

# House Bill 4086

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 **as introduced**.

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.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to building codes; creating new provisions; amending ORS 446.250, 447.091, 455.062, 455.148,  
3 455.150, 455.715, 455.720, 455.730, 455.732, 455.737, 455.740, 455.775 and 479.530; and declaring an  
4 emergency.

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

6 **SECTION 1.** ORS 446.250 is amended to read:

7 446.250. The Director of the Department of Consumer and Business Services shall cause in-  
8 spections to be made, approve plans and specifications, provide technical services and issue permits  
9 for alteration of manufactured dwellings and installation of manufactured dwellings and manufac-  
10 tured structure accessory buildings and structures on a lot. The director shall appoint or contract  
11 with municipalities that request such appointment or contract for inspection and issuance of permits  
12 for alteration of manufactured dwellings and installation of manufactured dwellings and manufac-  
13 tured structure accessory buildings and structures and alterations of installations of plumbing,  
14 heating, illuminating, cooking or electrical equipment, provided the [*municipality employs as local*]  
15 **municipal** inspectors **are** qualified persons who have been certified by the director for inspection  
16 and issuance of permits for alteration of manufactured dwellings and installation of manufactured  
17 dwellings and manufactured structure accessory buildings and structures, pursuant to ORS 446.003,  
18 446.111, 446.155, 446.160, 446.176, 446.225 to 446.285 and 446.990. However, the certification stan-  
19 dards under this section shall relate to the inspections to be performed and shall not be more  
20 stringent for municipal inspectors than those applying to state inspectors.

21 **SECTION 2.** ORS 447.091 is amended to read:

22 447.091. The Department of Consumer and Business Services or local government administering  
23 the plumbing specialty code adopted under ORS 447.020 (2) may, upon request of any sanitary dis-  
24 trict formed pursuant to ORS 450.005 to 450.245, sanitary authority established under ORS 450.600  
25 to 450.989, or county service district established under ORS 451.410 to 451.610, contract for [*the*]  
26 **district** inspection of building sewers constructed to connect a district sewage system if [*inspectors*  
27 *employed by such district*] **the district inspectors** are certified for sewer inspections under ORS  
28 455.715 to 455.740.

29 **SECTION 3.** ORS 455.062 is amended to read:

**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.

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

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

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

9 (2) A building official or inspector, as those terms are defined in ORS 455.715, when acting  
 10 within the scope of [*direct employment by*] **official duties on behalf of** a municipality, may provide  
 11 typical plans and specifications for structures of a type for which the provision of plans or specifi-  
 12 cations is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted  
 13 under ORS 672.060 from the application of ORS 672.002 to 672.325.

14 (3) This section does not alter any applicable requirement under ORS 671.010 to 671.220 or  
 15 672.002 to 672.325 regarding stamps and seals for a set of plans for a structure.

16 **SECTION 4.** ORS 455.715 is amended to read:

17 455.715. As used in ORS 455.715 to 455.740, unless the context otherwise requires:

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

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

- 23 (a) Structural;
- 24 (b) Mechanical;
- 25 (c) Plumbing;
- 26 (d) Electrical; [*and*] **or**
- 27 (e) Low-rise residential dwelling.

28 (3) “Inspector” means:

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

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 [*a munic-*  
 37 *ipality or by*] the Department of Consumer and Business Services **or is employed or otherwise**  
 38 **designated by a municipality to enforce parts of one or more specialty codes on behalf of the**  
 39 **municipality;**

40 (d) A person employed by [*a municipality or*] the department, **or employed or otherwise des-**  
 41 **ignated by a municipality to enforce one or more specialty codes on behalf of the munic-**  
 42 **ipality,** who is certified under ORS 455.732 to perform inspections under one or more specialty codes  
 43 throughout a building code administrative region; or

44 (e) A person designated by the Director of the Department of Consumer and Business Services  
 45 to ensure compliance with a specialty code or with any requirement for a license, registration, cer-

1 tification, endorsement or other authorization to perform work [*related to the administration and*  
2 *enforcement of*] **regulated under** the state building code.

3 **SECTION 5.** ORS 455.720 is amended to read:

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

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

12 (b) Establish a procedure to be used by municipalities to determine whether a person meets  
13 minimum standards or has minimum training to be appointed or employed as a building official or  
14 **be employed or otherwise designated by a municipality as a municipal** inspector. The procedure  
15 shall allow for a field examination of a person to determine if the person meets the practical expe-  
16 rience equivalent of a minimum standard.

17 (c) Subject to such terms, conditions and classifications as the director may impose, certify  
18 building officials as being qualified, and revoke such certifications in the manner provided in ORS  
19 455.740.

20 **(d) Subject to such terms, conditions and classifications as the director may impose,**  
21 **certify a person employed by a municipality or association of municipalities or otherwise**  
22 **designated by a municipality as a full-time or part-time inspector to be qualified to conduct**  
23 **inspections on behalf of a municipality, and revoke such certifications in the manner pro-**  
24 **vided in ORS 455.740.**

25 [*d*] (e) Require an applicant for a certificate as a building official or inspector to demonstrate  
26 knowledge of the laws governing accessibility to buildings by persons with disabilities by passing  
27 an examination prescribed by the director.

28 (2) The director shall maintain and, upon request of [*municipalities*] **a municipality**, furnish in-  
29 formation on applicants for appointment or employment as building officials or [*inspectors.*] **em-**  
30 **ployment or other designation by the municipality to be a municipal inspector.**

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

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

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

40 **SECTION 6.** ORS 455.730 is amended to read:

41 455.730. [*No person shall be appointed or employed as a building official or inspector by any*  
42 *municipality*] **A municipality may not appoint or employ a person as a building official or em-**  
43 **ploy or otherwise designate a person as a municipal inspector** unless the person has been cer-  
44 tified as being qualified under ORS 455.715 to 455.740, and the certification has not lapsed or been  
45 revoked.

**SECTION 7.** ORS 455.732 is amended to read:

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

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

(3) The director may provide for an inspector who is likely to be employed **by the Department of Consumer and Business Services, a municipality or an association of municipalities as a full-time or part-time building inspector or otherwise be designated to enforce specialty codes or parts of specialty codes on a full-time or part-time basis on behalf of a municipality** within a specific building code administrative region to be certified to perform inspections throughout a building code administrative region, whether within or outside of a municipality. The director may recognize any training program certified by the director under ORS 455.723 or 455.725 for purposes of certifying an inspector to perform inspections throughout a building code administrative region. This subsection does not require a municipality administering and enforcing a building inspection program under ORS 455.148 or 455.150 to allow an inspector certified under this subsection [*who is not employed by the municipality*] to perform building inspections on behalf of the municipality.

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

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

(b) Staffing levels or other specific criteria for building inspection programs established by a municipality [*where*] **by which** the inspector is likely to be employed **or designated** or for building inspection programs established by the director; and

(c) Any factors specific to, or of particular relevance to, the building code administrative region within which the inspector is likely to be employed **or designated**.

(5) In determining the scope of certifications and qualifications for an inspector, the director may utilize field training equivalency, independent evaluations or other methods the director deems appropriate.

**SECTION 8.** ORS 455.737 is amended to read:

455.737. (1) Notwithstanding ORS 455.720 (1), the Director of the Department of Consumer and Business Services, by rule, shall adopt criteria for review of the experience and training in building inspection and building plan review acquired by a person outside the State of Oregon. The criteria shall be adopted in a manner that facilitates review of a person’s qualifications by a local building official.

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

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

4 **SECTION 9.** ORS 455.740 is amended to read:

5 455.740. (1) Subject to ORS chapter 183, the Director of the Department of Consumer and Busi-  
 6 ness Services may deny, condition, suspend, revoke or refuse to renew a certificate of a building  
 7 official or inspector if the director finds that the building official or inspector has:

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

12 (2) In any revocation proceeding under this section, [*the*] **a municipality** that employs the  
 13 building official or [*inspector shall be*] **a municipality or association of municipalities that em-**  
 14 **loys or has otherwise designated a municipal inspector** is entitled to appear as a party in in-  
 15 terest, either for or against the revocation.

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

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

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

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

25 **SECTION 10.** ORS 455.775 is amended to read:

26 455.775. In addition to any other authority and power granted under this chapter and ORS  
 27 chapters 446, 447, 460, 479, 480 and 693:

28 (1) The Director of the Department of Consumer and Business Services may, at the discretion  
 29 of the director, enforce the provisions of the state building code and ORS 446.003 to 446.200, 446.225  
 30 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950, 479.995 and 480.510 to 480.670 and this  
 31 chapter and ORS chapters 447, 460 and 693 against any person regardless of whether a permit,  
 32 certificate, license or other indicia of authority has been issued. The director may:

- 33 (a) Make an investigation;
- 34 (b) Take sworn testimony;
- 35 (c) With the authorization of the Office of the Attorney General, subpoena persons and records;
- 36 (d) Order corrective action; and
- 37 (e) If an immediate hazard to health and safety is imminent, issue an order to stop all or any  
 38 part of the work under the applicable specialty code.

39 (2) If the director has reason to believe that any person has been engaged, or is engaging, or  
 40 is about to engage in any violation of the state building code, or ORS 446.003 to 446.200, 446.225 to  
 41 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 or 480.510 to 480.670 or this chapter or ORS  
 42 chapter 447, 460 or 693 or any rule adopted under those statutes, the director may issue an order,  
 43 subject to ORS 183.413 to 183.497, directed to the person to cease and desist from the violation or  
 44 threatened violation.

45 (3) If the director has reason to believe that any person has been engaged, or is engaging, or

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

10 (4) This section does not grant any authority over a municipality or [*an inspector employed by*  
 11 *a municipality*] **a municipal inspector.**

12 **SECTION 11.** ORS 479.530 is amended to read:

13 479.530. As used in ORS 479.510 to 479.945 and 479.995, unless the context requires otherwise:

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

17 (2) “Board” means the Electrical and Elevator Board established under ORS 455.138.

18 (3) “Certified electrical product” means an electrical product that is certified under ORS 479.760  
 19 and that is not decertified.

20 (4) “Competent inspection service” means an electrical inspection service of a city or county  
 21 administered under ORS 455.148 or 455.150 that employs **or designates** electrical inspectors **for the**  
 22 **municipality** who are certified to meet standards under ORS 479.810.

23 (5) “Commercial electrical air conditioning equipment” means heating, cooling, refrigeration,  
 24 dehumidifying, humidifying and filtering equipment used for climatizing or moving of air if used in  
 25 commerce, industry or government and if installed in a place not accessible to the general public  
 26 other than the switches regulating the operation of the equipment.

27 (6) “Demarcation point” means the place of interconnection between the communications cabl-  
 28 ing, terminal equipment or protective apparatus of the telecommunications service provider and the  
 29 customer’s premises.

30 (7) “Department” means the Department of Consumer and Business Services.

31 (8) “Director” means the Director of the Department of Consumer and Business Services.

32 (9) “Dwelling unit” means one or more rooms for the use of one or more persons as a house-  
 33 keeping unit with space for eating, living and sleeping and permanent provisions for cooking and  
 34 sanitation.

35 (10) “Electrical installations” means the construction or installation of electrical wiring and the  
 36 permanent attachment or installation of electrical products in or on any structure that is not itself  
 37 an electrical product. “Electrical installation” also means the maintenance or repair of installed  
 38 electrical wiring and permanently attached electrical products. “Electrical installation” does not  
 39 include an oil module.

40 (11) “Electrical product” means any electrical equipment, material, device or apparatus that,  
 41 except as provided in ORS 479.540, requires a license or permit to install and either conveys or is  
 42 operated by electrical current.

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

45 (13) “Field evaluation firm” means an independent organization that provides:

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

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

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

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

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

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

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

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

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

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

24 (22) "Telecommunications service provider" means a telecommunications carrier as defined in  
25 ORS 133.721 or a telecommunications utility or competitive telecommunications provider, both as  
26 defined in ORS 759.005.

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

29 **SECTION 12.** ORS 455.148 is amended to read:

30 455.148. (1)(a) A municipality that assumes the administration and enforcement of a building in-  
31 spection program shall administer and enforce the program for all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (3) When a municipality administers a building inspection program, **unless otherwise provided**  
 14 **under a charter described in ORS 203.710 to 203.770**, the governing body of the municipality  
 15 shall, *unless other means are already provided, appoint a person to administer and enforce the build-*  
 16 *ing inspection program, who shall be known as the building official. A building official shall, in the*  
 17 *municipality for which appointed, attend to all aspects of code enforcement, including the issuance of*  
 18 *all building permits.] appoint an employee of the municipality to be the building official for the*  
 19 **municipality. A building official shall be responsible for ensuring the administration and**  
 20 **enforcement of all aspects of the state building code under the municipal building inspection**  
 21 **program, including but not limited to the issuing of building permits and the exercising of**  
 22 **supervision and control over, and giving direction to, the building inspectors who are em-**  
 23 **ployed by or otherwise designated to act on behalf of the municipality.** Two or more municipi-  
 24 palities may *combine in the appointment of a single*, **directly or through an association,**  
 25 **contemporaneously employ the same individual as a building official** for the purpose of admin-  
 26 istering a building inspection program within their **respective** communities.

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

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

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

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



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

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

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

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

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

22 (a) Creating building inspection program application and amendment requirements and proce-  
 23 dures;

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

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

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

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

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

32 (D) Proposed staffing levels; and

33 (E) Proposed service levels;

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

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

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

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

43 (h) Enforcing the requirements of this section.

44 (12) The department may assume administration and enforcement of a building inspection pro-  
 45 gram:

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

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

4 (c) If a municipality fails to substantially comply with any provision of this section or of ORS  
5 455.465, 455.467 and 455.469.

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

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

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

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

15 (14) A municipality that abandons or otherwise ceases to administer and enforce a building in-  
16 spection program that the municipality assumed under this section may not resume the adminis-  
17 tration or enforcement of the program for at least two years. The municipality may resume the  
18 administration and enforcement of the abandoned program only on July 1 of an odd-numbered year.  
19 Prior to resuming the administration and enforcement of the program, the municipality must follow  
20 the notification procedure set forth in subsection (7) of this section.

21 **SECTION 13.** ORS 455.150 is amended to read:

22 455.150. (1) Except as provided in subsection (15) of this section, a municipality that assumes the  
23 administration and enforcement of a building inspection program prior to January 1, 2002, may ad-  
24 minister and enforce all or part of a building inspection program. A building inspection program:

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

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

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

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

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

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

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

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

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

35 (b) Is not a program that includes:

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

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

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

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

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

45 (F) Licensing and certification, or the adoption of statewide codes and standards, under ORS

1 chapter 446, 447, 455, 479 or 693; and

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

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

7 (3) When a municipality administers a building inspection program, **unless otherwise provided**  
8 **under a charter described in ORS 203.710 to 203.770**, the governing body of the municipality  
9 shall[, *unless other means are already provided, appoint a person to administer and enforce the build-*  
10 *ing inspection program or parts thereof, who shall be known as the building official. A building official*  
11 *shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the*  
12 *issuance of all building permits.*] **appoint an employee of the municipality to be the building of-**  
13 **ficial for the municipality. A building official shall be responsible for ensuring the adminis-**  
14 **tration and enforcement of all aspects of state building code included in the municipal**  
15 **building inspection program, including but not limited to the issuing of building permits and**  
16 **the exercising of supervision and control over, and giving direction to, the building inspectors**  
17 **who are employed by or otherwise designated to act on behalf of the municipality.** Two or  
18 more municipalities may [*combine in the appointment of a single*], **directly or through an associ-**  
19 **ation, contemporaneously employ the same individual as a building official** for the purpose of  
20 administering a building inspection program within their **respective** communities.

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

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

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

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

43 (7) If a municipality administering a building inspection program under this section seeks to  
44 administer additional parts of a program, the municipality must comply with ORS 455.148, including  
45 the requirement that the municipality administer and enforce all aspects of the building inspection

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

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

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

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

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

19 (a) Creating building inspection program application and amendment requirements and proce-  
20 dures;

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

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

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

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

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

31 (g) Enforcing the requirements of this section.

32 (12) The department may assume administration and enforcement of a building inspection pro-  
33 gram:

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

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

37 (c) If a municipality fails to substantially comply with any provision of this section or of ORS  
38 455.465, 455.467 and 455.469.

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

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

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

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

3 (14) If a municipality abandons or otherwise ceases to administer all or part of a building in-  
 4 spection program described in this section, the municipality may not resume the administration and  
 5 enforcement of the abandoned program or part of a program for at least two years. The municipality  
 6 may resume the administration and enforcement of the abandoned program or part of a program only  
 7 on July 1 of an odd-numbered year. To resume the administration and enforcement of the abandoned  
 8 program or part of a program, the municipality must comply with ORS 455.148, including the re-  
 9 quirement that the municipality administer and enforce all aspects of the building inspection pro-  
 10 gram. Thereafter, the municipality is subject to ORS 455.148 and ceases to be subject to this  
 11 section.

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

15 **SECTION 14.** ORS 455.715, as amended by section 4 of this 2018 Act, is amended to read:  
 16 455.715. As used in ORS 455.715 to 455.740, unless the context otherwise requires:

17 (1) “Building official” means a [*person charged by a municipality*] **municipal employee charged**  
 18 with responsibility for administration and enforcement of the state building code in the municipality.

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

- 22 (a) Structural;
- 23 (b) Mechanical;
- 24 (c) Plumbing;
- 25 (d) Electrical; or
- 26 (e) Low-rise residential dwelling.

27 (3) “Inspector” means:

28 (a) A person, including a plans examiner, acting under the supervision, control and direction of  
 29 a building official and charged by a municipality with the responsibility of routine enforcement of  
 30 one or more specialty codes or parts of specialty codes on behalf of the municipality;

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

34 (c) A specialized building inspector certified under ORS 455.723 who is employed by the De-  
 35 partment of Consumer and Business Services or is employed or otherwise designated by a munici-  
 36 pality to enforce parts of one or more specialty codes on behalf of the municipality;

37 (d) A person employed by the department, or employed or otherwise designated by a munici-  
 38 pality to enforce one or more specialty codes on behalf of the municipality, who is certified under  
 39 ORS 455.732 to perform inspections under one or more specialty codes throughout a building code  
 40 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 regulated under the state building  
 44 code.

45 **SECTION 15.** ORS 455.720, as amended by section 5 of this 2018 Act, 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*] as a building official or  
 11 be employed or otherwise designated by a municipality as a municipal inspector. The procedure shall  
 12 allow for a field examination of a person to determine if the person meets the practical experience  
 13 equivalent of a minimum standard.

14 (c) Subject to such terms, conditions and classifications as the director may impose, certify  
 15 building officials as being qualified, and revoke such certifications in the manner provided in ORS  
 16 455.740.

17 (d) Subject to such terms, conditions and classifications as the director may impose, certify a  
 18 person employed by a municipality or association of municipalities or otherwise designated by a  
 19 municipality as a full-time or part-time inspector to be qualified to conduct inspections on behalf of  
 20 a municipality, and revoke such certifications in the manner provided in ORS 455.740.

21 (e) Require an applicant for a certificate as a building official or inspector to demonstrate  
 22 knowledge of the laws governing accessibility to buildings by persons with disabilities by passing  
 23 an examination prescribed by the director.

24 (2) The director shall maintain and, upon request of a municipality, furnish information on ap-  
 25 plicants for appointment [*or employment*] as building officials or employment or other designation  
 26 by the municipality to be a municipal inspector.

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

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

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

36 **SECTION 16.** ORS 455.730, as amended by section 6 of this 2018 Act, is amended to read:

37 455.730. A municipality may not appoint [*or employ*] a person as a building official or employ  
 38 or otherwise designate a person as a municipal inspector unless the person has been certified as  
 39 being qualified under ORS 455.715 to 455.740, and the certification has not lapsed or been revoked.

40 **SECTION 17. The amendments to ORS 455.148, 455.150, 455.715, 455.720 and 455.730 by**  
 41 **sections 12 to 16 of this 2018 Act become operative January 1, 2020.**

42 **SECTION 18. This 2018 Act being necessary for the immediate preservation of the public**  
 43 **peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect**  
 44 **on its passage.**