

Senate Bill 805

Sponsored by Senator LIEBER

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**.

Specifies length of period within which person or public body may bring action for construction defect in vertical homeownership structures as six years. Defines "vertical homeownership structure."

Permits Department of Consumer and Business Services to adopt Vertical Homeownership Structure Code to govern construction of vertical homeownership structures. Requires department, if department establishes code, to also develop uniform permitting system and inspection checklist for vertical homeownership structures.

Transfers master builder program from Department of Consumer and Business Services to Construction Contractors Board and permits board to establish master builder certification program for vertical homeownership structures.

Permits State Board of Architect Examiners and State Board of Examiners for Engineering and Land Surveying to establish certification programs for architects and engineers that will design or participate in constructing vertical homeownership structures.

Becomes operative on January 1, 2022.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to vertical homeownership structures; creating new provisions; amending ORS 12.135,
3 455.010, 455.805, 455.810, 455.815 and 455.820; and prescribing an effective date.

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

5 **SECTION 1.** ORS 12.135 is amended to read:

6 12.135. *[(1) An action against a person by a plaintiff who is not a public body, whether in contract,*
7 *tort or otherwise, arising from the person having performed the construction, alteration or repair of any*
8 *improvement to real property or the supervision or inspection thereof, or from the person having fur-*
9 *nished design, planning, surveying, architectural or engineering services for the improvement, must be*
10 *commenced before the earliest of:]*

11 **(1) As used in this section:**

12 **(a) "Association of unit owners" has the meaning given that term in ORS 100.005.**

13 **(b) "Homeowners association" has the meaning given that term in ORS 94.550.**

14 **(c) "Large commercial structure" has the meaning given that term in ORS 701.005.**

15 **(d) "Manufactured dwelling" has the meaning given that term in ORS 446.003.**

16 **(e) "Prefabricated structure" has the meaning given that term in ORS 455.010.**

17 **(f) "Public body" has the meaning given that term in ORS 174.109.**

18 **(g) "Residential structure" has the meaning given that term in ORS 701.005.**

19 **(h) "Small commercial structure" has the meaning given that term in ORS 701.005.**

20 **(i) "Substantial completion" means the earliest of any of the following dates:**

21 **(A) The date on which a party to a contract for construction, alteration or repair of an**
22 **improvement to real property or a designated portion of real property acknowledges in**
23 **writing that the construction, alteration or repair has reached a state of completion in which**
24 **the improvement or designated portion of the real property may be used or occupied for the**

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 **purpose intended for the improvement or designated portion of the real property or, if the**
 2 **party does not make the acknowledgement in writing, the date on which the party otherwise**
 3 **accepts the completed improvement or designated portion of the real property.**

4 **(B) The date on which a public body issues a certificate of occupancy for the improve-**
 5 **ment or the designated portion of the real property; or**

6 **(C) The date on which the owner begins using or occupying the improvement or the**
 7 **designated portion of the real property for the intended purpose of the improvement or real**
 8 **property.**

9 **(j) “Vertical homeownership structure” means a residential structure or a combination**
 10 **of a residential structure and small commercial structure, the total number of dwelling units**
 11 **of which does not exceed 24.**

12 **(2) A plaintiff that is not a public body must bring any action, whether in contract, tort**
 13 **or otherwise, that arises from a person’s construction, alteration or repair of any improve-**
 14 **ment to real property or supervision or inspection of the construction, alteration or repair,**
 15 **or that arises from a person’s provision of design, planning, surveying, architectural or en-**
 16 **gineering services for the improvement, before the earliest of:**

17 (a) The applicable period of limitation otherwise established by law;

18 (b) Ten years after substantial completion or abandonment of the construction, alteration or
 19 repair of a small commercial structure, [*as defined in ORS 701.005,*] a residential structure, [*as de-*
 20 *defined in ORS 701.005,*] or a large commercial structure[, *as defined in ORS 701.005,*] that is owned
 21 or maintained by a homeowners association[, *as defined in ORS 94.550, or that is owned or main-*
 22 *tained by*] **or by** an association of unit owners[, *as defined in ORS 100.005*]; or

23 (c) Six years after substantial completion or abandonment of the construction, alteration or re-
 24 pair of:

25 **(A) A vertical homeownership structure owned or maintained by a homeowners associ-**
 26 **ation or an association of unit owners; or**

27 **(B) A large commercial structure[, *as defined in ORS 701.005,*] other than a large commercial**
 28 **structure described in paragraph (b) of this subsection.**

29 [*(2) An action against a person by a public body, whether in contract, tort or otherwise, arising*
 30 *from the person having performed the construction, alteration or repair of any improvement to real*
 31 *property or the supervision or inspection thereof, or from the person having furnished design, planning,*
 32 *surveying, architectural or engineering services for the improvement, must be commenced not more than*
 33 *10 years after substantial completion or abandonment of such construction, alteration or repair of the*
 34 *improvement to real property.]*

35 **(3) A public body must bring any action, whether in contract, tort or otherwise, that**
 36 **arises from the construction, alteration or repair of any improvement to real property or the**
 37 **supervision or inspection of the construction, alteration or repair, or that arises from a**
 38 **person’s provision of design, planning, surveying, architectural or engineering services for**
 39 **the improvement, within 10 years after the substantial completion or abandonment of the**
 40 **construction, alteration or repair.**

41 [(3)(a)] **(4) Notwithstanding subsections [(1) and (2)] (2) and (3) of this section, [an] a plaintiff,**
 42 **including a public body, must bring an** action against a person registered to practice architecture
 43 under ORS 671.010 to 671.220, a person registered to practice landscape architecture under ORS
 44 671.310 to 671.459 or a person registered to practice engineering under ORS 672.002 to 672.325 to
 45 recover damages for injury to [a] **the plaintiff or another person, to** property or to any interest

1 in property, including damages for delay or economic loss, regardless of legal theory, [*arising*] **that**
 2 **arises** out of the construction, alteration or repair of any improvement to real property [*must be*
 3 *commenced*] before the earliest of:

4 [(A)] (a) Two years after the date the injury or damage is first discovered or in the exercise of
 5 reasonable care should have been discovered;

6 [(B)] (b) Ten years after substantial completion or abandonment of the construction, alteration
 7 or repair of a small commercial structure, [*as defined in ORS 701.005,*] a residential structure[, *as*
 8 *defined in ORS 701.005,*] or a large commercial structure[, *as defined in ORS 701.005,*] that is owned
 9 or maintained by a homeowners association[, *as defined in ORS 94.550,*] or [*that is owned or main-*
 10 *tained*] by an association of unit owners[, *as defined in ORS 100.005*]; or

11 [(C)] (c) Six years after substantial completion or abandonment of the construction, alteration
 12 or repair of:

13 (A) **A vertical homeownership structure owned or maintained by a homeowners associ-**
 14 **ation or an association of unit owners; or**

15 (B) A large commercial structure, [*as defined in ORS 701.005,*] other than a large commercial
 16 structure described in [*subparagraph (B) of this paragraph*] **paragraph (b) of this subsection.**

17 [*(b) This subsection applies to actions brought by any person or public body.*]

18 [(4) For purposes of this section:]

19 [(a) "Public body" has the meaning given that term in ORS 174.109; and]

20 [(b) "Substantial completion" means the earliest of:]

21 [(A) The date when the contractee accepts in writing the construction, alteration or repair of the
 22 improvement to real property or any designated portion thereof as having reached that state of com-
 23 pletion when it may be used or occupied for its intended purpose or, if there is no such written ac-
 24 ceptance, the date of acceptance of the completed construction, alteration or repair of such improvement
 25 by the contractee;]

26 [(B) The date when a public body issues a certificate of occupancy for the improvement; or]

27 [(C) The date when the owner uses or occupies the improvement for its intended purpose.]

28 (5) For purposes of this section, an improvement to real property is considered abandoned on
 29 the same date that the improvement is considered abandoned under ORS 87.045.

30 (6) This section:

31 (a) Applies to an action against a manufacturer, distributor, seller or lessor of a manufactured
 32 dwelling[, *as defined in ORS 446.003,*] or of a prefabricated structure[, *as defined in ORS 455.010*];
 33 and

34 (b) Does not apply to actions against any person in actual possession and control of the im-
 35 provement, as owner, tenant or otherwise, at the time [*such*] **the** cause of action accrues.

36 **SECTION 2.** ORS 455.805 is amended to read:

37 455.805. An individual may apply to the [*Department of Consumer and Business Services*] **Con-**
 38 **struction Contractors Board** to be tested and certified as a master builder. The [*department*] **board**
 39 shall establish uniform criteria for use in determining whether to grant an application **and may**
 40 **establish different classifications or levels of certification.** The criteria must, at a minimum,
 41 provide that:

42 (1) The individual must be an owner or regular employee of a qualified construction company
 43 and be authorized by the company to provide assurance to the [*department*] **board** that all state and
 44 local code requirements are met.

45 (2) In each of the five preceding calendar years, the individual must either have performed or

1 supervised a dwelling construction or whole dwelling remodel. In at least two of the years, the
 2 construction or remodel must have occurred in a geographic area that had a master builder pro-
 3 gram.

4 (3) The individual must have completed a program sponsored by a local building trade committee
 5 or other program approved by the *[department]* **board**, providing training relating to the **appropriate**
 6 **type of** construction [*of one and two family dwellings under the Low-Rise Residential Dwelling*
 7 *Code*]. A program must include but need not be limited to instruction in:

8 (a) Administration **and business practices**;

9 [(b) *Chimneys and fireplaces*];

10 [(c) *Decay and termite protections*];

11 **(b) Moisture intrusion prevention**;

12 [(d)] (c) Energy conservation;

13 [(e)] (d) Footings and foundations;

14 [(f)] (e) Roof-ceiling construction;

15 [(g)] (f) Roof coverings;

16 [(h) *Site inspections*];

17 [(i)] (g) Wall construction, assemblies and coverings; and

18 [(j)] (h) Wood and metal framing.

19 (4) The individual must have scored at least 75 percent on a written examination, approved and
 20 administered by the *[department]* **board**, covering the appropriate aspects of [*the Low-Rise Residen-*
 21 *tial Dwelling Code*] **manufacturers' requirements and industry practices and standards**.

22 (5)(a) The individual must not be the subject of an adverse final order issued by the [*Con-*
 23 *struction Contractors*] board or **the** Department of Consumer and Business Services based upon acts
 24 committed within 36 months preceding the application date that:

25 (A) Violated a specialty code, licensing or permit requirement; or

26 (B) Resulted in a claim being filed with the board or department against the individual.

27 (b) For purposes of this subsection, if the individual is an owner of a qualified construction
 28 company, an adverse final order issued against the company is an adverse final order issued against
 29 that individual.

30 **SECTION 3.** ORS 455.810 is amended to read:

31 455.810. (1) An individual seeking certification as a master builder must apply to the [*Department*
 32 *of Consumer and Business Services*] **Construction Contractors Board** on the form prescribed by
 33 the *[department]* **board**. Upon determining that the applicant meets the criteria for certification set
 34 forth in ORS 455.805, the *[department]* **board** shall issue the certificate.

35 (2) Certification as a master builder is valid for three years unless suspended or revoked. An
 36 individual may renew a certificate that is in good standing by:

37 (a) Providing evidence of continuing education as required by *[department]* **board** rule; and

38 (b) Paying a renewal fee established by the *[department]* **board** by rule.

39 (3) The *[department]* **board** may deny, refuse to renew, suspend or revoke certification as a
 40 master builder if the individual fails or ceases to meet the criteria for certification set forth in ORS
 41 455.805 or engages in actions resulting in a waiver revocation under ORS 455.820 [(3)] (2). The [*de-*
 42 *partment]* **board** must afford an individual an opportunity for a hearing pursuant to ORS chapter 183
 43 upon a denial or refusal to renew or prior to a suspension or revocation of certification.

44 (4) The *[department]* **board** may adopt all rules necessary and proper for administering ORS
 45 455.800 to 455.820, including but not limited to rules establishing application, examination, certi-

1 fication and renewal fees, **initial and continuing training and education requirements and**
 2 **classifications and levels of certification.**

3 **SECTION 4.** ORS 455.815 is amended to read:

4 455.815. [(1) *Local government establishment of a master builder program is voluntary. A local*
 5 *government electing to establish or terminate a program shall notify the Department of Consumer and*
 6 *Business Services. If terminating a program, the local government must give the notice six months be-*
 7 *fore the program terminates.*]

8 [(2) *The Department of Consumer and Business Services may implement a master builder program*
 9 *in one or more geographic areas for which the department provides plan review or inspection services.*
 10 *A department decision to include an area as a participant in the program affects only those areas, and*
 11 *those reviews or inspections, for which the department provides services instead of a local government.*
 12 *The department shall notify a county prior to implementing a master builder program in areas of the*
 13 *county that are served by the department.*]

14 [(3) *A local government may not allow an individual to perform the duties of a master builder*
 15 *unless the local government has a master builder program. The department may allow an individual*
 16 *to perform the duties of a master builder in any geographic area administered by the department.*]

17 [(4) *A building official of a government having a master builder program may waive plan review*
 18 *elements by that government and may waive government performance of one or more of the required*
 19 *inspections identified by department rule, including but not limited to inspections described in sub-*
 20 *section (6) of this section, if:*]

21 [(a) *An individual certified as a master builder submits construction plans for a one or two family*
 22 *dwelling regulated by the Low-Rise Residential Dwelling Code; and]*

23 [(b) *The building official determines that:*]

24 [(A) *The work is not of a highly technical nature; and]*

25 [(B) *There is no unreasonable potential risk to safety of the structure.*]

26 [(5) *A building official may not waive government performance of plan review or required in-*
 27 *spections for:*]

28 [(a) *Special design applications that are complex and highly technical engineered systems; or]*

29 [(b) *Unique building sites, including but not limited to sites containing geologic hazards such as*
 30 *landslide hazard areas, floodplains and wetlands.*]

31 [(6) *Subject to subsections (3) to (5) of this section, a building official may allow a master builder*
 32 *to verify that the master builder has properly performed an installation on a project and, to the extent*
 33 *that inspection would duplicate the verification conducted by the master builder, may waive government*
 34 *performance of the following required inspections:*]

35 [(a) *Drywall;*]

36 [(b) *Footings and setbacks;*]

37 [(c) *Foundation walls, Ufer grounding rods and rebar;*]

38 [(d) *Insulation;*]

39 [(e) *Masonry fireplace pre-cover;*]

40 [(f) *Masonry rebar;*]

41 [(g) *Gutters, downspouts and foundation drains;*]

42 [(h) *Roof sheathing nailing;*]

43 [(i) *Suspended ceilings;*]

44 [(j) *Underfloor structural; and]*

45 [(k) *Wall sheathing nailing.*]

1 (1) A local government may voluntarily recognize a master builder certification and,
 2 subject to the requirements of the state building code, may take a person's certification as
 3 a master builder into account when determining whether to issue permits, perform in-
 4 spections, allow temporary occupancy or require corrections.

5 (2) A building official of a local government may waive the local government's perform-
 6 ance of one or more of the inspections and plan reviews required under the state building
 7 code if a master builder has performed the construction and if the building official deter-
 8 mines that:

9 (a) The inspection is not required to protect life and safety and waiving the inspection
 10 will not create an unreasonable potential risk to the safety of the structure; and

11 (b) The work is not of a highly technical nature.

12 (3) A building official may allow a master builder to verify that the master builder has
 13 properly performed an installation on a project and may:

14 (a) Waive an inspection if the inspection is not required for the purpose of protecting life
 15 and safety and would duplicate the master builder's verification; and

16 (b) Permit the master builder to submit proof of compliance with the state building code
 17 by electronic means.

18 **SECTION 5.** ORS 455.820 is amended to read:

19 455.820. [(1) A master builder must perform all plan review and required verifications for which
 20 government review or inspection has been waived by a building official. The master builder shall
 21 maintain copies of all documents and reports required by the government granting the waiver and
 22 provide those copies to the building official.]

23 [(2)] (1) When waiving government performance of plan review or required inspections, a build-
 24 ing official [shall] **may** require [the] a master builder to sign a form that specifically identifies each
 25 waiver and states that the master builder accepts the duty of performing the review and verifica-
 26 tions. A master builder who accepts the duty of performing a review or verification remains re-
 27 sponsible for that duty unless released by written and signed permission of the building official. A
 28 building official may release a master builder from a review or verification duty by a written and
 29 signed assumption of the review or inspection duty by the building official or written and signed
 30 assumption of the review and verification duty by another master builder.

31 [(3)] (2) A building official [for a government that has a master builder program:]

32 [(a) Must conduct inspections of at least 10 percent of projects that are built under a master builder
 33 program;]

34 [(b)] may revoke a waiver for a plan review or required inspection if the master builder fails to
 35 properly perform, or document performance of, review or verification duties **the building official
 36 requested that the master builder perform,**[; and]

37 [(c) Must] **and may** notify the [Department of Consumer and Business Services] **Construction
 38 Contractors Board** [when] **if** the official revokes a waiver [pursuant to paragraph (b) of] **under** this
 39 subsection.

40 [(4)] (3) When revoking a waiver, a building official shall provide the master builder with a re-
 41 lease under subsection [(2)] (1) of this section from future performance of review or verification
 42 duties. A release does not relieve a master builder from liability for the failure to perform, or doc-
 43 ument performance of, review or verification duties prior to the revocation of the waiver.

44 [(5)] (4) A government having a master builder program has no legal duty with regard to plan
 45 review or required inspections properly waived under ORS 455.815 and accepted by a master builder

1 in a signed form described under subsection (2) of this section. This subsection does not release a
 2 government from a duty arising due to a waiver revocation under subsection [(3)] (2) of this section
 3 or an assumption under subsection [(2)] (1) of this section.

4 [(6)] (5) A local government may refuse to grant recognition to a certified master builder if a
 5 **building official revoked a waiver that a local government** granted to the master builder under
 6 [that government's master builder program has been revoked pursuant to subsection (3)(b) of this sec-
 7 tion] **ORS 455.815**. If a **building official revokes a** waiver [is revoked pursuant to subsection (3)(b)
 8 of this section] **under this section**, a local government or building official may [send a recommen-
 9 dation to the department for] **recommend that the board take** action against the master builder
 10 [who was granted the waiver]. The local government or building official may also send the [depart-
 11 ment] **board** any information supporting the recommendation.

12 **SECTION 6.** ORS 455.010 is amended to read:

13 455.010. As used in this chapter, unless the context requires otherwise:

14 (1)(a) "Advisory board" means the board with responsibility for assisting in the adoption,
 15 amendment or administration of a specialty code, specifically:

16 (A) The Building Codes Structures Board established under ORS 455.132;

17 (B) The Electrical and Elevator Board established under ORS 455.138;

18 (C) The State Plumbing Board established under ORS 693.115;

19 (D) The Board of Boiler Rules established under ORS 480.535;

20 (E) The Residential and Manufactured Structures Board established under ORS 455.135;

21 (F) The Mechanical Board established under ORS 455.140; or

22 (G) The Construction Industry Energy Board established under ORS 455.492.

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

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

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

27 (4) "Low-Rise Residential Dwelling Code" means the adopted specialty code that, subject to
 28 section 2, chapter 401, Oregon Laws 2019, prescribes standards for the construction of residential
 29 dwellings that are three stories or less above grade and have an exterior door for each dwelling
 30 unit, but are not facilities or homes described in ORS 443.400 or transient lodging.

31 (5) "Municipality" means a city, county or other unit of local government otherwise authorized
 32 by law to administer a building code.

33 (6) "Prefabricated structure":

34 (a) Means a building or subassembly that has been in whole or substantial part manufactured
 35 or assembled using closed construction at an off-site location to be wholly or partially assembled
 36 on-site.

37 (b) Does not mean a manufactured dwelling or a small home as defined in section 2, chapter 401,
 38 Oregon Laws 2019.

39 (7) "Small Home Specialty Code" means the specialty code adopted under section 2, chapter 401,
 40 Oregon Laws 2019.

41 (8) "Specialty code":

42 (a) Means a code of regulations adopted under ORS 446.062, 446.185, 447.020 (2), 455.020 (2),
 43 455.496, 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545 or section 2, chapter 401, Oregon
 44 Laws 2019.

45 (b) Does not mean regulations adopted by the State Fire Marshal pursuant to ORS chapter 476

1 or ORS 479.015 to 479.200 and 479.210 to 479.220.

2 (9) “State building code” means the combined specialty codes.

3 (10) “Structural code” means the specialty code prescribing structural standards for building
4 construction.

5 (11) “Unsafe condition” means a condition caused by earthquake which is determined by the
6 department or any representative of the department to be dangerous to life and property. “Unsafe
7 condition” includes but is not limited to:

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

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

13 **(12) “Vertical homeownership structure” means a residential structure, as defined in**
14 **ORS 701.005, or a combination of a residential structure and small commercial structure, as**
15 **defined in ORS 701.005, the total number of dwelling units of which does not exceed 24 in a**
16 **building of wooden or composite construction that is not more than five stories in height.**

17 **SECTION 7.** ORS 455.010, as amended by section 10, chapter 401, Oregon Laws 2019, is
18 amended to read:

19 455.010. As used in this chapter, unless the context requires otherwise:

20 (1)(a) “Advisory board” means the board with responsibility for assisting in the adoption,
21 amendment or administration of a specialty code, specifically:

22 (A) The Building Codes Structures Board established under ORS 455.132;

23 (B) The Electrical and Elevator Board established under ORS 455.138;

24 (C) The State Plumbing Board established under ORS 693.115;

25 (D) The Board of Boiler Rules established under ORS 480.535;

26 (E) The Residential and Manufactured Structures Board established under ORS 455.135;

27 (F) The Mechanical Board established under ORS 455.140; or

28 (G) The Construction Industry Energy Board established under ORS 455.492.

29 (b) “Appropriate advisory board” means the advisory board that has jurisdiction over a partic-
30 ular code, standard, license, certification or matter.

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

32 (3) “Director” means the Director of the Department of Consumer and Business Services.

33 (4) “Low-Rise Residential Dwelling Code” means the adopted specialty code prescribing stan-
34 dards for the construction of residential dwellings that are three stories or less above grade and
35 have an exterior door for each dwelling unit, but are not facilities or homes described in ORS
36 443.400 or transient lodging.

37 (5) “Municipality” means a city, county or other unit of local government otherwise authorized
38 by law to administer a building code.

39 (6) “Prefabricated structure”:

40 (a) Means a building or subassembly that has been in whole or substantial part manufactured
41 or assembled using closed construction at an off-site location to be wholly or partially assembled
42 on-site.

43 (b) Does not mean a manufactured dwelling.

44 (7) “Specialty code”:

45 (a) Means a code of regulations adopted under ORS 446.062, 446.185, 447.020 (2), 455.020 (2),

1 455.496, 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545.

2 (b) Does not mean regulations adopted by the State Fire Marshal pursuant to ORS chapter 476
3 or ORS 479.015 to 479.200 and 479.210 to 479.220.

4 (8) “State building code” means the combined specialty codes.

5 (9) “Structural code” means the specialty code prescribing structural standards for building
6 construction.

7 (10) “Unsafe condition” means a condition caused by earthquake which is determined by the
8 department or any representative of the department to be dangerous to life and property. “Unsafe
9 condition” includes but is not limited to:

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

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

15 **(11) “Vertical homeownership structure” means a residential structure, as defined in**
16 **ORS 701.005, or a combination of a residential structure and small commercial structure, as**
17 **defined in ORS 701.005, the total number of dwelling units of which does not exceed 24 in a**
18 **building of wooden or composite construction that is not more than five stories in height.**

19 **SECTION 8. Section 9 of this 2021 Act is added to and made a part of ORS 455.610 to**
20 **455.630.**

21 **SECTION 9. (1)(a) The Director of the Department of Consumer and Business Services,**
22 **with the approval of the Residential and Manufactured Structures Board, may adopt a Ver-**
23 **tical Homeownership Structure Code as a set of optional statewide construction standards**
24 **that are economically and technically feasible and that specify all of the requirements, in-**
25 **cluding structural design provisions, that are related to constructing vertical homeownership**
26 **structures. The director shall ensure that the code requires the maximal use of materials**
27 **and methods that, under national standards or stringent testing, are recognized for pre-**
28 **venting the intrusion of moisture and preserving the integrity of the building envelope.**

29 **(b) If the director adopts a Vertical Homeownership Structure Code under paragraph (a)**
30 **of this subsection, the director shall also, in consultation with the Residential and Manufac-**
31 **tured Structures Board:**

32 **(A) Establish a uniform permit application for constructing vertical homeownership**
33 **structures that, at a minimum, requires the applicant to submit:**

34 **(i) The applicant’s name;**

35 **(ii) The license number of the applicant’s current, unexpired license from the Con-**
36 **struction Contractors Board;**

37 **(iii) The names and certificate numbers of master builders certified under section 11 of**
38 **this 2021 Act that the applicant intends to use in connection with constructing the vertical**
39 **homeownership structure;**

40 **(iv) A list of the subcontractors that the applicant intends to use for the construction;**
41 **and**

42 **(v) The names and certification numbers of architects and engineers certified under**
43 **sections 17 and 19 of this 2021 Act that the applicant intends to use in connection with de-**
44 **signing and constructing the vertical homeownership structure; and**

45 **(B) Adopt a uniform statewide checklist that specifies inspections that must occur on**

1 vertical homeownership structures including, at a minimum, inspections of the vertical
2 homeownership structure's foundation, walls, siding, roofing and energy systems. A building
3 official or a municipality that administers and enforces a building inspection program must
4 perform the inspections specified in the checklist before issuing a certificate of occupancy
5 for the vertical homeownership structure. The municipality may specify a fee for the in-
6 spection and for issuing any required permits for or certifications of vertical homeownership
7 structures constructed within the municipality's jurisdiction.

8 (2)(a) The director or a municipal building official may not issue a permit for a vertical
9 homeownership structure unless:

10 (A) The applicant has submitted all of the information required under subsection (1)(b)(A)
11 of this section; and

12 (B) The director or building official is satisfied that:

13 (i) The project will comply with the Vertical Homeownership Structure Code;

14 (ii) Master builders who will perform work on the project have complied with all certi-
15 fication requirements the Construction Contractors Board specifies under section 11 of this
16 2021 Act;

17 (iii) Architects and engineers who will perform work in connection with the project have
18 complied with certification requirements that the State Board of Architect Examiners spec-
19 ifies under section 17 of this 2021 Act and the State Board of Examiners for Engineering and
20 Land Surveying specifies under section 19 of this 2021 Act; and

21 (iv) The applicant has met any other requirements the director specifies by rule.

22 (b) The director or building official may waive a requirement set forth in this subsection
23 that the director or building official determines is not necessary for the vertical
24 homeownership structure that will be subject to the permit.

25 (3) The director, with the approval of the Residential and Manufactured Structures
26 Board, may change or amend the Vertical Homeownership Structure Code if:

27 (a) Geographic or climatic conditions unique to Oregon require the change or amend-
28 ment;

29 (b) Compatibility with other statutory provisions is necessary;

30 (c) Changes to any national codes that apply to the Vertical Homeownership Structure
31 Code are adopted in Oregon;

32 (d) Authorizing the use of building materials and techniques that are consistent with
33 nationally recognized standards and building practices is necessary; or

34 (e) The director otherwise determines that the amendment or change is necessary.

35 (4) The provisions for plumbing and electrical requirements incorporated into the Verti-
36 cal Homeownership Structure Code must be compatible with other specialty codes the di-
37 rector has adopted. The Electrical and Elevator Board, the Mechanical Board and the State
38 Plumbing Board shall review and approve, respectively, amendments to the electrical, me-
39 chanical or plumbing provisions of the Vertical Homeownership Structure Code.

40 **SECTION 10.** Sections 11 to 15 of this 2021 Act are added to and made a part of ORS
41 455.800 to 455.820.

42 **SECTION 11.** (1)(a) The Construction Contractors Board may establish a voluntary cer-
43 tification program for a master builder of residential structures as defined in ORS 701.005,
44 small commercial structures as defined in ORS 701.005 and vertical homeownership struc-
45 tures as defined in ORS 455.010. At a minimum, the certification program must provide ed-

1 ucation, training, assessment and evaluation of individuals with respect to the individuals'
2 knowledge of and skills in:

- 3 (A) Foundations;
- 4 (B) Roofing;
- 5 (C) Wall construction;
- 6 (D) Siding installation; and
- 7 (E) Energy systems.

8 (b) The board may specify certification standards that differ by the type of structure in
9 which the master builder may specialize, in the qualifications necessary to obtain certifica-
10 tion in each type of structure and in education and training standards necessary to qualify
11 for the each type of certification.

12 (2) The board may adopt rules to implement the provisions of this section and may es-
13 tablish and charge to applicants for certification any fees that are necessary to pay the ex-
14 penses of administering the certification program under this section.

15 **SECTION 12.** (1) The Director of the Department of Consumer and Business Services
16 shall:

17 (a) Deliver to the Construction Contractors Board all records and property within the
18 jurisdiction of the director that relate to the duties, functions and powers specified in ORS
19 455.800 to 455.820; and

20 (b) Transfer to the board those employees engaged primarily in the exercise of the duties,
21 functions and powers specified in ORS 455.800 to 455.820.

22 (2) The board shall take possession of the records and property, and shall take charge
23 of the employees and employ them in the exercise of the duties, functions and powers spec-
24 ified in ORS 455.800 to 455.820, without reduction of compensation but subject to change or
25 termination of employment or compensation as provided by law.

26 (3) The Governor shall resolve any dispute between the department and the board relat-
27 ing to transfers of records, property and employees under this section, and the Governor's
28 decision is final.

29 **SECTION 13.** The transfer of duties, functions and powers to the Construction Contrac-
30 tors Board by sections 12, 14 and 15 of this 2021 Act and by the amendments to ORS 455.805,
31 455.810, 455.815 and 455.820 by sections 2 to 5 of this 2021 Act does not affect any action,
32 proceeding or prosecution involving or with respect to such duties, functions and powers
33 begun before and pending at the time of the transfer, except that the Construction Con-
34 tractors Board is substituted for the Department of Consumer and Business Services in the
35 action, proceeding or prosecution.

36 **SECTION 14.** (1) Sections 12 to 15 of this 2021 Act and the amendments to ORS 455.805,
37 455.810, 455.815 and 455.820 by sections 2 to 5 of this 2021 Act do not relieve any person of a
38 liability, duty or obligation accruing under or with respect to the duties, functions and pow-
39 ers set forth in ORS 455.800 to 455.820. The Construction Contractors Board may undertake
40 the collection or enforcement of any such liability, duty or obligation.

41 (2) The rights and obligations of the Department of Consumer and Business Services le-
42 gally incurred under contracts, leases and business transactions executed, entered into or
43 begun before the operative date set forth in section 21 of this 2021 Act are transferred to the
44 Construction Contractors Board. For the purpose of succession to these rights and obli-
45 gations, the Construction Contractors Board is a continuation of the Department of Con-

1 **sumer and Business Services and not a new authority.**

2 **SECTION 15. Notwithstanding the transfer of duties, functions and powers by sections**
3 **11 to 15 of this 2021 Act and by the amendments to ORS 455.805, 455.810, 455.815 and 455.820**
4 **by sections 2 to 5 of this 2021 Act, the rules of the Department of Consumer and Business**
5 **Services with respect to ORS 455.800 to 455.820 in effect on the operative date set forth in**
6 **section 21 of this 2021 Act continue in effect until superseded or repealed by rules of the**
7 **Construction Contractors Board. References in rules of the department to the department**
8 **or an officer or employee of the department with respect to ORS 455.800 to 455.820 are con-**
9 **sidered to be references to the board or an officer or employee of the board.**

10 **SECTION 16. Section 17 of this 2021 Act is added to and made a part of ORS 671.010 to**
11 **671.220.**

12 **SECTION 17. (1) The State Board of Architect Examiners may establish a voluntary**
13 **certification program, based on national standards and best practices, that enhances an**
14 **architect's knowledge of building code requirements, building envelope design characteristics**
15 **and other design considerations related to constructing vertical homeownership structures,**
16 **as defined in ORS 455.010.**

17 **(2) The board may certify an architect under this section based on educational and**
18 **training standards the board specifies. The board may recognize and adopt as the board's**
19 **own standards all or portions of existing national certification standards or systems.**

20 **(3) The board by rule may establish and charge fees to applicants for the certificate in**
21 **amounts that are sufficient to pay the expenses of administering the certification program.**

22 **SECTION 18. Section 19 of this 2021 Act is added to and made a part of ORS 672.002 to**
23 **672.325.**

24 **SECTION 19. (1) The State Board of Examiners for Engineering and Land Surveying may**
25 **establish a voluntary certification program, based on national standards and best practices,**
26 **that enhances an engineer's knowledge of building code requirements, building envelope de-**
27 **sign characteristics and other design and construction considerations related to vertical**
28 **homeownership structures, as defined in ORS 455.010.**

29 **(2) The board may certify an engineer under this section based on educational and**
30 **training standards the board specifies. The board may recognize and adopt as the board's**
31 **own standards all or portions of existing national certification standards or systems.**

32 **(3) The board by rule may establish and charge fees to applicants for the certificate in**
33 **amounts that are sufficient to pay the expenses of administering the certification program.**

34 **SECTION 20. The amendments to ORS 12.135 by section 1 of this 2021 Act apply to causes**
35 **of action that arise on or after the effective date of this 2021 Act.**

36 **SECTION 21. (1) Sections 9, 11 to 15, 17 and 19 of this 2021 Act and the amendments to**
37 **ORS 12.135, 455.010, 455.805, 455.810, 455.815 and 455.820 by sections 1 to 7 of this 2021 Act**
38 **become operative on January 1, 2022.**

39 **(2) The Director of the Department of Consumer and Business Services, the Construction**
40 **Contractors Board, the State Board of Architect Examiners and the State Board of Exam-**
41 **iners for Engineering and Land Surveying may adopt rules and take any other action before**
42 **the operative date specified in subsection (1) of this section that is necessary to enable the**
43 **director or the boards, on and after the operative date specified in subsection (1) of this**
44 **section, to undertake and exercise all of the duties, functions and powers conferred on the**
45 **director or the boards by sections 9, 11 to 15, 17 and 19 of this 2021 Act and the amendments**

1 to ORS 12.135, 455.010, 455.805, 455.810, 455.815 and 455.820 by sections 1 to 7 of this 2021 Act.

2 SECTION 22. This 2021 Act takes effect on the 91st day after the date on which the 2021
3 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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