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

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

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

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

(a) Except as provided in this subsection, all actions or omissions by the building official in the administration and enforcement of the municipal building inspection program shall be considered as those of an agent of the municipality acting under a grant of authority from the municipality on behalf of the municipality. This subsection does not affect the ability of a municipality or building official to assert a cause of action or to assert any available defense to an action at law. This subsection does not affect the ability of a municipality or building official to assert any right or remedy available to the municipality by law or contract.

(b) The municipal governing body shall:

(A) Ensure that the contractor maintains qualification as a building official as required by the Director of the Department of Consumer and Business Services under OR 455.715 to 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.

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

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

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

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

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

(2) Subsection (1)(c) of this section does not limit the authority of the municipal governing body over any matters described in subsection (1) of this section.

SECTION 3. (1) A municipality described in ORS 455.148 or 455.150 that has a building official who is an independent contractor shall provide a process for resolving challenges to decisions made by the building official. If a challenge is not resolved by other means to the satisfaction of the challenging party, the municipality shall convene a review board to consider the merits of the challenge. The municipal review board shall include representatives of the municipal governing body and persons that have experience and training in the specialty code relevant to the appeal. The municipal governing body shall establish the procedures and standards for use by the review board. The review board shall make a recommendation to the municipal governing body. The municipal governing body shall make the final determination whether to uphold, modify or overturn the decision by the building official.

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

SECTION 4. All fees, surcharges and other amounts payable for the receipt of building inspection program services provided by a municipality described in ORS 455.148 or 455.150 are property of the municipality, regardless of whether the municipality provides the services through a municipal employee or an independent contractor. If the municipality uses a building official who is an independent contractor, and the independent contractor is paid on the basis of amount of work performed, the municipality shall maintain records showing the amounts received for the services and the amounts owed by the municipality to the building official for those services. The municipality is responsible for ensuring that the amounts are distributed as provided by law, including but not limited to any amounts payable to the Department of Consumer and Business Services. The municipality shall provide for appropriate periodic review or auditing of financial matters relating to the municipal building inspection.
program and make the reports available upon request to the building official and the department.

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

SECTION 6. ORS 455.148 is amended to read:

455.148. (1)(a) A municipality that assumes the administration and enforcement of a building inspection 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 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; 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 variations in the needs of the department and participants.

(3) When a municipality administers a building inspection program, the governing body of the municipality shall, unless other means are already provided, appoint a properly qualified 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. The building official shall exercise supervision over the building inspectors used by the municipality to provide specialty code inspection services under the building inspection program. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering a building inspection program within their 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 Consumer 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 7.** 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
(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, the governing body of the municipality shall[, unless other means are already provided, appoint a] employ or contract with a properly qualified 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. The building official shall exercise supervision over the building inspectors used by the municipality to provide specialty code inspection services under the building inspection program. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering a building inspection program within their 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 cer-
tain 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 8. ORS 455.152 is amended to read:
455.152. (1) A municipality, 10 or more persons or an association with 10 or more members may file objections to a municipality’s assumption of a building inspection program. The objections must be filed within 30 days after the Director of the Department of Consumer and Business Services gives notice of the application.
(2) The director, by rule, shall establish a process for reviewing objections filed under subsection (1) of this section. The review process shall include but need not be limited to:
(a) Identification of economic impairment, if any, affecting the municipality;
(b) Demonstration by the municipality that all building inspection program permits and services will be available, including any service agreements for carrying out building program services;
(c) Review of all elements of the assumption plan submitted by the municipality;
(d) Demonstration by the municipality of the ability to provide building inspection program services for at least two years; [and]
(e) Review of proposed levels of service, including the municipality’s ability to maintain or improve upon existing service levels[.]; and
(f) Demonstration by the municipality of ability to sufficiently oversee building official performance of program administration and enforcement.
(3) Upon completion of a review under subsection (2) of this section, the director shall issue a final agency order approving or disapproving the application.

SECTION 9. ORS 455.459 is amended to read:

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

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

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

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

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

SECTION 10. 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

(e) Low-rise residential dwelling.

(3) “Inspector” means:

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

(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] provides services to a municipality or [by] through the Department of Consumer and Business Services;

(d) A person employed by [a municipality or] the department, or employed by or contracting
with a municipality, who is certified under ORS 455.732 and authorized by the department or
municipality 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 the state building code.

SECTION 11. 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
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) 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, furnish information on ap-
plicants for [appointment or employment as building officials or inspectors] building official or in-
spector positions.

(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 12. ORS 455.730 is amended to read:

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

SECTION 13. ORS 455.732 is amended to read:

455.732. (1) As used in this section, “building code administrative region” means a region es-
(2) The authority of the director under 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 or contracted with by 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] an employee of or independent contractor with 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] used 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] used by a municipality.

(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 14. 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 local building official who wishes to [employ] use a person who is not certified under ORS 455.735 as [an] a building 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 15. ORS 455.740 is amended to read:

455.740. (1) Subject to ORS chapter 183, the Director of the Department of Consumer and Busi-
ness 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; or
(d) Committed an act described in ORS 455.125 or 455.129.

(2) In any revocation proceeding under this section, the municipality that employs or contracts with the building official or inspector shall be 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 16. 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 mandamuses shall be granted.

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

SECTION 17. 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 and alterations of installations of plumbing, heating, illuminating, cooking or electrical equipment, provided the municipality [employs] uses as local inspectors qualified persons 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 18. 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 the inspection of building sewers constructed to connect a district sewage system if inspectors used by the district are certified for sewer inspections under ORS 455.715 to 455.740.

SECTION 19. ORS 455.129 is amended to read:

455.129. (1) As used in this section, “relative” means an individual related within the third degree as determined by the common law, a spouse, an individual related to a spouse within the third degree as determined by the common law or an individual in an adoptive relationship within the third degree as determined by the common law.

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

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

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

(c) Has filed an application for a license, certificate or registration that, as of the date the license, certificate or registration was issued or the date of an order denying the application, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was incorrect or misleading in any respect.

(d) Has performed work without appropriate licensing, certification or registration or has em-
ployed individuals to perform work without appropriate licensing, certification or registration.

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

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

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

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

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

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

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

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

(m) Has, while performing work that requires or that is related to work that requires a valid
license or certificate under 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, violated any
statute or rule related to the state building code.

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

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

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

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

(r) Is a business, the owner or an officer of which was an owner or officer in another business
at the time:
(A) The other business was assessed a civil penalty under ORS 455.895 that remains unpaid; or
(B) An act or failure to act by any owner or officer of the other business resulted in action being taken against the license, certificate or registration of the other business by the department, the director or any advisory board.
(3) Subsection (2) of this section applies to:
(a) The State Plumbing Board for purposes of licenses issued under ORS 447.010 to 447.156 or ORS chapter 693.
(b) The Electrical and Elevator Board for purposes of licenses issued under ORS 479.510 to 479.945.
(c) The Board of Boiler Rules for purposes of licenses issued under ORS 480.510 to 480.670.
(d) The department for purposes of licenses issued under this chapter.
(e) The department, subject to Electrical and Elevator Board approval, for purposes of licenses issued under ORS 460.005 to 460.175.
(f) The department, subject to Residential and Manufactured Structures Board approval, for purposes of licenses, certificates and registrations issued under ORS 446.003 to 446.200, 446.225 to 446.285 and 446.395 to 446.420.
(4) The department may administer and enforce subsection (2) of this section in the same manner and to the same extent as any advisory board.

SECTION 20. 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 Services 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) “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.
(5) “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.
(6) “Department” means the Department of Consumer and Business Services.
(7) “Director” means the Director of the Department of Consumer and Business Services.
(8) “Dwelling unit” means one or more rooms for the use of one or more persons as a housekeeping unit with space for eating, living and sleeping and permanent provisions for cooking and sanitation.
(9) “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)] (10) “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)] (11) “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)] (12) “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)] (13) “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)] (14) “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)] (15) “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)] (16) “Minimum safety standards” means safety standards prescribed by concurrence of the board and the director under ORS 479.730.

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

[(19)] (18) “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)] (19) “Permit” means an official document or card issued by the enforcing agency to authorize performance of a specified electrical installation.

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

[(22)] (21) “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)] (22) “Uncertified product” means any electrical product that is not an electrical product certified under ORS 479.760.