

# Senate Bill 1047

Sponsored by Senator ROBLAN, Representatives SMITH DB, MCKEOWN, Senator HEARD, Representative GOMBERG; Senator JOHNSON (at the request of Association of Oregon Counties and League of Oregon Cities)

## 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**.

Authorizes municipalities to use independent contractors as building officials. Provides that actions or omissions by building official who is independent contractor to carry out municipal building inspection program are actions by agent of municipality.

Requires municipality using building official who is independent contractor to ensure building official qualifications, specify scope of building official duties and provide oversight of building official.

Requires municipality using building official who is independent contractor to establish municipal process for resolving challenges to building official decisions.

Requires municipality to keep appropriate records of amounts received and owed for building inspection program services. Provides that municipality is responsible for proper disposition of amounts collected. Requires municipality to provide for periodic review or auditing of building inspection program.

Requires Department of Consumer and Business Services to provide municipal building officials with consultation regarding state building code interpretations, waivers and other issues.

Prohibits inspector or plan reviewer for department from rendering services to business engaged in construction or property development. Prohibits municipal building official, inspector or plan reviewer from rendering services to business engaged in construction work or property development within municipality. Creates exception.

## A BILL FOR AN ACT

1  
2 Relating to state building code administration; creating new provisions; and amending ORS 446.250,  
3 447.091, 455.129, 455.148, 455.150, 455.152, 455.459, 455.715, 455.720, 455.730, 455.732, 455.737,  
4 455.740, 455.775 and 479.530.

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

6 **SECTION 1. Sections 2 to 5 of this 2019 Act are added to and made a part of ORS chapter**  
7 **455.**

8 **SECTION 2. (1) If the building official for a municipality described in ORS 455.148 or**  
9 **455.150 is an independent contractor with the municipality:**

10 **(a) Except as provided in this subsection, all actions or omissions by the building official**  
11 **in the administration and enforcement of the municipal building inspection program shall be**  
12 **considered as those of an agent of the municipality acting under a grant of authority from**  
13 **the municipality on behalf of the municipality. This subsection does not affect the ability of**  
14 **a municipality or building official to assert a cause of action or to assert any available de-**  
15 **fense to an action at law. This subsection does not affect the ability of a municipality or**  
16 **building official to assert any right or remedy available to the municipality by law or con-**  
17 **tract.**

18 **(b) The municipal governing body shall:**

19 **(A) Ensure that the contractor maintains qualification as a building official as required**  
20 **by the Director of the Department of Consumer and Business Services under OR 455.715 to**  
21 **455.740;**

**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 (B) Adopt rules and procedures the municipality deems adequate to ensure that the  
2 building official is in compliance with ORS 455.459; and

3 (C) Provide in the contract with the building official a detailed description of the regula-  
4 tory programs that are included within the scope of the municipal building inspection pro-  
5 gram. The description shall include, but not be limited to, any standards or specific  
6 requirements imposed by the director under ORS 455.148 or 455.150 regarding the provision  
7 of program services by the municipality.

8 (c) The municipality shall designate an employee of the municipality to:

9 (A) Oversee the job performance by the building official in administering and enforcing  
10 the building inspection program for the municipality, including but not limited to compliance  
11 with the contract between the municipality and the building official and the receipt and  
12 processing of any complaints or appeals regarding the administration or enforcement of the  
13 building inspection program; and

14 (B) Undertake actions as necessary to ensure compliance with the contract between the  
15 municipality and the building official and ensure adequate job performance by the building  
16 official, which may include, but need not be limited to, the selection, retention or termination  
17 of a person to be the municipal building official.

18 (2) Subsection (1)(c) of this section does not limit the authority of the municipal gov-  
19 erning body over any matters described in subsection (1) of this section.

20 **SECTION 3.** (1) A municipality described in ORS 455.148 or 455.150 that has a building  
21 official who is an independent contractor shall provide a process for resolving challenges to  
22 decisions made by the building official. If a challenge is not resolved by other means to the  
23 satisfaction of the challenging party, the municipality shall convene a review board to con-  
24 sider the merits of the challenge. The municipal review board shall include representatives  
25 of the municipal governing body and persons that have experience and training in the spe-  
26 cialty code relevant to the appeal. The municipal governing body shall establish the proce-  
27 dures and standards for use by the review board. The review board shall make a  
28 recommendation to the municipal governing body. The municipal governing body shall make  
29 the final determination whether to uphold, modify or overturn the decision by the building  
30 official.

31 (2) The municipal process described in this section is in addition to and not in lieu of any  
32 process available under ORS 455.060 or 455.475 or any other process for review by the Di-  
33 rector of the Department of Consumer and Business Services, a chief inspector or an advi-  
34 sory board and in addition to any quality control sampling under ORS 455.461.

35 **SECTION 4.** All fees, surcharges and other amounts payable for the receipt of building  
36 inspection program services provided by a municipality described in ORS 455.148 or 455.150  
37 are property of the municipality, regardless of whether the municipality provides the services  
38 through a municipal employee or an independent contractor. If the municipality uses a  
39 building official who is an independent contractor, and the independent contractor is paid on  
40 the basis of amount of work performed, the municipality shall maintain records showing the  
41 amounts received for the services and the amounts owed by the municipality to the building  
42 official for those services. The municipality is responsible for ensuring that the amounts are  
43 distributed as provided by law, including but not limited to any amounts payable to the De-  
44 partment of Consumer and Business Services. The municipality shall provide for appropriate  
45 periodic review or auditing of financial matters relating to the municipal building inspection

1 **program and make the reports available upon request to the building official and the de-**  
 2 **partment.**

3 **SECTION 5. The Department of Consumer and Business Services shall provide consulta-**  
 4 **tion services to municipal building officials, whether municipal employees or independent**  
 5 **contractors, regarding code interpretations, waivers or other matters relevant to the proper**  
 6 **administration and enforcement of a municipal building inspection program by a building**  
 7 **official.**

8 **SECTION 6.** ORS 455.148 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (3) When a municipality administers a building inspection program, the governing body of the  
 38 municipality shall[, *unless other means are already provided, appoint a*] **employ or contract with a**  
 39 **properly qualified** person to administer and enforce the building inspection program, who shall be  
 40 known as the building official. A building official shall, in the municipality for which appointed, at-  
 41 tend to all aspects of code enforcement, including the issuance of all building permits. **The building**  
 42 **official shall exercise supervision over the building inspectors used by the municipality to**  
 43 **provide specialty code inspection services under the building inspection program.** Two or more  
 44 municipalities may combine in the appointment of a single building official for the purpose of ad-  
 45 ministering a building inspection program within their communities.

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

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

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

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

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

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

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

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

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

41 (a) Creating building inspection program application and amendment requirements and proce-  
42 dures;

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

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

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

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

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

6 (D) Proposed staffing levels; and

7 (E) Proposed service levels;

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

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

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

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

17 (h) Enforcing the requirements of this section.

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

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

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

23 (c) If a municipality fails to substantially comply with any provision of this section or of ORS  
24 455.465, 455.467 and 455.469.

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

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

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

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

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

40 **SECTION 7.** ORS 455.150 is amended to read:

41 455.150. (1) Except as provided in subsection (15) of this section, a municipality that assumes the  
42 administration and enforcement of a building inspection program prior to January 1, 2002, may ad-  
43 minister and enforce all or part of a building inspection program. A building inspection program:

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

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

1 this subsection.

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

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

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

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

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

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

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

9 (b) Is not a program that includes:

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

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

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

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

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

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

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

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

26 (3) When a municipality administers a building inspection program, the governing body of the  
27 municipality shall[, *unless other means are already provided, appoint a*] **employ or contract with a**  
28 **properly qualified** person to administer and enforce the building inspection program or parts  
29 thereof, who shall be known as the building official. A building official shall, in the municipality for  
30 which appointed, attend to all aspects of code enforcement, including the issuance of all building  
31 permits. **The building official shall exercise supervision over the building inspectors used by**  
32 **the municipality to provide specialty code inspection services under the building inspection**  
33 **program.** Two or more municipalities may combine in the appointment of a single building official  
34 for the purpose of administering a building inspection program within their communities.

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

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

45 (5) If a city does not notify the director, or notifies the director that it will not administer cer-

1   tain specialty codes or parts thereof under the building inspection program, the county or counties  
2   in which the city is located shall administer and enforce those codes or parts thereof within the city  
3   in the same manner as it administers and enforces them outside the city, except as provided by  
4   subsection (6) of this section.

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

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

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

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

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

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

33       (a) Creating building inspection program application and amendment requirements and proce-  
34   dures;

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

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

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

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

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

45       (g) Enforcing the requirements of this section.

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

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

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

6 (c) If a municipality fails to substantially comply with any provision of this section or of ORS  
7 455.465, 455.467 and 455.469.

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

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

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

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

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

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

29 **SECTION 8.** ORS 455.152 is amended to read:

30 455.152. (1) A municipality, 10 or more persons or an association with 10 or more members may  
31 file objections to a municipality's assumption of a building inspection program. The objections must  
32 be filed within 30 days after the Director of the Department of Consumer and Business Services  
33 gives notice of the application.

34 (2) The director, by rule, shall establish a process for reviewing objections filed under subsection  
35 (1) of this section. The review process shall include but need not be limited to:

36 (a) Identification of economic impairment, if any, affecting the municipality;

37 (b) Demonstration by the municipality that all building inspection program permits and services  
38 will be available, including any service agreements for carrying out building program services;

39 (c) Review of all elements of the assumption plan submitted by the municipality;

40 (d) Demonstration by the municipality of the ability to provide building inspection program  
41 services for at least two years; *[and]*

42 (e) Review of proposed levels of service, including the municipality's ability to maintain or im-  
43 prove upon existing service levels[.]; **and**

44 **(f) Demonstration by the municipality of ability to sufficiently oversee building official**  
45 **performance of program administration and enforcement.**



1 (3) Upon completion of a review under subsection (2) of this section, the director shall issue a  
2 final agency order approving or disapproving the application.

3 **SECTION 9.** ORS 455.459 is amended to read:

4 455.459. (1) **As used in this section, “relative” has the meaning given that term in ORS**  
5 **95.200.**

6 [(1)] (2) A person [shall] **may** not inspect or review any project or installation in which the  
7 person, employer of the person or relative of the person has any financial interest or business af-  
8 filiation. A person designated under ORS 455.465 (1)(a) may not perform both the inspection and plan  
9 review for the same project or installation. A municipality or the state shall perform either the in-  
10 spection, the plan review, or both.

11 [(2) For purposes of this section, “relative” has the meaning given that term in ORS 95.200.]

12 (3) **A person employed by the Department of Consumer and Business Services as a plan**  
13 **reviewer or inspector may not render services of any type to a business engaged in con-**  
14 **struction or property development. Except as provided in this section, a person employed by**  
15 **or providing services to a municipality as a building official, plan reviewer or inspector may**  
16 **not render services to a business engaged in construction or property development within**  
17 **the municipality but may render any lawful services within other jurisdictions. This sub-**  
18 **section does not prohibit a person from rendering services without remuneration to a**  
19 **nonprofit organization.**

20 (4) **Notwithstanding ORS 203.035, 221.410 and 455.153, a municipality described under ORS**  
21 **455.148 or 455.150 may not, by contract, ordinance or other means, allow administration and**  
22 **enforcement of the state building code within the municipality in a manner that violates**  
23 **subsection (3) of this section.**

24 **SECTION 10.** ORS 455.715 is amended to read:

25 455.715. As used in ORS 455.715 to 455.740, unless the context otherwise requires:

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

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

- 31 (a) Structural;
- 32 (b) Mechanical;
- 33 (c) Plumbing;
- 34 (d) Electrical; and
- 35 (e) Low-rise residential dwelling.

36 (3) “Inspector” means:

37 (a) A person, including a plans examiner, acting under the authority and direction of a building  
38 official and charged with the responsibility of routine enforcement of one or more specialty codes  
39 or parts of specialty codes;

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

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

45 (d) A person employed by [*a municipality or*] the department, **or employed by or contracting**

1 **with a municipality**, who is certified under ORS 455.732 **and authorized by the department or**  
 2 **municipality** to perform inspections under one or more specialty codes throughout a building code  
 3 administrative region; or

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

8 **SECTION 11.** ORS 455.720 is amended to read:

9 455.720. (1) In accordance with applicable provisions of ORS chapter 183, to promote effective  
 10 and uniform enforcement of the state building code by improving the competence of building officials  
 11 and inspectors, the Director of the Department of Consumer and Business Services, with the advice  
 12 of the advisory boards, shall:

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

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

21 (c) Subject to such terms, conditions and classifications as the director may impose, certify  
 22 building officials as being qualified, and revoke such certifications in the manner provided in ORS  
 23 455.740.

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

27 (2) The director shall maintain and, upon request of municipalities, furnish information on ap-  
 28 plicants for [*appointment or employment as building officials or inspectors*] **building official or in-**  
 29 **pector positions.**

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

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

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

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

40 455.730. [*No person shall be appointed or employed*] **A municipality may not use a person** as  
 41 a building official or inspector [*by any*] **for the** municipality unless the person has been certified  
 42 as being qualified under ORS 455.715 to 455.740, and the certification has not lapsed or been re-  
 43 voked.

44 **SECTION 13.** ORS 455.732 is amended to read:

45 455.732. (1) As used in this section, "building code administrative region" means a region es-

1 tablished by the Director of the Department of Consumer and Business Services under ORS 455.042  
2 for the uniform administration of the state building code.

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

6 (3) The director may provide for an inspector who is likely to be employed **or contracted with**  
7 **by a municipality** within a specific building code administrative region to be certified to perform  
8 inspections throughout a building code administrative region, whether within or outside of a  
9 municipality. The director may recognize any training program certified by the director under ORS  
10 455.723 or 455.725 for purposes of certifying an inspector to perform inspections throughout a  
11 building code administrative region. This subsection does not require a municipality administering  
12 and enforcing a building inspection program under ORS 455.148 or 455.150 to allow an inspector  
13 certified under this subsection who is not *[employed by]* **an employee of or independent contrac-**  
14 **tor with** the municipality to perform building inspections on behalf of the municipality.

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

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

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

24 (c) Any factors specific to, or of particular relevance to, the building code administrative region  
25 within which the inspector is likely to be *[employed]* **used by a municipality**.

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

29 **SECTION 14.** ORS 455.737 is amended to read:

30 455.737. (1) Notwithstanding ORS 455.720 (1), the Director of the Department of Consumer and  
31 Business Services, by rule, shall adopt criteria for review of the experience and training in building  
32 inspection and building plan review acquired by a person outside the State of Oregon. The criteria  
33 shall be adopted in a manner that facilitates review of a person's qualifications by a local building  
34 official.

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

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

44 **SECTION 15.** ORS 455.740 is amended to read:

45 455.740. (1) Subject to ORS chapter 183, the Director of the Department of Consumer and Busi-

1 ness Services may deny, condition, suspend, revoke or refuse to renew a certificate of a building  
2 official or inspector if the director finds that the building official or inspector has:

- 3 (a) Consistently failed to act in the public interest in the performance of duties;
- 4 (b) Failed to complete the continuing education requirements as required under ORS 455.720 (4);
- 5 (c) Provided false information to the department; or
- 6 (d) Committed an act described in ORS 455.125 or 455.129.

7 (2) In any revocation proceeding under this section, the municipality that employs **or contracts**  
8 **with** the building official or inspector shall be entitled to appear as a party in interest, either for  
9 or against the revocation.

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

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

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

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

19 **SECTION 16.** ORS 455.775 is amended to read:

20 455.775. In addition to any other authority and power granted under this chapter and ORS  
21 chapters 446, 447, 460, 479, 480 and 693:

22 (1) The Director of the Department of Consumer and Business Services may, at the discretion  
23 of the director, enforce the provisions of the state building code and ORS 446.003 to 446.200, 446.225  
24 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  
25 chapter and ORS chapters 447, 460 and 693 against any person regardless of whether a permit,  
26 certificate, license or other indicia of authority has been issued. The director may:

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

33 (2) If the director has reason to believe that any person has been engaged, or is engaging, or  
34 is about to engage in any violation of the state building code, or ORS 446.003 to 446.200, 446.225 to  
35 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 or 480.510 to 480.670 or this chapter or ORS  
36 chapter 447, 460 or 693 or any rule adopted under those statutes, the director may issue an order,  
37 subject to ORS 183.413 to 183.497, directed to the person to cease and desist from the violation or  
38 threatened violation.

39 (3) 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 chapters 447, 460 and 693 or any rule adopted under those statutes, the director may, without bond,  
43 bring suit in the name and on behalf of the State of Oregon in the circuit court of any county of this  
44 state to enjoin the acts or practices and to enforce compliance with the state building code and ORS  
45 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510 to 479.945, 479.950 and 480.510 to

1 480.670 and this chapter and ORS chapters 447, 460 and 693 and any rule adopted under those  
 2 statutes. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of  
 3 mandamus shall be granted.

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

6 **SECTION 17.** 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]* **uses** as  
 15 local inspectors qualified persons who have been certified by the director for inspection and issu-  
 16 ance of permits for alteration of manufactured dwellings and installation of manufactured dwellings  
 17 and manufactured structure accessory buildings and structures, pursuant to ORS 446.003, 446.111,  
 18 446.155, 446.160, 446.176, 446.225 to 446.285 and 446.990. However, the certification standards under  
 19 this section shall relate to the inspections to be performed and shall not be more stringent for mu-  
 20 nicipal inspectors than those applying to state inspectors.

21 **SECTION 18.** 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 in-  
 26 spection of building sewers constructed to connect a district sewage system if inspectors *[employed*  
 27 *by such]* **used by the** district are certified for sewer inspections under ORS 455.715 to 455.740.

28 **SECTION 19.** ORS 455.129 is amended to read:

29 455.129. (1) As used in this section, "relative" means an individual related within the third de-  
 30 gree as determined by the common law, a spouse, an individual related to a spouse within the third  
 31 degree as determined by the common law or an individual in an adoptive relationship within the  
 32 third degree as determined by the common law.

33 (2) Subject to ORS chapter 183, a regulatory body listed in subsection (3) of this section may  
 34 deny a license, certificate, registration or application or may suspend, revoke, condition or refuse  
 35 to renew a license, certificate or registration if the regulatory body finds that the licensee, certifi-  
 36 cate holder, registrant or applicant:

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

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

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

45 (d) Has performed work without appropriate licensing, certification or registration or has em-

1 employed individuals to perform work without appropriate licensing, certification or registration.

2 (e) Has advertised or otherwise held out as being a licensed, certified or registered specialty  
3 code contractor without holding the appropriate specialty code contractor license, certificate or  
4 registration.

5 (f) As a partner, officer, member or employee of a business, has advertised or held out that the  
6 business is a licensed, certified or registered specialty code contractor if the business does not  
7 possess the appropriate specialty code contractor license, certificate or registration.

8 (g) Has engaged in business as a specialty code contractor without holding a valid specialty  
9 code contractor license, certificate or registration required for the business.

10 (h) Has failed to meet any condition or requirement to obtain or maintain a license, certificate  
11 or registration.

12 (i) Has acted in a manner creating a serious danger to the public health or safety.

13 (j) Has performed work or operated equipment within the scope of a specialty code license,  
14 certificate or registration in a manner that violates an applicable minimum safety standard or a  
15 statute or rule regarding safety.

16 (k) Has been subject to a revocation, cancellation or suspension order or to other disciplinary  
17 action by the Construction Contractors Board or has failed to pay a civil penalty imposed by the  
18 board.

19 (L) Has been subject to a revocation, cancellation or suspension order or to other disciplinary  
20 action by another state in regard to construction standards, permit requirements or construction-  
21 related licensing violations or has failed to pay a civil penalty imposed by the other state in regard  
22 to construction standards, permit requirements or construction-related licensing violations.

23 (m) Has, while performing work that requires or that is related to work that requires a valid  
24 license or certificate under ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 479.510  
25 to 479.945, 479.950 or 480.510 to 480.670 or this chapter or ORS chapter 447, 460 or 693, violated any  
26 statute or rule related to the state building code.

27 (n) Has performed a code inspection or plan review on a project to construct, alter, repair or  
28 make an installation in a structure if the inspector or reviewer, or an employer or relative of the  
29 inspector or reviewer, has a financial interest in or business affiliation with the project or structure  
30 **or has performed an inspection or plan review in violation of ORS 455.459 (3).**

31 (o) Is a business, the owner or an officer of which has an outstanding obligation to pay a civil  
32 penalty assessed under ORS 455.895 or has been the subject of action against the license, certificate  
33 or registration by the Department of Consumer and Business Services, the director or an appropri-  
34 ate advisory board.

35 (p) Is a business, owner or officer of a reorganized business entity as defined in ORS 657.682, if  
36 an owner, officer, shareholder or partner of the reorganized business entity, or a member if the re-  
37 organized business entity is a member-managed limited liability company, has been subject to a re-  
38 vocation or suspension order or to a condition or civil penalty under ORS 446.003 to 446.200, 446.225  
39 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  
40 ORS chapter 447, 460, 693 or 701, or by another state in regard to construction standards, permit  
41 requirements or construction-related licensing violations.

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

44 (r) Is a business, the owner or an officer of which was an owner or officer in another business  
45 at the time:

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

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

5 (3) Subsection (2) of this section applies to:

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

8 (b) The Electrical and Elevator Board for purposes of licenses issued under ORS 479.510 to  
9 479.945.

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

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

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

14 (f) The department, subject to Residential and Manufactured Structures Board approval, for  
15 purposes of licenses, certificates and registrations issued under ORS 446.003 to 446.200, 446.225 to  
16 446.285 and 446.395 to 446.420.

17 (4) The department may administer and enforce subsection (2) of this section in the same manner  
18 and to the same extent as any advisory board.

19 **SECTION 20.** ORS 479.530 is amended to read:

20 479.530. As used in ORS 479.510 to 479.945 and 479.995, unless the context requires otherwise:

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

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

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

27 [(4) "*Competent inspection service*" means an electrical inspection service of a city or county ad-  
28 ministered under ORS 455.148 or 455.150 that employs electrical inspectors who are certified to meet  
29 standards under ORS 479.810.]

30 [(5)] (4) "Commercial electrical air conditioning equipment" means heating, cooling, refriger-  
31 ation, dehumidifying, humidifying and filtering equipment used for climatizing or moving of air if  
32 used in commerce, industry or government and if installed in a place not accessible to the general  
33 public other than the switches regulating the operation of the equipment.

34 [(6)] (5) "Demarcation point" means the place of interconnection between the communications  
35 cabling, terminal equipment or protective apparatus of the telecommunications service provider and  
36 the customer's premises.

37 [(7)] (6) "Department" means the Department of Consumer and Business Services.

38 [(8)] (7) "Director" means the Director of the Department of Consumer and Business Services.

39 [(9)] (8) "Dwelling unit" means one or more rooms for the use of one or more persons as a  
40 housekeeping unit with space for eating, living and sleeping and permanent provisions for cooking  
41 and sanitation.

42 [(10)] (9) "Electrical installations" means the construction or installation of electrical wiring  
43 and the permanent attachment or installation of electrical products in or on any structure that is  
44 not itself an electrical product. "Electrical installation" also means the maintenance or repair of  
45 installed electrical wiring and permanently attached electrical products. "Electrical installation"

1 does not include an oil module.

2 [(11)] (10) "Electrical product" means any electrical equipment, material, device or apparatus  
3 that, except as provided in ORS 479.540, requires a license or permit to install and either conveys  
4 or is operated by electrical current.

5 [(12)] (11) "Equipment" means any material, fittings, devices, appliances, fixtures, apparatus or  
6 the like that are used as part of or in connection with an electrical installation.

7 [(13)] (12) "Field evaluation firm" means an independent organization that provides:

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

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

11 [(14)] (13) "Industrial electrical equipment" means electrical products used in industry or gov-  
12 ernment that utilize electric energy for mechanical, chemical, heating, lighting or similar purposes,  
13 that are designed to service or produce a product and that are used directly in the production of  
14 the service or product.

15 [(15)] (14) "Installation label" means an adhesive tag issued by governmental agencies that ad-  
16 minister the Electrical Safety Law to licensed electrical contractors for application to those minor  
17 electrical installations for which the board by rule determines to be appropriate for random in-  
18 spections.

19 [(16)] (15) "License" means a permit issued by the department under ORS 479.630 authorizing  
20 the person whose name appears as licensee thereon to act as an electrical contractor, supervising  
21 electrician, journeyman electrician, electrical apprentice or limited elevator journeyman as indicated  
22 thereon.

23 [(17)] (16) "Minimum safety standards" means safety standards prescribed by concurrence of the  
24 board and the director under ORS 479.730.

25 [(18)] (17) "Multifamily dwelling" means a building containing more than one dwelling unit.

26 [(19)] (18) "Oil module" means a prefabricated structure manufactured to the specifications of  
27 the purchaser and used outside this state in the exploration for or processing or extraction of pe-  
28 troleum products.

29 [(20)] (19) "Permit" means an official document or card issued by the enforcing agency to au-  
30 thorize performance of a specified electrical installation.

31 [(21)] (20) "Single family dwelling" means a building consisting solely of one dwelling unit.

32 [(22)] (21) "Telecommunications service provider" means a telecommunications carrier as de-  
33 fined in ORS 133.721 or a telecommunications utility or competitive telecommunications provider,  
34 both as defined in ORS 759.005.

35 [(23)] (22) "Uncertified product" means any electrical product that is not an electrical product  
36 certified under ORS 479.760.

37