subsection (3) of**
 18 **this section, shall be performed by a building inspector for a municipality described in ORS**
 19 **455.148 or 455.150 or by the Department of Consumer and Business Services.**

20 [(4)] (5) The State Fire Marshal may investigate or cause an investigation to be made to deter-
 21 mine the probable cause, origin and circumstances of any fire and shall classify such findings as the
 22 State Fire Marshal may find appropriate to promote fire protection and prevention.

23 [(5)] (6) The State Fire Marshal shall provide training in fire safety inspection to the Depart-
 24 ment of Human Services, area agencies, the Oregon Health Authority, community mental health
 25 programs, developmental disabilities programs and designees of the Long Term Care Ombudsman.
 26 If an adult foster home has been inspected by the Department of Human Services, the Oregon Health
 27 Authority, an area agency, a community mental health program or a developmental disabilities
 28 program and the agency conducting the inspection reasonably believes that the adult foster home
 29 is not in compliance with applicable fire safety rules, the agency conducting the inspection may re-
 30 quest the State Fire Marshal to inspect or cause an inspection to be made. If a designee of the Long
 31 Term Care Ombudsman, in the course of visiting an adult foster home, believes that the adult foster
 32 home is not in compliance with applicable fire safety rules, the designee shall report the problem
 33 to the appropriate agency to request a fire safety inspection by the office of the State Fire Marshal
 34 or by a designated representative of the office of the State Fire Marshal.

35 [(6)] (7) Upon the request of the Department of Human Services, the Oregon Health Authority,
 36 an area agency, a community mental health program or a developmental disabilities program, the
 37 State Fire Marshal shall inspect or cause an inspection to be made to determine if the adult foster
 38 home is in compliance with rules jointly adopted by the Department of Human Services and the
 39 State Fire Marshal establishing fire safety standards for adult foster homes.

40 [(7)] (8) As used in subsections [(5) and] (6) **and** (7) of this section:

41 (a) "Adult foster home" has the meaning given that term in ORS 443.705.

42 (b) "Area agency" has the meaning given that term in ORS 410.040.

43 (c) "Community mental health program" means a program established under ORS 430.620 (1)(b).

44 (d) "Developmental disabilities program" means a program established under ORS 430.620 (1)(a).

45 **SECTION 5.** ORS 476.150 is amended to read:

1 476.150. (1) **Except as provided in subsection (4) of this section**, the State Fire Marshal and
 2 deputies, at all reasonable hours, may enter into all buildings and upon all premises, except private
 3 residences, for the purpose of inspection to ascertain if fire hazards exist *[therein or thereon]* **in the**
 4 **building or on the premises**. Owners of private residences may request a fire inspection of their
 5 property.

6 (2) *[No person shall]* **A person may not** interfere with or prevent any such inspection by such
 7 officers.

8 (3) *[When]* **If** any person interferes with or prevents the State Fire Marshal or deputies from
 9 making the inspection *[mentioned herein]* **described in subsection (1) of this section**, the officer
 10 shall apply to the district attorney of the county *[wherein]* **in which** the inspection was made or
 11 attempted to be made, for a warrant for the arrest of the offending person, and it shall be the duty
 12 of such district attorney *[forthwith]* to prosecute such offending person.

13 **(4) Subsection (1) of this section does not apply to a building or structure undergoing**
 14 **construction, reconstruction, alteration or repair.**

15 **SECTION 6.** ORS 476.155 is amended to read:

16 476.155. Judges authorized by law to issue search warrants, upon application of the State Fire
 17 Marshal, or deputies or assistants of the State Fire Marshal, may issue an inspection warrant
 18 whenever an inspection or investigation of any building or premises is required or authorized by any
 19 state or local statute, ordinance or rule relating to fire cause investigation or fire safety inspection.
 20 **However, a court may not issue the State Fire Marshal, or a deputy or assistant of the State**
 21 **Fire Marshal, a warrant to inspect a building or structure undergoing construction, recon-**
 22 **struction, alteration or repair for compliance with the Fire and Life Safety Code or with the**
 23 **regulations of a governmental subdivision described in ORS 476.030 (3).**

24 **SECTION 7.** ORS 479.165 is amended to read:

25 479.165. (1) In accordance with any applicable provisions of ORS chapter 183, the State Fire
 26 Marshal, by rule, shall establish a certification system for fire officials who review plans, new con-
 27 struction, alterations and specifications from a uniform fire code.

28 (2) Fire officials who review plans¹, *new construction, alterations and specifications* from a uni-
 29 form fire code shall be certified under subsection (1) of this section. **Any review by a fire official**
 30 **certified under this section is subject to the limitations imposed on State Fire Marshal plan**
 31 **review under section 1 of this 2013 Act.**

32 *[(3) Nothing in this section shall be construed to expand the duties of the State Fire Marshal with*
 33 *respect to regulating additional types of structures.]*

34 **SECTION 8.** ORS 479.215 is amended to read:

35 479.215. (1) Except as provided in subsection (3) of this section or in ORS 479.217, the Depart-
 36 ment of Human Services or the Oregon Health Authority may not issue an initial license or an ini-
 37 tial certificate of approval to *[any]* **an** institution *[when]* **if** the State Fire Marshal, or an approved
 38 representative as provided in subsection (3) of this section, notifies **the department or authority**
 39 in writing that the institution is not in substantial compliance with all applicable laws and rules
 40 relating to safety from fire established pursuant to ORS 476.030.

41 (2) On January 1st of each year or as soon thereafter as practicable, the department and the
 42 authority shall furnish the State Fire Marshal with a complete list of all institutions licensed or
 43 approved by the department or the authority within the State of Oregon.

44 (3) The State Fire Marshal, deputy or the approved authority shall make or have made at least
 45 once each year an inspection of any such licensed or approved institution to determine *[its]* **whether**

1 **the institution is in** substantial compliance with the laws and rules as provided in subsection (1)
 2 of this section. If any required corrective measures are not completed within the reasonable time
 3 fixed or an extension [*thereof made*] **of time granted** by order of the inspecting authority, the de-
 4 partment or the Oregon Health Authority shall be notified of the fact of noncompliance and appro-
 5 priate action shall be initiated in accordance with provisions of ORS 476.030 and 479.170. Except
 6 as provided in ORS 479.217, if, at any time, the State Fire Marshal, or deputy, or the approved au-
 7 thority notifies the department or the Oregon Health Authority in writing that an institution is not
 8 in substantial compliance with all applicable laws and rules as provided in subsection (1) of this
 9 section, the licensing agency shall deny, withhold, suspend or revoke the license or certificate of
 10 approval of the institution.

11 (4) [*When*] **If** an area has been exempted by the State Fire Marshal under ORS 476.030, certif-
 12 ication, annual inspection and notification of noncompliance [*when*] **if** appropriate, shall be made and
 13 performed by the approved authority of the governmental subdivision having jurisdiction in such
 14 area. **If the institution is being constructed, reconstructed, altered or repaired, the certif-**
 15 **ication inspection shall be by a local building inspector or by the Department of Consumer**
 16 **and Business Services. If the local building inspector or the department finds that the insti-**
 17 **tution is not in substantial compliance with all applicable laws and rules relating to safety**
 18 **from fire established pursuant to ORS 476.030, notwithstanding section 1 of this 2013 Act, the**
 19 **State Fire Marshal, a deputy or assistant of the State Fire Marshal, or an approved authority**
 20 **for a governmental subdivision, may enter and inspect the institution for compliance.**

21 **SECTION 9.** ORS 479.217 is amended to read:

22 479.217. (1) In lieu of an inspection approval by the State Fire Marshal, [*or*] the approved au-
 23 thority of a governmental subdivision having jurisdiction in an area exempted by the State Fire
 24 Marshal, **a local building inspector or the Department of Consumer and Business Services**
 25 under ORS 479.215 [*for institutions*], **the State Fire Marshal or the approved authority may issue**
 26 **a temporary permit to an institution** licensed under ORS 412.001 to 412.161, 418.005 to 418.025,
 27 418.205 to 418.315, 418.625 to 418.685, 418.647, 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820,
 28 441.990, 442.400 to 442.463 or 443.400 to 443.455[*the State Fire Marshal or the approved authority*
 29 *may issue a temporary permit which*] **that** meets the requirements of ORS 479.215 for licensing of
 30 [*such institutions*] **the institution.** The temporary permit may be issued only [*when*] **if** it appears
 31 that:

32 (a) The facilities for protection from fire in an institution are adequate so that the institution
 33 can operate without jeopardizing the health or safety of its residents or patients; and

34 (b) The institution can comply with all applicable laws and rules relating to safety from fire
 35 within a period of two years from the date of issuance of the temporary permit.

36 (2) In issuing the temporary permit, the State Fire Marshal or approved authority of the gov-
 37 ernmental subdivision having jurisdiction in an exempt area may require that during the two-year
 38 period [*in which*] **that** the temporary permit is in effect:

39 (a) Plans for compliance with all applicable laws and rules relating to safety from fire be sub-
 40 mitted with the application for a temporary permit;

41 (b) Periodic reports be submitted on the progress of the plans for compliance; and

42 (c) Special temporary provisions specified by the State Fire Marshal or the approved authority
 43 be maintained for the protection from fire of the residents or patients of the institution.

44 (3) If at any time, the State Fire Marshal or the approved authority determines that the facilities
 45 for protection from fire at the institution are no longer adequate to protect the residents or patients

1 or that the requirements imposed under subsection (2) of this section are not being maintained, the
2 State Fire Marshal or the approved authority shall cancel the temporary permit and shall notify the
3 licensing agency of such cancellation.

4 (4) Extensions and renewals may be granted on the temporary permit.

5 **SECTION 10.** ORS 479.220 is amended to read:

6 479.220. When application is made **to the Department of Human Services or the Oregon**
7 **Health Authority** for the initial issuance or reinstatement of a license or certificate of approval to
8 operate and maintain an institution, or for an enlargement or addition to a licensed or approved
9 institution, the licensing agency shall notify in writing the State Fire Marshal, and **except as pro-**
10 **vided in ORS 479.215 (4)**, the State Fire Marshal or deputy, or the approved authority in the case
11 of an institution located in an area exempted under ORS 476.030, shall within 30 days:

12 (1) Inspect the institution as authorized by ORS 476.150; and [*within that time shall notify the*
13 *licensing agency in writing when*]

14 (2) **If** the institution is not substantially in compliance with all applicable laws and rules, **notify**
15 **the licensing agency in writing that the institution is not in substantial compliance.**

16 **SECTION 11.** **Section 1 of this 2013 Act and the amendments to ORS 455.148, 455.150,**
17 **476.030, 476.150, 476.155, 479.165, 479.215, 479.217 and 479.220 by sections 2 to 10 of this 2013**
18 **Act apply to building and structure construction, reconstruction, alteration or repair for**
19 **which a municipality or the Department of Consumer and Business Services issues a building**
20 **permit on or after the effective date of this 2013 Act.**

21 _____