

A-Engrossed House Bill 4086

Ordered by the House February 21
Including House Amendments dated February 21

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor)

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.

[Removes requirement that building inspector for municipality be employee of municipality. Allows employment or other designation of building inspector by multiple municipalities.]

[Requires that building official appointed by municipality be employee of municipality. Becomes operative January 1, 2020.]

Requires that municipal building official be employed by municipality, or under inter-governmental agreement or by council of governments. Makes municipal building official responsible for ensuring adequate administration and enforcement of municipal building inspection program activities.

Requires that municipality with building inspection program arrange for building official or other person to act as head building inspector providing supervision and active involvement in program aspects that involve inspections for routine enforcement of building code specialty codes. Requires that head building inspector hold highest level of certification for conducting inspections for compliance with structural specialty code. Requires that head building inspector be employed by municipality, or under intergovernmental agreement or by council of governments.

Requires that municipal inspector be employed by municipality, or under intergovernmental agreement or by council of governments or perform inspections under actual or apparent authority as agent on behalf of municipality. Requires that municipal inspector acting as agent for municipality establish resources and methods for inspection, subject to approval by head building inspector.

Revises terminology regarding building officials and building inspectors that qualify for certification. Provides that specialized building inspector may be trained and certified in parts of more than one specialty code.

Prohibits municipality from accepting municipal building official or municipal inspector services from person who does not have valid certification.

Makes requirements regarding employment of municipal building official, head building inspector or municipal inspector operative July 1, 2019.

Declares emergency, effective on passage.

1
2
3
4
5
6
7
8
9
10
11
12

A BILL FOR AN ACT

Relating to building codes; creating new provisions; amending ORS 215.236, 446.250, 446.255, 447.091, 450.837, 455.010, 455.042, 455.046, 455.062, 455.070, 455.080, 455.148, 455.150, 455.200, 455.210, 455.450, 455.485, 455.685, 455.715, 455.720, 455.723, 455.730, 455.732, 455.737, 455.740, 455.800 and 479.530; and declaring an emergency.

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

GENERAL DEFINITIONS

SECTION 1. ORS 455.010 is amended to read:

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

(1)(a) "Advisory board" means the board with responsibility for assisting in the adoption,

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 amendment or administration of a specialty code, specifically:

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

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

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

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

13 (4) "Low-Rise Residential Dwelling Code" means the adopted specialty code prescribing stan-
14 dards for the construction of residential dwellings that are three stories or less above grade and
15 have an exterior door for each dwelling unit, but are not facilities or homes described in ORS
16 443.400 or transient lodging.

17 (5) **"Municipal building official" means a person who is charged by a municipality with**
18 **responsibility for the administration and enforcement of a building inspection program in the**
19 **municipality and is:**

20 (a) **An employee of the municipality;**

21 (b) **Employed under an intergovernmental agreement that provides for the person to**
22 **supply administration and enforcement services for respective building inspection programs**
23 **of municipalities; or**

24 (c) **Employed by a council of governments to supply administration and enforcement**
25 **services for respective building inspection programs of member governments.**

26 (6) **"Municipal inspector" means a person who performs routine enforcement of one or**
27 **more state building code specialty codes or parts of one or more specialty codes for a**
28 **municipality and is:**

29 (a) **An employee of the municipality;**

30 (b) **Employed under an intergovernmental agreement that provides for the person to**
31 **perform routine enforcement of one or more state building code specialty codes or parts of**
32 **one or more specialty codes for respective building inspection programs of municipalities;**

33 (c) **Employed by a council of governments to perform routine enforcement of one or more**
34 **state building code specialty codes or parts of one or more specialty codes for respective**
35 **building inspection programs of member governments; or**

36 (d) **Performing under actual or apparent authority as an agent on behalf of the munic-**
37 **ipality.**

38 [(5)] (7) "Municipality" means a city, county or other unit of local government otherwise au-
39 thorized by law to administer a building code.

40 [(6)] (8) "Prefabricated structure" means a building or subassembly that has been in whole or
41 substantial part manufactured or assembled using closed construction at an off-site location to be
42 wholly or partially assembled on-site. "Prefabricated structure" does not include a manufactured
43 dwelling, recreational structure or recreational vehicle, as those terms are defined in ORS 446.003.

44 [(7)] (9) "Specialty code" means a code of regulations adopted under ORS 446.062, 446.185,
45 447.020 (2), 455.020 (2), 455.496, 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545, but does not

1 include regulations adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.015
2 to 479.200 and 479.210 to 479.220.

3 [(8)] (10) "State building code" means the combined specialty codes.

4 [(9)] (11) "Structural code" means the specialty code prescribing structural standards for build-
5 ing construction.

6 [(10)] (12) "Unsafe condition" means a condition caused by earthquake which is determined by
7 the department or any representative of the department to be dangerous to life and property. "Un-
8 safe condition" includes but is not limited to:

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

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

14 15 **BUILDING OFFICIAL AND INSPECTOR QUALIFICATIONS**

16
17 **SECTION 2.** ORS 455.715 is amended to read:

18 455.715. As used in ORS 455.715 to 455.740, unless the context otherwise requires:

19 (1) "Building official" means a person charged by a municipality with responsibility for admin-
20 istration and enforcement of the state building code in the municipality.

21 (2) "Business of providing prefabricated structure plan approvals and inspections" means an in-
22 dependent contractor providing prefabricated structure plan approval or inspection services, or both,
23 under the following specialty codes, as provided in ORS 455.020, 455.705 and 455.715:

24 (a) Structural;

25 (b) Mechanical;

26 (c) Plumbing;

27 (d) Electrical; *[and]* **or**

28 (e) Low-rise residential dwelling.

29 (3) "Inspector" means:

30 (a) A person, including a plans examiner, *[acting under the authority and direction of a building*
31 *official and]* charged **by a municipality** with the responsibility of routine enforcement of one or
32 more specialty codes or parts of specialty codes **on behalf of the municipality**;

33 (b) A person, including a plans examiner, who provides enforcement of one or more specialty
34 codes or parts of specialty codes and who is personally in the business of providing prefabricated
35 structure plan approvals or inspections or is employed by such a business;

36 (c) A specialized building inspector certified under ORS 455.723 who *[is employed by]* **provides**
37 **services to** a municipality or *[by]* **through** the Department of Consumer and Business Services;

38 (d) A person *[employed by]* **providing services to** a municipality or the department who is cer-
39 tified under ORS 455.732 to perform inspections under one or more specialty codes throughout a
40 building code administrative region; or

41 (e) A person designated by the Director of the Department of Consumer and Business Services
42 to ensure compliance with a specialty code or with any requirement for a license, registration, cer-
43 tification, endorsement or other authorization to perform work *[related to the administration and*
44 *enforcement of]* **regulated under** the state building code.

45 **SECTION 3.** ORS 455.720 is amended to read:

1 455.720. (1) In accordance with applicable provisions of ORS chapter 183, to promote effective
2 and uniform enforcement of the state building code by improving the competence of building officials
3 and inspectors, the Director of the Department of Consumer and Business Services, with the advice
4 of the advisory boards, shall:

5 (a) Establish for building officials and inspectors reasonable minimum training and experience
6 standards, including but not limited to courses or subjects for instruction, facilities for instruction,
7 qualification of instructors and methods of instruction. The standards shall include provisions for
8 determining a practical experience equivalent.

9 (b) Establish a procedure to be used by municipalities to determine whether a person meets
10 minimum standards or has minimum training to *[be appointed or employed]* **provide services** as a
11 building official or inspector. The procedure shall allow for a field examination of a person to de-
12 termine if the person meets the practical experience equivalent of a minimum standard.

13 (c) Subject to such terms, conditions and classifications as the director may impose, certify
14 building officials as being qualified, and revoke such certifications in the manner provided in ORS
15 455.740.

16 (d) Require an applicant for a certificate as a building official or inspector to demonstrate
17 knowledge of the laws governing accessibility to buildings by persons with disabilities by passing
18 an examination prescribed by the director.

19 (2) The director shall maintain and, upon request of *[municipalities, furnish information on ap-*
20 *licants for appointment or employment as building officials or inspectors.]* **a municipality, furnish**
21 **information on candidates for the provision of municipal building official services, or mu-**
22 **nicipal inspector services, to the municipality.**

23 (3) Pursuant to ORS chapter 183, the director shall adopt rules necessary to carry out the cer-
24 tification programs provided by subsection (1) of this section.

25 (4) The director, by rule, may require evidence of completion of continuing education covering
26 any certification created under this section as a condition of maintaining the certification. Nothing
27 in this subsection shall prohibit the director from delegating any of this power to a municipality.

28 (5) The director, with the advice of the appropriate advisory boards, may adopt rules for certi-
29 fying inspectors as being qualified to enforce one or more particular specialty codes, subject to any
30 terms, conditions and classifications the director may impose, and for revoking those certifications
31 in the manner provided in ORS 455.740.

32 **SECTION 4.** ORS 455.723 is amended to read:

33 455.723. (1) The Director of the Department of Consumer and Business Services, with the advice
34 of the appropriate advisory boards, may adopt rules establishing one or more programs to train,
35 qualify and certify an individual as a specialized building inspector authorized to enforce *[portions]*
36 **parts** of specialty codes. Notwithstanding ORS 455.720 (1) and 455.725, the rules may include, but
37 need not be limited to, rules that establish:

38 (a) Work experience, training and other qualifications for program participation;

39 (b) Content and presentation requirements for training programs;

40 (c) Methods for verifying the qualification of the individual to enforce *[portions]* **parts** of spe-
41 cialty codes as a specialized building inspector certified under this section;

42 (d) The *[portions]* **parts** of various specialty codes that each program will enable a qualifying
43 individual to enforce and any terms, conditions or classifications applicable for that enforcement;
44 and

45 (e) Requirements the director believes reasonable for the administration and enforcement of this

1 section.

2 (2) Notwithstanding ORS 446.250, 455.630, 455.720, 455.725, 479.530, 479.810 and 479.855, the di-
 3 rector may issue or cause to be issued a certificate as a specialized building inspector to an indi-
 4 vidual who successfully completes an approved training program and satisfies qualification
 5 verification under this section. **A specialized building inspector may be trained and certified in**
 6 **parts of more than one specialty code.**

7 (3) An individual certified as a specialized building inspector under this section may conduct
 8 inspections and enforce *[portions]* **parts** of specialty codes under ORS 479.510 to 479.945 and 479.950
 9 and this chapter and ORS chapters 446, 447 and 693 as identified by the director. The enforcement
 10 of *[portions]* **parts** of specialty codes by a specialized building inspector is subject to any terms,
 11 conditions or classifications applicable to that enforcement established by the director by rule.

12 **SECTION 5.** ORS 455.730 is amended to read:

13 455.730. *[No person shall be appointed or employed as a building official or inspector by any*
 14 *municipality]* **A municipality may not accept municipal building official or municipal inspector**
 15 **services from a person** unless the person has been certified as being qualified under ORS 455.715
 16 to 455.740, and the certification has not lapsed or been revoked.

17 **SECTION 6.** ORS 455.732 is amended to read:

18 455.732. (1) As used in this section, “building code administrative region” means a region es-
 19 tablished by the Director of the Department of Consumer and Business Services under ORS 455.042
 20 for the uniform administration of the state building code.

21 (2) The authority of the director under **this section and** ORS 455.720 and 455.723 to specify
 22 terms, conditions and classifications for the certification of inspectors includes the authority to
 23 certify an inspector to perform inspections under multiple specialty codes or parts of a specialty
 24 code.

25 (3) The director may provide for an inspector who is likely to be employed within a specific
 26 building code administrative region to be certified to perform inspections throughout a building code
 27 administrative region, whether within or outside of a municipality. The director may recognize any
 28 training program certified by the director under ORS 455.723 or 455.725 for purposes of certifying
 29 an inspector to perform inspections throughout a building code administrative region. This sub-
 30 section does not require a municipality administering and enforcing a building inspection program
 31 under ORS 455.148 or 455.150 to allow an inspector certified under this subsection who is not *[em-*
 32 *ployed by]* **an employee of** the municipality to perform building inspections on behalf of the
 33 municipality.

34 (4) In determining the appropriate experience, training or other qualifications for an inspector
 35 under ORS 455.720 or 455.723, the director shall consult with the appropriate advisory boards. The
 36 factors to be considered by the director may include, but need not be limited to:

37 (a) Any factors specific to, or of particular relevance to, a specialty code or to the types of
 38 buildings, structures, systems or equipment in a geographic area that are inspected under the spe-
 39 cialty code;

40 (b) Staffing levels or other specific criteria for building inspection programs established by a
 41 municipality where the inspector is likely to *[be employed]* **provide services** or for building in-
 42 spection programs established by the director; and

43 (c) Any factors specific to, or of particular relevance to, the building code administrative region
 44 within which the inspector is likely to *[be employed]* **provide services.**

45 (5) In determining the scope of certifications and qualifications for an inspector, the director

1 may utilize field training equivalency, independent evaluations or other methods the director deems
2 appropriate.

3 **SECTION 7.** ORS 455.737 is amended to read:

4 455.737. (1) Notwithstanding ORS 455.720 (1), the Director of the Department of Consumer and
5 Business Services, by rule, shall adopt criteria for review of the experience and training in building
6 inspection and building plan review acquired by a person outside the State of Oregon. The criteria
7 shall be adopted in a manner that facilitates review of a person's qualifications by a [local] **mu-**
8 **nicipal** building official.

9 (2)(a) A [local] **municipal** building official who wishes to [employ] **use the services of** a person
10 who is not certified under ORS 455.735 as an inspector shall submit the person's qualifications to
11 the director. The director shall review the stated qualifications against the criteria adopted under
12 subsection (1) of this section, including verification of experience and training. The director shall
13 respond to the [local] **municipal** building official in writing within 10 working days of receiving the
14 applicant's qualifications, stating whether the person meets the applicable criteria.

15 (b) Upon application and payment of the required fee, the director shall allow a person whose
16 qualifications meet the criteria adopted under subsection (1) of this section to sit for any examina-
17 tion necessary for the required certification.

18 **SECTION 8.** ORS 455.740 is amended to read:

19 455.740. (1) Subject to ORS chapter 183, the Director of the Department of Consumer and Busi-
20 ness Services may deny, condition, suspend, revoke or refuse to renew a certificate of a building
21 official or inspector if the director finds that the building official or inspector has:

- 22 (a) Consistently failed to act in the public interest in the performance of duties;
- 23 (b) Failed to complete the continuing education requirements as required under ORS 455.720 (4);
- 24 (c) Provided false information to the Department of **Consumer and Business Services**; or
- 25 (d) Committed an act described in ORS 455.125 or 455.129.

26 (2) In any revocation proceeding under this section, [the] **a municipality or council of govern-**
27 **ments** that employs the building official or inspector [shall be] **is** entitled to appear as a party in
28 interest, either for or against the revocation.

29 (3) When a certification is suspended or revoked under this section, the director may also sus-
30 pend, deny or place conditions on that person's right to reapply for certification under ORS 455.735
31 for a period not to exceed 12 months.

32 (4) This section does not limit or otherwise affect the authority of a municipality to dismiss or
33 suspend a building official or inspector at the discretion of the municipality.

34 (5) Notwithstanding the requirements of subsections (1) to (4) of this section, the director may
35 adopt rules that:

- 36 (a) Allow certifications to be placed on inactive status; and
- 37 (b) Extend continuing education compliance requirements in case of illness or hardship.

38 **MUNICIPAL BUILDING INSPECTION PROGRAMS**

39
40
41 **SECTION 9.** ORS 455.148 is amended to read:

42 455.148. (1)(a) A municipality that assumes the administration and enforcement of a building in-
43 spection program shall administer and enforce the program for all of the following:

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

- 1 (B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.
2 (C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.
3 (D) Park and camp programs regulated under ORS 455.680.
4 (E) Tourist facilities regulated under ORS 446.310 to 446.350.
5 (F) Manufactured dwelling alterations regulated under ORS 446.155.
6 (G) Manufactured structure accessory buildings and structures under ORS 446.253.
7 (H) Boilers and pressure vessels described in rules adopted under ORS 480.525 (5).
8 (b) A building inspection program of a municipality may not include:
9 (A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described
10 in rules adopted under ORS 480.525 (5);
11 (B) Elevator programs under ORS 460.005 to 460.175;
12 (C) Amusement ride regulation under ORS 460.310 to 460.370;
13 (D) Prefabricated structure regulation under ORS chapter 455;
14 (E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including
15 the administration and enforcement of federal manufactured dwelling construction and safety stan-
16 dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety
17 Standards Act of 1974;
18 (F) Licensing and certification, or the adoption of statewide codes and standards, under ORS
19 chapter 446, 447, 455, 479 or 693; or
20 (G) Review of plans and specifications as provided in ORS 455.685.
21 (2) A municipality that administers a building inspection program as allowed under this section
22 shall do so for periods of four years. The Department of Consumer and Business Services shall adopt
23 rules to adjust time periods for administration of a building inspection program to allow for vari-
24 ations in the needs of the department and participants.
25 (3)(a) When a municipality administers a building inspection program, the governing body of the
26 municipality shall, *unless other means are already provided, appoint a person to administer and en-*
27 *force the building inspection program, who shall be known as the building official. A building official*
28 *shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the*
29 *issuance of all building permits. Two or more municipalities may combine in the appointment of a*
30 *single building official for the purpose of administering a building inspection program within their*
31 *communities.] **arrange for the services of a municipal building official for the municipality.***
32 **The municipality shall also arrange for the services of a head building inspector for the**
33 **municipality, who may also be the building official. The head building inspector must be an**
34 **employee of the municipality or be employed under an intergovernmental agreement or by**
35 **a council of governments to provide services to the municipality. The head building inspector**
36 **must hold the highest level of certification issued by the department under ORS 455.715 to**
37 **455.740 for conducting inspections for compliance with the structural specialty code.**
38 (b) **Except as provided in this subsection, the municipal building official shall be respon-**
39 **sible for ensuring the adequate and proper administration and enforcement of building in-**
40 **spection program activities, including but not limited to the issuance of building permits,**
41 **whether the program activities are carried out by employees of the municipality or by other**
42 **persons authorized to act on behalf of the municipality. The head building inspector shall**
43 **provide supervision for, and be actively involved in, the aspects of the program involving in-**
44 **spections for routine enforcement of the specialty codes under the program.**
45 (4)(a) By January 1 of the year preceding the expiration of the four-year period described in

1 subsection (2) of this section, the governing body of the municipality shall notify the Director of the
 2 Department of Consumer and Business Services and, if the municipality is not a county, notify the
 3 county whether the municipality will continue to administer and enforce the building inspection
 4 program after expiration of the four-year period.

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

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

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

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

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

29 **(9) A municipal inspector who performs routine enforcement services under actual or**
 30 **apparent authority as an agent on behalf of the municipality shall, subject to the approval**
 31 **of the head building inspector, establish the resources used or needed for the inspector to**
 32 **perform the enforcement services and establish the method by which the enforcement ser-**
 33 **vices are to be performed.**

34 [(9)] (10) A municipality that administers and enforces a building inspection program pursuant
 35 to this section shall recognize and accept the performances of state building code activities by
 36 businesses and persons authorized under ORS 455.457 to perform the activities as if the activities
 37 were performed by the municipality. A municipality is not required to accept an inspection, a plan
 38 or a plan review that does not meet the requirements of the state building code.

39 [(10)] (11) The department or a municipality that accepts an inspection or plan review as re-
 40 quired by this section by a person licensed under ORS 455.457 has no responsibility or liability for
 41 the activities of the licensee.

42 [(11)] (12) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate
 43 building inspection programs that municipalities assume on or after January 1, 2002. Regulation
 44 under this subsection shall include but not be limited to:

45 (a) Creating building inspection program application and amendment requirements and proce-

1 dures;

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

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

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

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

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

10 (D) Proposed staffing levels; and

11 (E) Proposed service levels;

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

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

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

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

21 (h) Enforcing the requirements of this section.

22 [(12)] (13) The department may assume administration and enforcement of a building inspection
23 program:

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

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

27 (c) If a municipality fails to substantially comply with any provision of this section or of ORS
28 455.465, 455.467 and 455.469.

29 [(13)] (14) If the department assumes the administration and enforcement of a building inspection
30 program under this section, in addition to any other power granted to the director, the director may:

31 (a) Enter into agreements with local governments under ORS 455.185 regarding the adminis-
32 tration and enforcement of the assumed building inspection program;

33 (b) Take action as described in ORS 455.192 to ensure that sufficient staff and other resources
34 are available for the administration and enforcement of the assumed building inspection program;
35 and

36 (c) Charge fees described in ORS 455.195 for department services provided in administering and
37 enforcing the assumed building inspection program.

38 [(14)] (15) A municipality that abandons or otherwise ceases to administer and enforce a building
39 inspection program that the municipality assumed under this section may not resume the adminis-
40 tration or enforcement of the program for at least two years. The municipality may resume the ad-
41 ministration and enforcement of the abandoned program only on July 1 of an odd-numbered year.
42 Prior to resuming the administration and enforcement of the program, the municipality must follow
43 the notification procedure set forth in subsection (7) of this section.

44 **SECTION 10.** ORS 455.150 is amended to read:

45 455.150. (1) Except as provided in subsection [(15)] (16) of this section, a municipality that as-

1 sumes the administration and enforcement of a building inspection program prior to January 1, 2002,
2 may administer and enforce all or part of a building inspection program. A building inspection pro-
3 gram:

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

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

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

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

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

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

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

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

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

14 (b) Is not a program that includes:

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

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

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

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

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

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

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

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

31 (3)(a) When a municipality administers a building inspection program, the governing body of the
32 municipality shall, *unless other means are already provided, appoint a person to administer and en-*
33 *force the building inspection program or parts thereof, who shall be known as the building official. A*
34 *building official shall, in the municipality for which appointed, attend to all aspects of code enforce-*
35 *ment, including the issuance of all building permits. Two or more municipalities may combine in the*
36 *appointment of a single building official for the purpose of administering a building inspection program*
37 *within their communities.]* **arrange for the services of a municipal building official for the**

38 **municipality. The municipality shall also arrange for the services of a head building inspector**
39 **for the municipality, who may also be the building official. The head building inspector must**
40 **be an employee of the municipality or be employed under an intergovernmental agreement**
41 **or by a council of governments to provide services to the municipality. The head building**
42 **inspector must hold the highest level of certification issued by the department under ORS**
43 **455.715 to 455.740 for conducting inspections for compliance with the structural specialty**
44 **code.**

45 (b) Except as provided in this subsection, the municipal building official shall be respon-

1 **sible for ensuring the adequate and proper administration and enforcement of building in-**
 2 **spection program activities, including but not limited to the issuance of building permits,**
 3 **whether the program activities are carried out by employees of the municipality or by other**
 4 **persons authorized to act on behalf of the municipality. The head building inspector shall**
 5 **provide supervision for, and be actively involved in, the aspects of the program involving in-**
 6 **spections for routine enforcement of the specialty codes under the program.**

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

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

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

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

29 (7) If a municipality administering a building inspection program under this section seeks to
 30 administer additional parts of a program, the municipality must comply with ORS 455.148, including
 31 the requirement that the municipality administer and enforce all aspects of the building inspection
 32 program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this
 33 section.

34 (8) The department shall adopt rules to require the governing body of each municipality to
 35 submit a written plan with the notice required under subsection (4) of this section. If the department
 36 is the governing body, the department shall have a plan on file. The plan shall specify how coop-
 37 eration with the State Fire Marshal or a designee of the State Fire Marshal will be achieved and
 38 how a uniform fire code will be considered in the review process of the design and construction
 39 phases of buildings or structures.

40 **(9) A municipal inspector who performs routine enforcement services under actual or**
 41 **apparent authority as an agent on behalf of the municipality shall, subject to the approval**
 42 **of the head building inspector, establish the resources used or needed for the inspector to**
 43 **perform the enforcement services and establish the method by which the enforcement ser-**
 44 **vices are to be performed.**

45 [(9)] (10) A municipality that administers a code for which persons or businesses are authorized

1 under ORS 455.457 to perform activities shall recognize and accept those activities as if performed
2 by the municipality. A municipality is not required to accept an inspection, a plan or a plan review
3 that does not meet the requirements of the state building code.

4 [(10)] (11) The department or a municipality that accepts an inspection or plan review as re-
5 quired by this section by a person licensed under ORS 455.457 has no responsibility or liability for
6 the activities of the licensee.

7 [(11)] (12) In addition to the requirements of ORS 455.100 and 455.110, the director shall regulate
8 building inspection programs of municipalities assumed prior to January 1, 2002. Regulation under
9 this subsection shall include but not be limited to:

10 (a) Creating building inspection program application and amendment requirements and proce-
11 dures;

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

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

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

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

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

22 (g) Enforcing the requirements of this section.

23 [(12)] (13) The department may assume administration and enforcement of a building inspection
24 program:

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

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

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

30 [(13)] (14) If the department assumes the administration and enforcement of a building inspection
31 program under this section, in addition to any other power granted to the director, the director may:

32 (a) Enter into agreements with local governments under ORS 455.185 regarding the adminis-
33 tration and enforcement of the assumed building inspection program;

34 (b) Take action as described in ORS 455.192 to ensure that sufficient staff and other resources
35 are available for the administration and enforcement of the assumed building inspection program;
36 and

37 (c) Charge fees described in ORS 455.195 for department services provided in administering and
38 enforcing the assumed building inspection program.

39 [(14)] (15) If a municipality abandons or otherwise ceases to administer all or part of a building
40 inspection program described in this section, the municipality may not resume the administration
41 and enforcement of the abandoned program or part of a program for at least two years. The
42 municipality may resume the administration and enforcement of the abandoned program or part of
43 a program only on July 1 of an odd-numbered year. To resume the administration and enforcement
44 of the abandoned program or part of a program, the municipality must comply with ORS 455.148,
45 including the requirement that the municipality administer and enforce all aspects of the building

1 inspection program. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject
2 to this section.

3 [(15)] (16) A municipality that administers and enforces a building inspection program under this
4 section shall include in the program the inspection of boilers and pressure vessels described in
5 subsection (1)(a)(H) of this section.

6
7 **CONFORMING AMENDMENTS**

8
9 **SECTION 11.** ORS 215.236 is amended to read:

10 215.236. (1) As used in this section, “dwelling” means a single-family residential dwelling not
11 provided in conjunction with farm use.

12 (2) The governing body or its designee may not grant final approval of an application made un-
13 der ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7) for the establishment of a dwelling on a lot or
14 parcel in an exclusive farm use zone that is, or has been, receiving special assessment without evi-
15 dence that the lot or parcel upon which the dwelling is proposed has been disqualified for special
16 assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under
17 ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax
18 imposed as the result of disqualification has been paid.

19 (3) The governing body or its designee may grant tentative approval of an application made
20 under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7) for the establishment of a dwelling on a lot
21 or parcel in an exclusive farm use zone that is specially assessed at value for farm use under ORS
22 308A.050 to 308A.128 upon making the findings required by ORS 215.213 (3) or 215.284 (1), (2), (3),
23 (4) or (7). An application for the establishment of a dwelling that has been tentatively approved shall
24 be given final approval by the governing body or its designee upon receipt of evidence that the lot
25 or parcel upon which establishment of the dwelling is proposed has been disqualified for special
26 assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under
27 ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax
28 imposed as the result of disqualification has been paid.

29 (4) The owner of a lot or parcel upon which the establishment of a dwelling has been tentatively
30 approved as provided by subsection (3) of this section shall, before final approval, simultaneously:

31 (a) Notify the county assessor that the lot or parcel is no longer being used as farmland or for
32 other specially assessed uses described in subsection (2) or (3) of this section;

33 (b) Request that the county assessor disqualify the lot or parcel from special assessment under
34 ORS 308A.050 to 308A.128, 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855; and

35 (c) Pay any additional tax imposed upon disqualification from special assessment.

36 (5) Except as provided in subsection (6) of this section, a lot or parcel that has been disqualified
37 pursuant to subsection (4) of this section may not requalify for special assessment unless, when
38 combined with another contiguous lot or parcel, it constitutes a qualifying parcel.

39 (6)(a) A lot or parcel that has been disqualified pursuant to subsection (4) of this section may
40 requalify for wildlife habitat special assessment under ORS 308A.403 to 308A.430 or conservation
41 easement special assessment under ORS 308A.450 to 308A.465 without satisfying the requirements
42 of subsection (5) of this section.

43 (b) Upon disqualification from wildlife habitat special assessment under ORS 308A.430 or dis-
44 qualification from conservation easement special assessment under ORS 308A.465, the lot or parcel
45 shall be subject to the requirements of subsection (5) of this section.

1 (7) When the owner of a lot or parcel upon which the establishment of a dwelling has been
2 tentatively approved notifies the county assessor that the lot or parcel is no longer being used as
3 farmland and requests disqualification of the lot or parcel for special assessment at value for farm
4 use, the county assessor shall:

5 (a) Disqualify the lot or parcel for special assessment at value for farm use under ORS 308A.050
6 to 308A.128 or other special assessment by removing the special assessment;

7 (b) Provide the owner of the lot or parcel with written notice of the disqualification; and

8 (c) Impose the additional tax, if any, provided by statute upon disqualification.

9 (8) The Department of Consumer and Business Services, a **municipal** building official, as defined
10 in ORS [455.715 (1)] **455.010**, or any other agency or official responsible for the administration and
11 enforcement of the state building code, as defined in ORS 455.010, may not issue a building permit
12 for the construction of a dwelling on a lot or parcel in an exclusive farm use zone without evidence
13 that the owner of the lot or parcel upon which the dwelling is proposed to be constructed has paid
14 the additional tax, if any, imposed by the county assessor under subsection (7)(c) of this section.

15 **SECTION 12.** ORS 446.250 is amended to read:

16 446.250. The Director of the Department of Consumer and Business Services shall cause in-
17 spections to be made, approve plans and specifications, provide technical services and issue permits
18 for alteration of manufactured dwellings and installation of manufactured dwellings and manufac-
19 tured structure accessory buildings and structures on a lot. The director shall appoint or contract
20 with municipalities that request such appointment or contract for inspection and issuance of permits
21 for alteration of manufactured dwellings and installation of manufactured dwellings and manufac-
22 tured structure accessory buildings and structures and alterations of installations of plumbing,
23 heating, illuminating, cooking or electrical equipment, provided the [*municipality employs as local*]
24 **municipal** inspectors **are** qualified persons who have been certified by the director for inspection
25 and issuance of permits for alteration of manufactured dwellings and installation of manufactured
26 dwellings and manufactured structure accessory buildings and structures, pursuant to ORS 446.003,
27 446.111, 446.155, 446.160, 446.176, 446.225 to 446.285 and 446.990. However, the certification stan-
28 dards under this section shall relate to the inspections to be performed and shall not be more
29 stringent for municipal inspectors than those applying to state inspectors.

30 **SECTION 13.** ORS 446.255 is amended to read:

31 446.255. (1) After written notice and hearing as provided in subsection (2) of this section, the
32 Director of the Department of Consumer and Business Services may revoke the certification of a
33 [*local*] **municipal** inspector certified under ORS 446.250, or the authority of a [*local government*]
34 **municipality** to enforce provisions of ORS 446.003, 446.111, 446.160, 446.176, 446.225 to 446.285 and
35 446.990, when it appears by competent evidence that the inspector or [*local government*] **muni-**
36 **city** has consistently failed to act in the public interest in the enforcement of the provisions of
37 ORS 446.003, 446.111, 446.160, 446.176, 446.225 to 446.285 and 446.990.

38 (2) Any proceedings under subsection (1) of this section shall be conducted pursuant to the
39 provisions of ORS 183.415 to 183.430, 183.440 to 183.460, 183.470 to 183.485 and 183.490 to 183.540,
40 dealing with contested cases.

41 **SECTION 14.** ORS 447.091 is amended to read:

42 447.091. The Department of Consumer and Business Services or local government administering
43 the plumbing specialty code adopted under ORS 447.020 (2) may, upon request of any sanitary dis-
44 trict formed pursuant to ORS 450.005 to 450.245, sanitary authority established under ORS 450.600
45 to 450.989, or county service district established under ORS 451.410 to 451.610, contract for [*the*]

1 **district** inspection of building sewers constructed to connect a district sewage system if inspectors
2 [*employed by such*] **for the** district are certified for sewer inspections under ORS 455.715 to 455.740.

3 **SECTION 15.** ORS 450.837 is amended to read:

4 450.837. (1) Water authorities and sanitary authorities are municipalities for the purposes of
5 administering and enforcing the plumbing code as provided under ORS 455.150.

6 (2) However, notwithstanding ORS 455.150 (3), a **municipal** building official [*appointed by*] **pro-**
7 **viding services to** a water authority or sanitary authority, or [*an*] **a municipal** inspector acting
8 under the authority and direction of such a building official, shall [*administer and enforce only that*
9 *portion*] **carry out administration and enforcement activities only for that part** of the plumbing
10 code governing the installation and maintenance of connections between structures and the mains
11 and sewers of the authority.

12 (3) Nothing in this section authorizes a building official or inspector [*of*] **for** a water authority
13 or sanitary authority to administer or enforce all or part of any specialty code except the plumbing
14 code.

15 (4) A water authority or sanitary authority shall notify the Director of the Department of Con-
16 sumer and Business Services not later than May 1 of each year as to whether the authority will or
17 will not exercise the code enforcement power granted by this section.

18 **SECTION 16.** ORS 455.042 is amended to read:

19 455.042. The Director of the Department of Consumer and Business Services shall establish re-
20 gions for all areas of the state to carry out the uniform administration of the state building code.
21 The director shall assign Department of Consumer and Business Services employees for the regions
22 as necessary to:

23 (1) Promote consistent interpretation of the state building code;

24 (2) Resolve disputes between [*local*] **municipal** building officials and contractors or developers
25 regarding the application of one or more provisions of the state building code; and

26 (3) Provide oversight and enforcement of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to
27 446.420, 479.510 to 479.945, 479.950, 479.995 and 480.510 to 480.670 and ORS chapters 447, 455, 460
28 and 693 and the rules adopted under those statutes.

29 **SECTION 17.** ORS 455.046 is amended to read:

30 455.046. (1) The Department of Consumer and Business Services shall:

31 (a) Develop and administer an installation label program for minor installations under the state
32 building code, including but not limited to electrical installations under ORS 455.627, 479.540 and
33 479.570 and plumbing installations under ORS 447.076;

34 (b) Develop standard application forms and procedures for use by municipalities in Clackamas,
35 Multnomah and Washington Counties when issuing structural, mechanical, electrical, plumbing and
36 other permits when those permits do not require a review of building plans;

37 (c) Develop standard application forms and procedures for issuing building permits and record-
38 ing inspections;

39 (d) Develop standard forms and procedures for reviewing building plans;

40 (e) Establish standardized criteria and methodology for determining fee amounts for permits that
41 are required under the state building code established under ORS 455.030;

42 (f) Maintain and make available to the public the names of persons certified to review building
43 plans;

44 (g) Maintain and make available to the public the names of persons certified to perform techni-
45 cal inspections; and

1 (h) Administer prepaid building permit cost accounts.

2 (2) The department may use the resources of the Tri-County Building Industry Service Center
3 to:

4 (a) Assist [*local*] **municipal** building officials in the administration and enforcement of the state
5 building code; and

6 (b) Establish a process to facilitate the consistent application of the state building code
7 throughout the state.

8 **SECTION 18.** ORS 455.062 is amended to read:

9 455.062. (1) A Department of Consumer and Business Services employee acting within the scope
10 of that employment may provide typical plans and specifications:

11 (a) For structures of a type for which the provision of plans or specifications is exempted under
12 ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from
13 the application of ORS 672.002 to 672.325; and

14 (b) Notwithstanding ORS 671.010 to 671.220 and 672.002 to 672.325, for structures that are metal
15 or wood frame Use and Occupancy Classification Group U structures under the structural specialty
16 code.

17 (2) A **municipal** building official [*or inspector, as those terms are defined in ORS 455.715,*
18 *when*], **if** acting within the scope of direct employment by a municipality, may provide typical plans
19 and specifications for structures of a type for which the provision of plans or specifications is ex-
20 empted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS
21 672.060 from the application of ORS 672.002 to 672.325.

22 (3) This section does not alter any applicable requirement under ORS 671.010 to 671.220 or
23 672.002 to 672.325 regarding stamps and seals for a set of plans for a structure.

24 **SECTION 19.** ORS 455.070 is amended to read:

25 455.070. (1) Any person may report a suspected violation of the state building code that poses
26 an imminent threat to public health or safety to the local **municipal** building official or, where the
27 code is state-administered, to the Department of Consumer and Business Services. The complaint
28 shall be in writing and submitted under rules adopted by the department. The rules of the depart-
29 ment shall provide for the disposition of frivolous or harassing complaints by requiring detailed de-
30 scriptions of the alleged violation and reference to the code sections allegedly violated.

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

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

44 **SECTION 20.** ORS 455.080 is amended to read:

45 455.080. Notwithstanding ORS 455.630 (2), any inspector, including a specialty code inspector

1 licensed under ORS 455.457, authorized by ORS **455.148**, 455.150 or 455.153 to determine compliance
 2 with the requirements of the state building code or any specialty code under this chapter may, in
 3 accordance with a compliance program as described in ORS 455.153 (2), require any person who is
 4 engaged in any activity regulated by the state building code to demonstrate proof of compliance with
 5 the applicable licensing, registration or certification requirements of ORS chapters 446, 447, 455,
 6 460, 479, 480, 693 and 701.

7 **SECTION 21.** ORS 455.200 is amended to read:

8 455.200. The Director of the Department of Consumer and Business Services:

9 (1) May adopt rules, establish policies and procedures and take other actions the director con-
 10 sidered reasonable or expedient for carrying out agreements under ORS 455.148 [(13)] **(14)**, 455.150
 11 [(13)] **(14)** or 455.185 and any duties, functions and powers of the director or the Department of
 12 Consumer and Business Services under ORS 455.148 [(13)] **(14)**, 455.150 [(13)] **(14)** or 455.185 to
 13 455.198;

14 (2) Shall consult at least annually with appropriate advisory boards regarding any agreements
 15 under ORS 455.185 or actions taken by the director under ORS 455.148 [(13)] **(14)**, 455.150 [(13)] **(14)**
 16 or 455.185 to 455.198; and

17 (3) Shall report annually to the Legislative Assembly as provided under ORS 192.230 to 192.250
 18 regarding any department activities under ORS 455.148 [(13)] **(14)**, 455.150 [(13)] **(14)** or 455.185 to
 19 455.198. The report shall include, but not be limited to, information regarding any projected need for
 20 an increase in department resources required for carrying out the administration and enforcement
 21 of building inspection programs under ORS 455.148 [(13)] **(14)**, 455.150 [(13)] **(14)** or 455.185 to
 22 455.198.

23 **SECTION 22.** ORS 455.210 is amended to read:

24 455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits
 25 issued by the Department of Consumer and Business Services for the construction, reconstruction,
 26 alteration and repair of prefabricated structures and of buildings and other structures and the in-
 27 stallation of mechanical heating and ventilating devices and equipment. The fees may not exceed 130
 28 percent of the fee schedule printed in the "Uniform Building Code," 1979 Edition, and in the "Uni-
 29 form Mechanical Code," 1979 Edition, both published by the International Conference of Building
 30 Officials. Fees are not effective until approved by the Oregon Department of Administrative Ser-
 31 vices.

32 (2) Notwithstanding subsection (1) of this section, the maximum fee the Director of the Depart-
 33 ment of Consumer and Business Services may prescribe for a limited plan review for fire and life
 34 safety as required under ORS 479.155 shall be 40 percent of the prescribed permit fee.

35 (3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and
 36 reasonable to provide for the administration and enforcement of any specialty code or codes for
 37 which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality
 38 shall give the director notice of the proposed adoption of a new or increased fee under this sub-
 39 section. The municipality shall give the notice to the director at the time the municipality provides
 40 the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is
 41 contained in an estimate of municipal budget resources, at the time notice of the last budget meeting
 42 is published under ORS 294.426.

43 (b) Ten or more persons or an association with 10 or more members may appeal the adoption
 44 of a fee described in this subsection to the Director of the Department of Consumer and Business
 45 Services. The persons or association must file the appeal no later than 60 days after the director

1 receives notice of the proposed adoption of the fee from the municipality under paragraph (a) of this
 2 subsection. However, if the municipality failed to give notice to the director, an appeal may be filed
 3 with the director within one year after adoption of the new or increased fee. Upon receiving a
 4 timely appeal, the director shall, after notice to affected parties and hearing, review the
 5 municipality's fee adoption process and the costs of administering and enforcing the specialty code
 6 or codes referred to in paragraph (a) of this subsection. The director shall approve the fee if the
 7 director feels the fee is necessary and reasonable. If the director does not approve the fee upon
 8 appeal, the fee is not effective. The appeal process provided in this paragraph does not apply to fees
 9 that have been submitted for a vote and approved by a majority of the electors voting on the ques-
 10 tion.

11 (c) Fees collected by a municipality under this subsection shall be used for the administration
 12 and enforcement of a building inspection program for which the municipality has assumed responsi-
 13 bility under ORS 455.148 or 455.150.

14 (d) For purposes of paragraph (b) of this subsection, in determining whether a fee is reasonable
 15 the director shall consider whether:

16 (A) The fee is the same amount as or closely approximates the amount of the fee charged by
 17 other municipalities of a similar size and geographic location for the same level of service;

18 (B) The fee is calculated with the same or a similar calculation method as the fee charged by
 19 other municipalities for the same service;

20 (C) The fee is the same type as the fee charged by other municipalities for the same level of
 21 service; and

22 (D) The municipality, in adopting the fee, complied with ORS 294.160, 294.361 and 294.426 and
 23 this section and standards adopted by the director under ORS 455.148 [(11)] (12) or 455.150 [(11)]
 24 (12).

25 (4) Notwithstanding any other provision of this chapter:

26 (a) For the purpose of partially defraying state administrative costs, there is imposed a sur-
 27 charge in the amount of four percent of the total permit fees or, if the applicant chooses to pay an
 28 hourly rate instead of purchasing a permit, four percent of the total hourly charges collected.

29 (b) For the purpose of partially defraying state inspection costs, there is imposed a surcharge
 30 in the amount of two percent of the total permit fees or, if the applicant chooses to pay an hourly
 31 rate instead of purchasing a permit, two percent of the total hourly charges collected.

32 (c) For the purpose of defraying the cost of administering and enforcing the state building code,
 33 there is imposed a surcharge on permit fees and on hourly charges collected instead of permit fees.
 34 The surcharge may not exceed one percent of the total permit fees or, if the applicant chooses to
 35 pay an hourly rate instead of purchasing a permit, one percent of the total hourly charges collected.

36 (d) For the purpose of defraying the cost of developing and administering the electronic building
 37 codes information system described in ORS 455.095 and 455.097, there is imposed a surcharge in the
 38 amount of four percent on permit fees, or if the applicant chooses to pay an hourly rate instead of
 39 purchasing a permit, four percent of the total hourly charges collected.

40 (5) Municipalities shall collect and remit surcharges imposed under subsection (4) of this section
 41 to the director as provided in ORS 455.220.

42 (6) The director shall adopt administrative rules to allow reduced fees for review of plans that
 43 have been previously reviewed.

44 **SECTION 23.** ORS 455.450 is amended to read:

45 455.450. A person may not:

1 (1) Violate, or procure or assist in the violation of, any final order of the Director of the De-
 2 partment of Consumer and Business Services, an advisory board, a state administrative officer or
 3 any local appeals board, a building official or an inspector, concerning the application of the state
 4 building code in a particular case or concerning a license, certificate, registration or other author-
 5 ization.

6 (2) Engage in, or procure or assist any other person to engage in, any conduct or activity for
 7 which a permit, label, license, certificate, registration or other formal authorization is required by
 8 any specialty code, any provision of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420,
 9 446.566 to 446.646, 446.666 to 446.746, 479.510 to 479.945, 479.950 and 480.510 to 480.670, this chapter
 10 or ORS chapter 447, 460 or 693, or any rule adopted or order issued for the administration and
 11 enforcement of those provisions, without first having obtained such permit, label, license, certificate,
 12 registration or other formal authorization.

13 (3) Violate, or procure or assist in the violation of, any standard, specification, requirement,
 14 prohibition or other technical provision set forth in the state building code or an applicable local
 15 building code or in any rule or order of the Department of Consumer and Business Services, an
 16 advisory board, a [local] **municipal** governing body or [local] **municipal** building official.

17 **SECTION 24.** ORS 455.485 is amended to read:

18 455.485. (1) When adopting the state building code, the Director of the Department of Consumer
 19 and Business Services shall give special consideration to the unique needs of construction in rural
 20 or remote parts of this state.

21 (2) Notwithstanding any description of State Fire Marshal duties in ORS 476.030, 476.033,
 22 476.035, 476.150 or 476.155, the Director of the Department of Consumer and Business Services or
 23 a [local] **municipal** building official administering a building inspection program under ORS 455.148
 24 or 455.150 may determine whether the structure as set forth in the plans and specifications or as
 25 constructed meets the standards of the state building code, including but not limited to fire and life
 26 safety standards. The State Fire Marshal, or a local fire official for a governmental subdivision ex-
 27 empted from State Fire Marshal regulations as described under ORS 476.030, may provide advice to
 28 building officials, inspectors or Department of Consumer and Business Services employees concern-
 29 ing state building code standards. A [local] **municipal** building official or department employee shall
 30 give consideration to advice of the State Fire Marshal or local fire official that does not conflict
 31 with the state building code, but shall retain the authority to make final decisions regarding the
 32 code.

33 **SECTION 25.** ORS 455.685 is amended to read:

34 455.685. The Director of the Department of Consumer and Business Services may, upon an ap-
 35 plication setting forth a set of plans and specifications that will be utilized in one or more munici-
 36 palities to acquire building permits, review and approve the application for the construction or
 37 erection of any building or structure if such set of plans meets the requirements of the state building
 38 code. All costs incurred by the director by virtue of the examination of such a set of plans and
 39 specifications shall be paid by the applicant. The plans and specifications or any plans and specifi-
 40 cations required to be submitted to a state agency shall be submitted to the director who shall ex-
 41 amine the instruments and if necessary distribute them to the appropriate state agencies for scrutiny
 42 regarding adequacy as to fire safety, life safety and all other appropriate features. The state agen-
 43 cies shall examine and promptly return the plans and specifications together with their certified
 44 statement as to the adequacy of the instruments regarding that agency's area of concern. The ap-
 45 plicant shall submit the plans and specifications to a [local building official] **municipality** prior to

1 application for a building permit. The [local] **municipal** building official shall [review] **cause** the
2 plan **to be reviewed** for those features required by local ordinance or by any site-specific, ge-
3 ographic, geologic or climatic code requirements. A [local building official] **municipality** shall issue
4 a building permit upon application and presentation to the [local building official] **municipality** of
5 such a set of plans and specifications bearing the approval of the director if the requirements of all
6 other local ordinances are satisfied. The director or [local] **municipal** building official may assess
7 such fees as necessary to recover the reasonable costs incurred to ensure the compliance of the
8 plans and specifications with the state building code.

9 **SECTION 26.** ORS 455.800 is amended to read:

10 455.800. As used in ORS 455.800 to 455.820:

11 (1) "Building official" means a person who is a **municipal** building official as defined in ORS
12 [455.715] **455.010** or a Department of Consumer and Business Services employee charged with
13 enforcement or administration of the state building code.

14 (2) "Building trade committee" means a group composed of experienced and knowledgeable local
15 general contractors or other persons having substantial expertise in various aspects of one and two
16 family dwelling construction under the Low-Rise Residential Dwelling Code.

17 (3) "General contractor" has the meaning given that term in ORS 701.005.

18 (4) "Master builder" means a person certified under ORS 455.810.

19 (5) "Qualified construction company" means a company that has been:

20 (a) Continuously licensed by the Construction Contractors Board during the preceding 60
21 months as a general contractor; or

22 (b) Continuously licensed by the Construction Contractors Board during at least the preceding
23 24 months as a general contractor and by one or more other states during the balance of the pre-
24 ceding 60 months in an occupation equivalent to that of a general contractor.

25 (6) "Regular employee" means a person who:

26 (a) Is continuously employed by, and on the regular payroll of, a qualified construction company;

27 (b) Has filed a withholding exemption certificate pursuant to ORS 316.182 for work performed
28 for the qualified construction company; and

29 (c) Is available during working hours to supervise on-site dwelling construction, including but
30 not limited to supervising the installation of:

31 (A) Drywall;

32 (B) Electrical systems;

33 (C) Footings;

34 (D) Foundations;

35 (E) Framing;

36 (F) Insulation;

37 (G) Mechanical systems;

38 (H) Plumbing systems; and

39 (I) Stairs.

40 (7) "Whole dwelling remodel" means a project that includes the installation in an existing
41 dwelling of all of the following:

42 (a) Drywall;

43 (b) Electrical systems;

44 (c) Footings;

45 (d) Foundations;

- 1 (e) Framing;
- 2 (f) Insulation;
- 3 (g) Mechanical systems; and
- 4 (h) Plumbing systems.

5 **SECTION 27.** ORS 479.530 is amended to read:

6 479.530. As used in ORS 479.510 to 479.945 and 479.995, unless the context requires otherwise:

7 (1) "Approved testing laboratory" means a testing laboratory that meets criteria for electrical
8 product evaluation established by the Director of the Department of Consumer and Business Ser-
9 vices with the approval of the Electrical and Elevator Board under ORS 479.730.

10 (2) "Board" means the Electrical and Elevator Board established under ORS 455.138.

11 (3) "Certified electrical product" means an electrical product that is certified under ORS 479.760
12 and that is not decertified.

13 (4) "Competent inspection service" means an electrical inspection service [*of a city or county*]
14 administered **by a municipality** under ORS 455.148 or 455.150 that [*employs*] **provides services**
15 **through** electrical inspectors who are certified to meet standards under ORS 479.810.

16 (5) "Commercial electrical air conditioning equipment" means heating, cooling, refrigeration,
17 dehumidifying, humidifying and filtering equipment used for climatizing or moving of air if used in
18 commerce, industry or government and if installed in a place not accessible to the general public
19 other than the switches regulating the operation of the equipment.

20 (6) "Demarcation point" means the place of interconnection between the communications cabl-
21 ing, terminal equipment or protective apparatus of the telecommunications service provider and the
22 customer's premises.

23 (7) "Department" means the Department of Consumer and Business Services.

24 (8) "Director" means the Director of the Department of Consumer and Business Services.

25 (9) "Dwelling unit" means one or more rooms for the use of one or more persons as a house-
26 keeping unit with space for eating, living and sleeping and permanent provisions for cooking and
27 sanitation.

28 (10) "Electrical installations" means the construction or installation of electrical wiring and the
29 permanent attachment or installation of electrical products in or on any structure that is not itself
30 an electrical product. "Electrical installation" also means the maintenance or repair of installed
31 electrical wiring and permanently attached electrical products. "Electrical installation" does not
32 include an oil module.

33 (11) "Electrical product" means any electrical equipment, material, device or apparatus that,
34 except as provided in ORS 479.540, requires a license or permit to install and either conveys or is
35 operated by electrical current.

36 (12) "Equipment" means any material, fittings, devices, appliances, fixtures, apparatus or the like
37 that are used as part of or in connection with an electrical installation.

38 (13) "Field evaluation firm" means an independent organization that provides:

39 (a) Evaluations or testing, or both; and

40 (b) Documentation regarding compliance with electrical product safety standards and with the
41 electrical installation safety code.

42 (14) "Industrial electrical equipment" means electrical products used in industry or government
43 that utilize electric energy for mechanical, chemical, heating, lighting or similar purposes, that are
44 designed to service or produce a product and that are used directly in the production of the service
45 or product.

1 (15) "Installation label" means an adhesive tag issued by governmental agencies that administer
2 the Electrical Safety Law to licensed electrical contractors for application to those minor electrical
3 installations for which the board by rule determines to be appropriate for random inspections.

4 (16) "License" means a permit issued by the department under ORS 479.630 authorizing the
5 person whose name appears as licensee thereon to act as an electrical contractor, supervising
6 electrician, journeyman electrician, electrical apprentice or limited elevator journeyman as indicated
7 thereon.

8 (17) "Minimum safety standards" means safety standards prescribed by concurrence of the board
9 and the director under ORS 479.730.

10 (18) "Multifamily dwelling" means a building containing more than one dwelling unit.

11 (19) "Oil module" means a prefabricated structure manufactured to the specifications of the
12 purchaser and used outside this state in the exploration for or processing or extraction of petroleum
13 products.

14 (20) "Permit" means an official document or card issued by the enforcing agency to authorize
15 performance of a specified electrical installation.

16 (21) "Single family dwelling" means a building consisting solely of one dwelling unit.

17 (22) "Telecommunications service provider" means a telecommunications carrier as defined in
18 ORS 133.721 or a telecommunications utility or competitive telecommunications provider, both as
19 defined in ORS 759.005.

20 (23) "Uncertified product" means any electrical product that is not an electrical product certi-
21 fied under ORS 479.760.

22 **SECTION 28. ORS 455.148 is added to and made a part of ORS chapter 455.**

23
24 **UNIT CAPTIONS**

25
26 **SECTION 29. The unit captions used in this 2018 Act are provided only for the conven-
27 ience of the reader and do not become part of the statutory law of this state or express any
28 legislative intent in the enactment of this 2018 Act.**

29
30 **OPERATIVE DATE**

31
32 **SECTION 30. The amendments to ORS 215.236, 446.250, 446.255, 447.091, 450.837, 455.042,
33 455.046, 455.062, 455.070, 455.080, 455.148, 455.150, 455.200, 455.210, 455.450, 455.485, 455.685,
34 455.800 and 479.530 by sections 9 to 27 of this 2018 Act become operative July 1, 2019.**

35
36 **EMERGENCY**

37
38 **SECTION 31. This 2018 Act being necessary for the immediate preservation of the public
39 peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect
40 on its passage.**