House Bill 4086

Introduced and printed pursuant to House Rule 12.00. Presession 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.


A BILL FOR AN ACT

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

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

SECTION 1. ORS 446.250 is amended to read:

446.250. The Director of the Department of Consumer and Business Services shall cause inspections to be made, approve plans and specifications, provide technical services and issue permits for alteration of manufactured dwellings and installation of manufactured dwellings and manufactured structure accessory buildings and structures on a lot. The director shall appoint or contract with municipalities that request such appointment or contract for inspection and issuance of permits for alteration of manufactured dwellings and installation of manufactured dwellings and manufactured structure accessory buildings and structures, provided the municipality employs municipal inspectors who have been certified by the director for inspection and issuance of permits for alteration of manufactured dwellings and installation of manufactured dwellings and manufactured structure accessory buildings and structures, pursuant to ORS 446.003, 446.111, 446.155, 446.160, 446.176, 446.225 to 446.285 and 446.990. However, the certification standards under this section shall relate to the inspections to be performed and shall not be more stringent for municipal inspectors than those applying to state inspectors.

SECTION 2. ORS 447.091 is amended to read:

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

SECTION 3. ORS 455.062 is amended to read:

NOTE: Matter in boldfaced type in an amended section is new; matter in italic and bracketed is existing law to be omitted. New sections are in boldfaced type.
HB 4086 455.062. (1) A Department of Consumer and Business Services employee acting within the scope of that employment may provide typical plans and specifications:

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

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

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

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

SECTION 4. ORS 455.715 is amended to read:

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

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

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

(a) Structural;

(b) Mechanical;

(c) Plumbing;

(d) Electrical; [and] or

(e) Low-rise residential dwelling.

(3) “Inspector” means:

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

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

(c) A specialized building inspector certified under ORS 455.723 who is employed by [a municipality or by] the Department of Consumer and Business Services or is employed or otherwise designated by a municipality to enforce parts of one or more specialty codes on behalf of the municipality;

(d) A person employed by [a municipality or] the department, or employed or otherwise designated by a municipality to enforce one or more specialty codes on behalf of the municipality, who is certified under ORS 455.732 to perform inspections under one or more specialty codes throughout a building code administrative region; or

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

SECTION 5. ORS 455.720 is amended to read:

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

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

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

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

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

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

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

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

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

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

SECTION 6. ORS 455.730 is amended to read:

455.730. [No person shall be appointed or employed as a building official or inspector by any
municipality] A municipality may not appoint or employ a person as a building official or em-
ploy or otherwise designate a person as a municipal inspector unless the person has been cer-
tified as being qualified under ORS 455.715 to 455.740, and the certification has not lapsed or been
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 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 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.
(b) Upon application and payment of the required fee, the director shall allow a person whose qualifications meet the criteria adopted under subsection (1) of this section to sit for any examination necessary for the required certification.

SECTION 9. ORS 455.740 is amended to read:

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

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

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

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

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

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

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

SECTION 10. ORS 455.775 is amended to read:

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

(1) The Director of the Department of Consumer and Business Services may, at the discretion of the director, enforce the provisions of the state building code and ORS 446.003 to 446.200, 446.225 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 chapter and ORS chapters 447, 460 and 693 against any person regardless of whether a permit, certificate, license or other indicia of authority has been issued. The director may:

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

(2) If the director has reason to believe that any person has been engaged, or is engaging, or is about to engage in any violation of the state building code, or ORS 446.003 to 446.200, 446.225 to 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 chapter 447, 460 or 693 or any rule adopted under those statutes, the director may issue an order, subject to ORS 183.413 to 183.497, directed to the person to cease and desist from the violation or threatened violation.

(3) If the director has reason to believe that any person has been engaged, or is engaging, or
is about to engage in any violation of the state building code or ORS 446.003 to 446.200, 446.225 to
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
chapters 447, 460 and 693 or any rule adopted under those statutes, the director may, without bond,
bring suit in the name and on behalf of the State of Oregon in the circuit court of any county of this
state to enjoin the acts or practices and to enforce compliance with the state building code and ORS
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
480.670 and this chapter and ORS chapters 447, 460 and 693 and any rule adopted under those
statutes. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of
mandamus shall be granted.

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

SECTION 11. ORS 479.530 is amended to read:
479.530. As used in ORS 479.510 to 479.945 and 479.995, unless the context requires otherwise:
(1) “Approved testing laboratory” means a testing laboratory that meets criteria for electrical
product evaluation established by the Director of the Department of Consumer and Business Ser-
vices with the approval of the Electrical and Elevator Board under ORS 479.730.
(2) “Board” means the Electrical and Elevator Board established under ORS 455.138.
(3) “Certified electrical product” means an electrical product that is certified under ORS 479.760
and that is not decertified.
(4) “Competent inspection service” means an electrical inspection service of a city or county
administered under ORS 455.148 or 455.150 that employs or designates electrical inspectors for the
municipality who are certified to meet standards under ORS 479.810.
(5) “Commercial electrical air conditioning equipment” means heating, cooling, refrigeration,
dehumidifying, humidifying and filtering equipment used for climatizing or moving of air if used in
commerce, industry or government and if installed in a place not accessible to the general public
other than the switches regulating the operation of the equipment.
(6) “Demarcation point” means the place of interconnection between the communications cabling,
terminal equipment or protective apparatus of the telecommunications service provider and the
customer’s premises.
(7) “Department” means the Department of Consumer and Business Services.
(8) “Director” means the Director of the Department of Consumer and Business Services.
(9) “Dwelling unit” means one or more rooms for the use of one or more persons as a house-
keeping unit with space for eating, living and sleeping and permanent provisions for cooking and
sanitation.
(10) “Electrical installations” means the construction or installation of electrical wiring and the
permanent attachment or installation of electrical products in or on any structure that is not itself
an electrical product. “Electrical installation” also means the maintenance or repair of installed
electrical wiring and permanently attached electrical products. “Electrical installation” does not
include an oil module.
(11) “Electrical product” means any electrical equipment, material, device or apparatus that,
except as provided in ORS 479.540, requires a license or permit to install and either conveys or is
operated by electrical current.
(12) “Equipment” means any material, fittings, devices, appliances, fixtures, apparatus or the like
that are used as part of or in connection with an electrical installation.
(13) “Field evaluation firm” means an independent organization that provides:
(a) Evaluations or testing, or both; and
(b) Documentation regarding compliance with electrical product safety standards and with the
electrical installation safety code.

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

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

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

(17) “Minimum safety standards” means safety standards prescribed by concurrence of the board
and the director under ORS 479.730.

(18) “Multifamily dwelling” means a building containing more than one dwelling unit.

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

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

(21) “Single family dwelling” means a building consisting solely of one dwelling unit.

(22) “Telecommunications service provider” means a telecommunications carrier as defined in
ORS 133.721 or a telecommunications utility or competitive telecommunications provider, both as
defined in ORS 759.005.

(23) “Uncertified product” means any electrical product that is not an electrical product certi-
fied under ORS 479.760.

SECTION 12. ORS 455.148 is amended to read:

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

(A) The state building code, as defined in ORS 455.010, except as set forth in paragraph (b) of
this subsection.
(B) Manufactured structure installation requirements under ORS 446.155, 446.185 (1) and 446.230.
(C) Manufactured dwelling parks and mobile home parks under ORS chapter 446.
(D) Park and camp programs regulated under ORS 455.680.
(E) Tourist facilities regulated under ORS 446.310 to 446.350.
(F) Manufactured dwelling alterations regulated under ORS 446.155.
(G) Manufactured structure accessory buildings and structures under ORS 446.253.
(H) Boilers and pressure vessels described in rules adopted under ORS 480.525 (5).

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

(A) Boiler and pressure vessel programs under ORS 480.510 to 480.670 except those described
in rules adopted under ORS 480.525 (5);
(B) Elevator programs under ORS 460.005 to 460.175;
(C) Amusement ride regulation under ORS 460.310 to 460.370;
(D) Prefabricated structure regulation under ORS chapter 455;
(E) Manufacture of manufactured structures programs under ORS 446.155 to 446.285, including
the administration and enforcement of federal manufactured dwelling construction and safety stan-
dards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety
Standards Act of 1974;
(F) Licensing and certification, or the adoption of statewide codes and standards, under ORS
chapter 446, 447, 455, 479 or 693; or
(G) Review of plans and specifications as provided in ORS 455.685.
(2) A municipality that administers a building inspection program as allowed under this section
shall do so for periods of four years. The Department of Consumer and Business Services shall adopt
rules to adjust time periods for administration of a building inspection program to allow for vari-
atations in the needs of the department and participants.
(3) When a municipality administers a building inspection program, unless otherwise provided
under a charter described in ORS 203.710 to 203.770, the governing body of the municipality
shall[. unless other means are already provided, appoint a person to administer and enforce the building
inspection program, who shall be known as the building official. A building official shall, in the
municipality for which appointed, attend to all aspects of code enforcement, including the issuance of
all building permits.] appoint an employee of the municipality to be the building official for the
municipality. A building official shall be responsible for ensuring the administration and
enforcement of all aspects of the state building code under the municipal building inspection
program, including but not limited to the issuing of building permits and the exercising of
supervision and control over, and giving direction to, the building inspectors who are employed by or otherwise designated to act on behalf of the municipality. Two or more munici-
palities may [combine in the appointment of a single], directly or through an association, contemnoraneously employ the same individual as a building official for the purpose of admin-
istering a building inspection program within their respective communities.
(4)(a) By January 1 of the year preceding the expiration of the four-year period described in
subsection (2) of this section, the governing body of the municipality shall notify the Director of the
Department of Consumer and Business Services and, if the municipality is not a county, notify the
county whether the municipality will continue to administer and enforce the building inspection
program after expiration of the four-year period.
(b) Notwithstanding the January 1 date set forth in paragraph (a) of this subsection, the director
and the municipality and, if the municipality is not a county, the county may by agreement extend
that date to no later than March 1.
(5) If a city does not notify the director, or notifies the director that it will not administer the
building inspection program, the county or counties in which the city is located shall administer and
enforce the county program within the city in the same manner as the program is administered and
enforced outside the city, except as provided by subsection (6) of this section.
(6) If a county does not notify the director, or notifies the director that it will not administer
and enforce a building inspection program, the director shall contract with a municipality or other
person or use such state employees or state agencies as are necessary to administer and enforce a
building inspection program, and permit or other fees arising therefrom shall be paid into the Con-
sumer and Business Services Fund created by ORS 705.145 and credited to the account responsible
for paying the expenses thereof. A state employee may not be displaced as a result of using contract
personnel.
(7) The governing body of a municipality may commence responsibility for the administration and enforcement of a building inspection program beginning July 1 of any year by notifying the director no later than January 1 of the same year and obtaining the director's approval of an assumption plan as described in subsection (11)(c) of this section.

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

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

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

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

(a) Creating building inspection program application and amendment requirements and procedures;

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

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

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

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

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

(D) Proposed staffing levels; and

(E) Proposed service levels;

(d) Reviewing procedures and program operations of municipalities;

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

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

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

(h) Enforcing the requirements of this section.

(12) The department may assume administration and enforcement of a building inspection program:
(a) During the pendency of activities under ORS 455.770;

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

and

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

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

(a) Enter into agreements with local governments under ORS 455.185 regarding the administration and enforcement of the assumed building inspection program;

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

and

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

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

SECTION 13. ORS 455.150 is amended to read:

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

(a) Is a program that includes the following:

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

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

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

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

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

(F) Manufactured dwelling alterations regulated under ORS 446.155.

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

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

(b) Is not a program that includes:

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

(B) Elevator programs under ORS 460.005 to 460.175;

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

(D) Prefabricated structure regulation under ORS chapter 455;

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

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

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

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

(3) When a municipality administers a building inspection program, unless otherwise provided under a charter described in ORS 203.710 to 203.770, the governing body of the municipality shall, unless other means are already provided, appoint a person to administer and enforce the building inspection program or parts thereof, who shall be known as the building official. A building official shall, in the municipality for which appointed, attend to all aspects of code enforcement, including the issuance of all building permits.

appoint an employee of the municipality to be the building official for the municipality. A building official shall be responsible for ensuring the administration and enforcement of all aspects of state building code included in the municipal building inspection program, including but not limited to the issuing of building permits and the exercising of supervision and control over, and giving direction to, the building inspectors who are employed by or otherwise designated to act on behalf of the municipality. Two or more municipalities may combine in the appointment of a single, directly or through an association, contemporaneously employ the same individual as a building official for the purpose of administering a building inspection program within their respective communities.

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

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

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

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

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

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

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

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

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

(a) Creating building inspection program application and amendment requirements and procedures;

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

(c) Reviewing procedures and program operations of municipalities;

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

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

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

(g) Enforcing the requirements of this section.

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

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

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

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

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

(a) Enter into agreements with local governments under ORS 455.185 regarding the administration and enforcement of the assumed building inspection program;

(b) Take action as described in ORS 455.192 to ensure that sufficient staff and other resources are available for the administration and enforcement of the assumed building inspection program; and
(c) Charge fees described in ORS 455.195 for department services provided in administering and enforcing the assumed building inspection program.

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

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

SECTION 14. ORS 455.715, as amended by section 4 of this 2018 Act, is amended to read:

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

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

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

(a) Structural;
(b) Mechanical;
(c) Plumbing;
(d) Electrical; or
(e) Low-rise residential dwelling.

(3) “Inspector” means:

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

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

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

(d) A person employed by the department, or employed or otherwise designated by a municipality to enforce one or more specialty codes on behalf of the municipality, who is certified under ORS 455.732 to perform inspections under one or more specialty codes throughout a building code administrative region; or

(e) A person designated by the Director of the Department of Consumer and Business Services to ensure compliance with a specialty code or with any requirement for a license, registration, certification, endorsement or other authorization to perform work regulated under the state building code.

SECTION 15. ORS 455.720, as amended by section 5 of this 2018 Act, is amended to read:
455.720. (1) In accordance with applicable provisions of ORS chapter 183, to promote effective
and uniform enforcement of the state building code by improving the competence of building officials
and inspectors, the Director of the Department of Consumer and Business Services, with the advice
of the advisory boards, shall:

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

(b) Establish a procedure to be used by municipalities to determine whether a person meets
minimum standards or has minimum training to be appointed [or employed] as a building official or
be employed or otherwise designated by a municipality as a municipal inspector. The procedure shall
allow for a field examination of a person to determine if the person meets the practical experience
equivalent of a minimum standard.

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

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

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

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

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

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

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

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

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

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

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