

Enrolled
House Bill 3613

Sponsored by Representative GARDNER (at the request of National Electrical Contractors Association)

CHAPTER

AN ACT

Relating to building inspection programs; creating new provisions; and amending ORS 421.645, 447.233, 455.150, 455.156, 455.160, 455.190, 455.210, 455.220, 455.380, 455.447, 455.467, 455.469, 455.475, 479.530, 479.760, 479.845, 479.853 and 479.855.

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

SECTION 1. (1)(a) A municipality that assumes the administration and enforcement of a building inspection program on or after the effective date of this 2001 Act must 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; and

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

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

(A) Boiler and pressure vessel programs under ORS 480.510 to 480.665;

(B) Elevator programs under ORS 460.005 to 460.175;

(C) Amusement ride regulation under ORS 460.310 to 460.410;

(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 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. 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 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 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 and enforces a building inspection plan 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 the effective date of this 2001 Act. 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 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) A municipality that abandons or otherwise ceases to administer 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 2. (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.

(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 3. ORS 455.150 is amended to read:

455.150. (1) A municipality **that assumes the administration and enforcement of a building inspection program prior to the effective date of this 2001 Act** may administer and enforce all or part of a building inspection program. A building inspection program:

(a) is a program that includes:

(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; and

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

(b) is not a program that includes:

(A) Boiler and pressure vessel programs under ORS 480.510 to 480.665;

(B) Elevator programs under ORS 460.005 to 460.175;

(C) Amusement ride regulation under ORS 460.310 to 460.410;

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

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

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

(6) If a county does not notify the director, or notifies the director that it will not administer and enforce certain specialty codes or parts thereof **under the building inspection program**, the director shall contract with a municipality or other person or use such state employees or state agencies as are necessary to administer and enforce those codes or parts thereof, and permit or other fees arising therefrom shall be paid into the Consumer and Business Services Fund created by ORS 705.145 and credited to the account responsible for paying such expenses. [No] A state employee [shall] **may not** be displaced as a result of using contract personnel.

[*(7) The governing body of a municipality may change its building code administration and enforcement responsibility beginning July 1 of any year by notifying the director by January 1 of such year of the change to be made. Upon such change, responsibility shall be fixed as provided by subsections (5) and (6) of this section.*]

(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 section 1 of this 2001 Act, including the requirement that the municipality administer and enforce all aspects of the building inspection program. Thereafter, the municipality is subject to section 1 of this 2001 Act and ceases to be subject to this section.

(8) The department [*of Consumer and Business Services*] 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 [*shall have*] **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 [*of the Department of Consumer and Business Services*] shall regulate building inspection programs of municipalities **assumed prior to the effective date of this 2001 Act**. 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 [*of Consumer and Business Services*] may assume [*temporary*] administration 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 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 section 1 of this 2001 Act, including the requirement that the municipality administer and enforce all aspects of the building inspection program. Thereafter, the municipality is subject to section 1 of this 2001 Act and ceases to be subject to this section.

SECTION 4. ORS 421.645 is amended to read:

421.645. (1) Notwithstanding ORS 195.025, 197.175, 197.180, 215.130 (4), 227.286 or 455.150 or **section 1 of this 2001 Act** or any other provision of law, including but not limited to statutes, ordinances, regulations and charter provisions, the Director of the Department of Consumer and Business Services, through the Building Codes Division, shall exercise authority for the issuance of all permits required under the state building code for the construction and operation of the women's correctional facility and intake center complex approved under ORS 421.643.

(2) All other state agencies, including but not limited to the Department of Environmental Quality, shall issue such permits within the authority of the agency as may be necessary for the construction and operation of the complex.

(3) Within the authority of the city, county or political subdivision, each city, county and political subdivision shall issue the appropriate permits, licenses and certificates not issued under subsections (1) and (2) of this section, including all necessary construction permits over public rights of way, and enter into any intergovernmental agreements as may be necessary for the construction and operation of the complex.

(4) A state agency or local government that issues a permit, license or certificate under subsections (1) to (7) of this section shall continue to exercise enforcement authority over the permit, license or certificate.

(5) Except as provided in ORS 421.649, nothing in ORS 421.635 to 421.657 expands or otherwise alters the obligations of a city, county or political subdivision to pay for infrastructure improvements for the complex.

(6)(a) State agencies and local governments shall issue any permit, license or certificate required under subsections (1) to (3) of this section within 60 days of receiving a completed application for the permit, license or certificate from the Department of Corrections or a person acting on behalf of the department. A state agency or local government may impose reasonable conditions on any permit, license or certificate but may not deny the permit, license or certificate unless denial is required under federal law.

(b) If a permit, license or certificate required under subsections (1) to (7) of this section is not issued within 60 days of receiving a completed application, the Department of Corrections may file a petition for a writ of mandamus in the circuit court for the jurisdiction of the affected local government to compel issuance of the permit, license or certificate. The writ shall issue unless the local government can demonstrate by clear and convincing evidence that issuing the permit, license or certificate would violate a substantive provision of the state building code, exceed the local government's statutory authority or violate federal law.

(c) Proceedings on a petition for a writ of mandamus under this subsection shall comply with the applicable provisions of ORS chapter 34.

(7) The issuance of any permit, license or certificate under subsections (1) to (7) of this section and any construction or development undertaken pursuant to such permit, license or certificate shall not be considered in support of or in opposition to an application for a land use decision under ORS chapter 197, 215 or 227.

(8) In accordance with the applicable provisions of ORS 183.310 to 183.550 and notwithstanding ORS 455.035, the Director of the Department of Consumer and Business Services shall adopt such rules as the director determines necessary to implement the provisions of subsections (1) to (7) of this section.

SECTION 5. ORS 447.233 is amended to read:

447.233. (1) The Director of the Department of Consumer and Business Services shall include in the state building code, as defined in ORS 455.010, a requirement that the number of accessible parking spaces specified in subsection (2) of this section be provided for affected buildings subject to the state building code and that the spaces be signed as required by subsection (2) of this section. Spaces may also be marked in a manner specified in the state building code.

(2)(a) The number of accessible parking spaces shall be:

Total Parking In Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of total
1,001 and over	20 plus 1 for each 100 over 1,000

(b) In addition, one in every eight accessible spaces, but not less than one, shall be van accessible. A van accessible parking space shall be at least nine feet wide and shall have an adjacent access aisle that is at least eight feet wide.

(c) Accessible parking spaces shall be at least nine feet wide and shall have an adjacent access aisle that is at least six feet wide.

(d) The access aisle shall be located on the passenger side of the parking space except that two adjacent accessible parking spaces may share a common access aisle.

(e) A sign shall be posted for each accessible parking space. The sign shall be clearly visible to a person parking in the space, shall be marked with the International Symbol of Access and shall indicate that the spaces are reserved for persons with disabled person parking permits. Van accessible parking spaces shall have an additional sign marked "Van Accessible" mounted below the sign.

(f) Accessible parking spaces and signs shall be designed in compliance with the standards set forth by the Oregon Transportation Commission in consultation with the Oregon Disabilities Commission.

(3) No ramp or obstacle may extend into the parking space or the aisle, and curb cuts and ramps may not be situated in such a way that they could be blocked by a legally parked vehicle.

(4) Parking spaces required by this section shall be maintained so as to meet the requirements of this section at all times and to meet the standards established by the state building code.

(5) The director is authorized to inspect parking spaces and facilities and buildings subject to the provisions of this section, and to do whatever is necessary to enforce the requirements, including the maintenance requirements, of this section. Municipalities and counties may administer and enforce the requirements of this section in the manner provided under ORS 455.150 or **section 1 of this 2001 Act** for administration and enforcement of specialty codes. All plans for parking spaces

subject to the provisions of this section must be approved by the director prior to the creation of the spaces.

(6) Requirements adopted under this section [*shall*] **do** not apply to long-term parking facilities at the Portland International Airport.

(7) Any reported violation of this section shall be investigated by the administrative authority. The administrative authority shall make a final decision and order correction, if necessary, within 30 days of notification. Any aggrieved person may appeal within 30 days of the decision by the administrative authority to the appropriate municipal appeals board or, at the option of the local jurisdiction, directly to the Building Codes Structures Board established under ORS 455.132. The appeal shall be acted upon within 60 days of filing. The decision of the municipal appeals board may be appealed to the board. The board shall act on the appeal within 60 days of filing. All appeals to the board shall be filed in accordance with ORS 455.690.

SECTION 6. ORS 455.156 is amended to read:

455.156. (1) Notwithstanding any other provision of this chapter, ORS chapter 693 or ORS 447.010 to 447.160, 479.510 to 479.945 or 479.990, the Department of Consumer and Business Services shall carry out the provisions of this section.

(2) All municipalities that establish a plumbing, electrical or one and two family dwelling inspection program under ORS 455.150 **or building inspection program under section 1 of this 2001 Act** may:

(a) Investigate and enforce violations of ORS 479.550 (1) and 479.620 on behalf of the Electrical and Elevator Board as provided in this section;

(b) Investigate and enforce violations of ORS 447.030, 447.040, 693.030 and 693.040 as provided in paragraph (c) of this subsection; and

(c) Issue notices of proposed assessment of civil penalties for violations of the statutes covered in paragraphs (a) and (b) of this subsection as agents of the respective boards following procedures adopted under subsection (3) of this section.

(3) The department shall establish:

(a) Procedures, forms and standards to carry out the provisions of this section, including but not limited to creating preprinted notices of proposed assessment of penalties that can be completed and served by municipal inspectors;

(b) A program to provide that all of the moneys recovered by the department, less collection expenses, be paid to the municipality that initiated the charges when a person charged with a violation as provided in subsection (2)(a) or (b) of this section agrees to the entry of an assessment of civil penalty or does not ask for a hearing, and an order assessing a penalty is entered against the person;

(c) A program to provide a division of the moneys recovered by the department with the municipality that initiated the charges, when a person charged with a violation as provided in subsection (2)(a) or (b) of this section requests a hearing and is assessed a penalty. One-half of the amounts recovered shall be paid to the municipality. The department shall keep an amount equal to its costs of processing the proceeding and collection expenses out of the remaining one-half and remit the balance, if any, to the municipality; and

(d) A program for contracting with municipalities that allows municipalities to investigate violations of the department's permit requirements for plumbing installations and services under the plumbing specialty code and for plumbing and electrical installations and services under the One and Two Family Dwelling Code, and to:

(A) Initiate notices of proposed assessment of civil penalties as agents of the boards designated in subsection (2) of this section; and

(B) Pay the agents of the boards out of net civil penalty recoveries as if the recoveries were under paragraphs (b) and (c) of this subsection.

(4)(a) It shall be a defense for any person charged with a penalty for violation of a building inspection program permit requirement covering plumbing installations under the plumbing specialty code, electrical permit requirements under ORS 479.550 or plumbing or electrical requirements un-

der the One and Two Family Dwelling Code that the person was previously penalized for the same occurrence.

(b) A building inspection program permit requirement is a requirement contained in a specialty code or municipal ordinance or rule requiring a permit before the particular installations covered by the codes are commenced.

(c) A penalty for the same occurrence includes a combination of two or more of the following that are based on the same plumbing or electrical installation:

(A)(i) An investigative or other fee added to an electrical permit fee when a permit was obtained after the electrical installation was started;

(ii) A civil penalty pursuant to ORS 479.830 for violation of ORS 479.550 for failure to obtain an electrical permit;

(iii) A civil penalty pursuant to ORS 455.895 for failure to obtain an electrical permit under the One and Two Family Dwelling Code; or

(iv) A municipal penalty, other than an investigative fee, for making an electrical installation under the electrical specialty code or the One and Two Family Dwelling Code without a permit; or

(B)(i) An investigative or other fee added to a plumbing permit fee when a permit was obtained after the plumbing installation was started;

(ii) A civil penalty pursuant to ORS 447.160 for failure to obtain a plumbing permit as required under the plumbing specialty code;

(iii) A civil penalty pursuant to ORS 455.895 for failure to obtain a plumbing permit under the One and Two Family Dwelling Code; or

(iv) A municipal penalty, other than an investigative fee, for making a plumbing installation under the plumbing specialty code or the One and Two Family Dwelling Code without a permit.

SECTION 6a. If House Bill 2153 becomes law, section 6 of this 2001 Act (amending ORS 455.156) is repealed and ORS 455.156, as amended by section 18, chapter _____, Oregon Laws 2001 (Enrolled House Bill 2153), is amended to read:

455.156. (1) Notwithstanding any other provision of this chapter, ORS chapter 693 or ORS 447.010 to 447.160, 479.510 to 479.945 or 479.990, the Department of Consumer and Business Services shall carry out the provisions of this section.

(2)(a) A municipality that establishes **a building inspection program under section 1 of this 2001 Act** or a plumbing inspection program under ORS 455.150 covering installations under the plumbing specialty code or One and Two Family Dwelling Code may act on behalf of the State Plumbing Board to investigate violations of and enforce ORS 447.030, 447.040, 693.030 and 693.040 and to issue notices of proposed assessment of civil penalties for those violations.

(b) A municipality that establishes **a building inspection program under section 1 of this 2001 Act** or an electrical inspection program under ORS 455.150 covering installations under the electrical specialty code or One and Two Family Dwelling Code may act on behalf of the Electrical and Elevator Board to investigate violations of and enforce ORS 479.550 (1) and 479.620 and to issue notices of proposed assessment of civil penalties for those violations.

(3) The department shall establish:

(a) Procedures, forms and standards to carry out the provisions of this section, including but not limited to creating preprinted notices of proposed assessment of penalties that can be completed and served by municipal inspectors;

(b) A program to provide that all of the moneys recovered by the department, less collection expenses, be paid to the municipality that initiated the charges when a person charged with a violation as provided in subsection (2) of this section agrees to the entry of an assessment of civil penalty or does not ask for a hearing, and an order assessing a penalty is entered against the person;

(c) A program to provide a division of the moneys recovered by the department with the municipality that initiated the charges, when a person charged with a violation as provided in subsection (2) of this section requests a hearing and is assessed a penalty. One-half of the amounts recovered shall be paid to the municipality. The department shall keep an amount equal to its costs

of processing the proceeding and collection expenses out of the remaining one-half and remit the balance, if any, to the municipality; and

(d) A program to require municipalities to investigate violations of the department's permit requirements for plumbing installations and services under the plumbing specialty code and for plumbing and electrical installations and services under the One and Two Family Dwelling Code, and to:

(A) Initiate notices of proposed assessment of civil penalties as agents of the boards designated in subsection (2) of this section; and

(B) Pay the agents of the boards out of net civil penalty recoveries as if the recoveries were under paragraphs (b) and (c) of this subsection.

(4) The assessment of a civil penalty under this section by a municipality is subject to the amount limitations set forth in ORS 455.895.

(5)(a) It shall be a defense for any person charged with a penalty for violation of a building inspection program permit requirement covering plumbing installations under the plumbing specialty code, electrical permit requirements under ORS 479.550 or plumbing or electrical requirements under the One and Two Family Dwelling Code that the person was previously penalized for the same occurrence.

(b) A building inspection program permit requirement is a requirement contained in a specialty code or municipal ordinance or rule requiring a permit before the particular installations covered by the codes are commenced.

(c) A penalty for the same occurrence includes a combination of two or more of the following that are based on the same plumbing or electrical installation:

(A)(i) An investigative or other fee added to an electrical permit fee when a permit was obtained after the electrical installation was started;

(ii) A civil penalty pursuant to section 8, **chapter _____, Oregon Laws 2001 (Enrolled House Bill 2153)**, [of this 2001 Act] for violation of ORS 479.550 for failure to obtain an electrical permit;

(iii) A civil penalty pursuant to ORS 455.895 for failure to obtain an electrical permit under the One and Two Family Dwelling Code; or

(iv) A municipal penalty, other than an investigative fee, for making an electrical installation under the electrical specialty code or the One and Two Family Dwelling Code without a permit; or

(B)(i) An investigative or other fee added to a plumbing permit fee when a permit was obtained after the plumbing installation was started;

(ii) A civil penalty pursuant to section 6, **chapter _____, Oregon Laws 2001 (Enrolled House Bill 2153)**, [of this 2001 Act] for failure to obtain a plumbing permit as required under the plumbing specialty code;

(iii) A civil penalty pursuant to ORS 455.895 for failure to obtain a plumbing permit under the One and Two Family Dwelling Code; or

(iv) A municipal penalty, other than an investigative fee, for making a plumbing installation under the plumbing specialty code or the One and Two Family Dwelling Code without a permit.

SECTION 7. ORS 455.160 is amended to read:

455.160. (1) The municipality that is responsible for state building code administration and enforcement in a municipality pursuant to ORS 455.150 **or section 1 of this 2001 Act**, or the Department of Consumer and Business Services if the department is responsible for state building code administration and enforcement pursuant to ORS 455.150 **or section 1 of this 2001 Act**, [shall] **may** not engage in a pattern of conduct of failing to provide timely inspections or plan reviews without reasonable cause.

(2) Any person adversely affected by a pattern of conduct prohibited in subsection (1) of this section may serve the municipality or the department with a written demand to provide timely inspections or plan reviews.

(3) If a municipality, within five days of receipt of the demand, fails to provide timely inspections or plan reviews without reasonable cause, the person who served the demand may seek to compel

the inspections or plan reviews through a writ of mandamus pursuant to ORS 34.105 to 34.240. If the court finds that the municipality has engaged in a pattern of conduct of failing to provide timely inspections or plan reviews without reasonable cause, it may direct the municipality to provide timely inspections or plan reviews or to transfer the administration and enforcement of the code in question under procedures outlined in ORS 455.150 (5) and (6) **or section 1 (5) and (6) of this 2001 Act.**

(4) If the department, within five days of receipt of the demand, fails to provide timely inspections or plan reviews without reasonable cause, the person who served the demand may seek to compel the inspections or plan reviews through a writ of mandamus pursuant to ORS 34.105 to 34.240. If the court finds that the department has engaged in a pattern of conduct of failing to provide timely inspections or plan reviews without reasonable cause, it may direct the department to provide timely inspections or plan reviews or to transfer the administration and enforcement of the code in question to an appropriate municipality, if the municipality accepts the responsibility. **A municipality may accept the transfer of the administration and enforcement of a code under this subsection without becoming subject to section 1 of this 2001 Act as a result of accepting the transfer.**

SECTION 8. ORS 455.190 is amended to read:

455.190. (1)(a) Under ORS 183.325 to 183.410, notwithstanding any other laws or rules to the contrary, the Department of Consumer and Business Services, with the concurrence of the appropriate board, shall establish:

(A) Qualifications and standards for special alternative inspection programs for commercial or industrial installations for other than new construction; and

(B) Delegation of special alternative inspection programs except as provided in subsections (3) and (5) of this section.

(b) Special alternative inspection programs established under this section apply to inspections under the structural, mechanical and plumbing specialty codes. For an installation under a structural, mechanical or plumbing master permit in commercial, industrial and government buildings, new construction does not include maintenance and repair work, interior tenant remodeling projects, accessibility upgrades or changes of occupancy, provided the local building official determines a new or proposed use is no more hazardous than the existing use and any proposed alterations may be satisfactorily reviewed and inspected under a master permit program.

(2) For purposes of this section, special alternative inspection programs include:

(a) A program of random inspections of minor installations; and

(b) A master permit program under which installations are periodically inspected.

(3) A municipality authorized under ORS 455.150 **or section 1 of this 2001 Act** to administer a building inspection program that employs a person licensed as an engineer and certified to perform structural plan reviews may make application to the department to establish a structural or mechanical master permit program. The department may authorize the municipality to administer and enforce the provisions of this section if it finds that the municipality provides inspections carried out under master permit programs and can comply with minimum standards and meet the qualifications adopted under subsection (1) of this section for inspections, permit applications and other matters to ensure adequate administration and enforcement of the structural, mechanical or plumbing special alternative inspection programs.

(4) Notwithstanding the provisions of ORS 455.160, a municipality that is authorized to administer and enforce a special alternative inspection program may, in exercising that authority, waive plan review and related fees of an installation carried out under structural, mechanical, plumbing and electrical master permits.

(5) Any municipality that provides plumbing inspections under the plumbing specialty code shall provide a program of random inspection of minor installations and a master permit program. If the municipality does not elect to provide a plumbing master permit program as provided in subsection (1) of this section, the municipality shall, on request of the owner, operating manager or plumbing contractor of a commercial or industrial facility that would otherwise qualify for a master permit

program, issue a master individual inspection permit, provide plumbing inspection before any installation is covered or placed into service and charge for the inspection at the municipality's hourly plumbing inspection rate under the plumbing specialty code.

SECTION 9. ORS 455.210 is amended to read:

455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits issued by the Department of Consumer and Business Services for the construction, reconstruction, alteration and repair of prefabricated structures and of buildings and other structures and the installation of mechanical heating and ventilating devices and equipment. The fees *[shall]* **may** not exceed 130 percent of the fee schedule printed in the "Uniform Building Code," 1979 Edition, and in the "Uniform Mechanical Code," 1979 Edition, both published by the International Conference of Building Officials. Fees *[shall]* **are** not *[be]* effective until approved by the Oregon Department of Administrative Services.

(2) Notwithstanding subsection (1) of this section, the maximum fee the Director of the Department of Consumer and Business Services may prescribe for a limited plan review for fire and life safety as required under ORS 479.155 shall be 40 percent of the prescribed permit fee.

(3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and reasonable to provide for the administration and enforcement of any specialty code or codes for which the municipality has assumed responsibility under ORS 455.150 **or section 1 of this 2001 Act.**

(b) Ten or more persons or an association with 10 or more members may, within 30 days of the adoption of a fee under paragraph (a) of this subsection, appeal the fee to the Director of the Department of Consumer and Business Services. Within 60 days of the receipt of the appeal, the director shall, after notice to affected parties and hearing, review the municipality's costs of administering and enforcing the specialty code or codes referred to in paragraph (a) of this subsection and approve the fee if the director feels it is necessary and reasonable. If the director does not approve the fee upon appeal, the fee *[shall]* **is** not *[be]* effective. The appeal process provided in this paragraph *[shall]* **does** not apply to fees that have been submitted for a vote and approved by a majority of the electors voting on the question.

(c) Fees collected by a municipality under this subsection shall be used for the administration and enforcement of a building inspection program for which the municipality has assumed responsibility under ORS 455.150 **or section 1 of this 2001 Act.**

(4) Notwithstanding any other provision of ORS 455.010 to 455.315 and 455.410 to 455.740, for the purpose of partially defraying state administrative costs, there is hereby imposed a surcharge in the amount of four percent of the total permit fees and hourly charges collected when an applicant chooses to pay an hourly rate instead of purchasing a permit. Municipalities shall collect and remit to the director as provided in ORS 455.220.

(5) Notwithstanding any other provisions of ORS 455.010 to 455.315 and 455.410 to 455.740, for the purpose of partially defraying state inspection costs, there is hereby imposed a surcharge in the amount of two percent of the total permit fees and hourly charges collected when an applicant chooses to pay an hourly rate instead of purchasing a permit. Municipalities shall collect and remit to the director as provided in ORS 455.220.

(6) Notwithstanding any other provision of ORS 455.010 to 455.315 and 455.410 to 455.740 and in addition to the surcharges imposed under subsections (4) and (5) of this section, for the purpose of partially defraying administration and operation costs of the Tri-County Building Industry Service Center, there is hereby imposed a surcharge not to exceed one percent of the total permit fees collected in Clackamas, Multnomah and Washington Counties. Municipalities shall collect and remit surcharges to the director as provided in ORS 455.220.

(7) The director shall adopt administrative rules to allow reduced fees for review of plans that have been previously reviewed.

SECTION 10. ORS 455.220 is amended to read:

455.220. (1) For the purpose of defraying the costs of training and other educational programs administered by the Department of Consumer and Business Services under this chapter there is

hereby imposed a surcharge in the amount of one percent of the total building permit fees and hourly charges collected when an applicant chooses to pay an hourly rate instead of purchasing a permit in connection with the construction of, or addition or alteration to, buildings and equipment or appurtenances.

(2) Permit surcharges shall be collected by each municipality and remitted to the Director of the Department of Consumer and Business Services. Each municipality having a population greater than 40,000 shall, on a monthly basis, prepare and submit to the director a report of permits and certificates issued in each class or category and fees and surcharges thereon collected during the month, together with other statistical information as required by the director concerning construction activity regulated by the parts of the state building code administered by the municipality. All other municipalities shall submit such a report on a quarterly basis. The report[, *which*] shall be in a form prescribed by the director[,] **and** shall be submitted, together with a remittance covering the surcharges collected, by no later than the 15th day following the month or quarter in which the surcharges are collected.

(3)(a) Except as provided in subsection (4) of this section, all surcharges and other fees prescribed by ORS 455.010 to 455.240 and 455.410 to 455.740 and payable to the department, except fees received under ORS 455.150 (6) **or section 1 (6) of this 2001 Act**, shall be deposited by the director in the Consumer and Business Services Fund created by ORS 705.145.

(b) Notwithstanding subsection (4)(a) of this section, the training surcharge imposed under subsection (1) of this section for permits established under ORS 446.062 (3), 446.176, 446.405 (2), 446.430 (2) and 455.170 (2) shall be deposited in the Manufactured Structures and Parks Education Account of the Consumer and Business Services Fund established under ORS 705.145.

(4)(a) From the amount appropriated biennially to the department from the account created under ORS 705.145 for the purpose of defraying the costs of training and other educational programs under subsection (1) of this section, the director shall transfer to the Tri-County Building Industry Service Center Account established under ORS 705.720 an amount not to exceed one-half of the biennial appropriation.

(b) The director shall deposit funds received under ORS 455.210 (6) in the Tri-County Building Industry Service Center Account established under ORS 705.720.

(5) The director shall administer training and other education programs under this chapter through contracts with local educational institutions, professional associations or other training providers.

SECTION 11. ORS 455.380 is amended to read:

455.380. (1) Notwithstanding the provisions of ORS 455.150 **and section 1 of this 2001 Act**, the Department of Consumer and Business Services is the final authority in interpretation, execution and enforcement of state and municipal administration of building codes and rules with respect to construction of seasonal farmworker housing as defined in ORS 197.675.

(2) The department shall provide for a statewide uniform application and method of calculating permit fees for seasonal farmworker housing as defined in ORS 197.675.

(3) The department shall adopt rules to carry out the provisions of subsections (1) and (2) of this section. [*Rules relating to subsection (2) of this section shall be adopted on or before December 31, 1989.*]

SECTION 12. ORS 455.447 is amended to read:

455.447. (1) As used in this section, unless the context requires otherwise:

(a) "Essential facility" means:

(A) Hospitals and other medical facilities having surgery and emergency treatment areas;

(B) Fire and police stations;

(C) Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;

(D) Emergency vehicle shelters and garages;

(E) Structures and equipment in emergency-preparedness centers;

(F) Standby power generating equipment for essential facilities; and
(G) Structures and equipment in government communication centers and other facilities required for emergency response.

(b) "Hazardous facility" means structures housing, supporting or containing sufficient quantities of toxic or explosive substances to be of danger to the safety of the public if released.

(c) "Major structure" means a building over six stories in height with an aggregate floor area of 60,000 square feet or more, every building over 10 stories in height and parking structures as determined by Department of Consumer and Business Services rule.

(d) "Seismic hazard" means a geologic condition that is a potential danger to life and property [which] **that** includes but is not limited to earthquake, landslide, liquefaction, tsunami inundation, fault displacement, and subsidence.

(e) "Special occupancy structure" means:

(A) Covered structures whose primary occupancy is public assembly with a capacity greater than 300 persons;

(B) Buildings with a capacity greater than 250 individuals for every public, private or parochial school through secondary level or child care centers;

(C) Buildings for colleges or adult education schools with a capacity greater than 500 persons;

(D) Medical facilities with 50 or more resident, incapacitated patients not included in subparagraphs (A) to (C) of this paragraph;

(E) Jails and detention facilities; and

(F) All structures and occupancies with a capacity greater than 5,000 persons.

(2) The Department of Consumer and Business Services shall consult with the Seismic Safety Policy Advisory Commission and the State Department of Geology and Mineral Industries prior to adopting rules. Thereafter, the Department of Consumer and Business Services may adopt rules as set forth in ORS 183.325 to 183.410 to amend the state building code to:

(a) Require new building sites for essential facilities, hazardous facilities, major structures and special occupancy structures to be evaluated on a site specific basis for vulnerability to seismic geologic hazards.

(b) Require a program for the installation of strong motions accelerographs in or near selected major buildings.

(c) Provide for the review of geologic and engineering reports for seismic design of new buildings of large size, high occupancy or critical use.

(d) Provide for filing of noninterpretive seismic data from site evaluation in a manner accessible to the public.

(3) For the purpose of defraying the cost of applying the regulations in subsection (2) of this section, there is hereby imposed a surcharge in the amount of one percent of the total fees collected under the structural and mechanical specialty codes for essential facilities, hazardous facilities, major structures and special occupancy structures, which fees shall be retained by the jurisdiction enforcing the particular specialty code as provided in ORS 455.150 **or enforcing a building inspection program under section 1 of this 2001 Act.**

(4) Developers of new essential facilities, hazardous facilities and major structures described in subsection (1)(a)(E), (b) and (c) of this section and new special occupancy structures described in subsection (1)(e)(A), (D) and (F) of this section that are located in an identified tsunami inundation zone shall consult with the State Department of Geology and Mineral Industries for assistance in determining the impact of possible tsunamis on the proposed development and for assistance in preparing methods to mitigate risk at the site of a potential tsunami. Consultation shall take place prior to submittal of design plans to the building official for final approval.

SECTION 13. ORS 455.467 is amended to read:

455.467. (1) Except as provided in subsection (2) of this section, for specialty code plan reviews of simple one and two family dwellings, the Department of Consumer and Business Services or a municipality that administers a building inspection program under ORS 455.150 **or section 1 of this 2001 Act** shall approve or disapprove the specialty code building plan:

(a) For a jurisdiction with a population that is less than 300,000, within 10 business days of receiving a complete application, or shall implement the process described in ORS 455.465.

(b) For a jurisdiction with a population that is 300,000 or more, within 15 business days of receiving a complete application, or shall implement the process described in ORS 455.465.

(2) The 10-day and 15-day requirements in subsection (1) of this section do not apply if:

(a) The plan requires approval by federal, state or local agencies outside the jurisdiction of the issuing agency;

(b) The plan is for a complex structure that requires additional review as determined by the department or municipality; or

(c) Based on conditions that exist in the affected municipality, the Director of the Department of Consumer and Business Services authorizes a different plan review schedule as described in a building inspection program submitted under ORS 455.150 **or section 1 of this 2001 Act**.

(3) For specialty code plan reviews of commercial structures, a municipality shall include in its building inspection program submitted under ORS 455.150 **or section 1 of this 2001 Act** a process for plan review services. The municipality shall include in its program detailed reasons supporting the proposed plan review process.

(4) A municipality that repeatedly fails to meet the plan review period described in this section or otherwise authorized in its building inspection program submitted under ORS 455.150 **or section 1 of this 2001 Act** shall be considered to be engaging in a pattern of conduct of failing to provide timely plan reviews under ORS 455.160.

SECTION 14. ORS 455.469 is amended to read:

455.469. A municipality shall add to and make a part of its building inspection program under ORS 455.150 **or section 1 of this 2001 Act** the policies and ordinances adopted by the municipality to implement ORS 455.465 and 455.467.

SECTION 15. ORS 455.475 is amended to read:

455.475. A person aggrieved by a decision made by a building official under authority established pursuant to ORS 455.150 or 455.467 **or section 1 of this 2001 Act** may appeal the decision. The following apply to an appeal under this section:

(1) An appeal under this section shall be made first to the appropriate specialty code chief inspector of the Department of Consumer and Business Services. The decision of the department chief inspector may be appealed to the appropriate advisory board. The decision of the advisory board may only be appealed to the Director of the Department of Consumer and Business Services if codes in addition to the applicable specialty code are at issue.

(2) If the appropriate advisory board determines that a decision by the department chief inspector is a major code interpretation, then the inspector shall distribute the decision in writing to all applicable specialty code public and private inspection authorities in the state. The decision shall be distributed within 60 days after the board's determination, and there shall be no charge for the distribution of the decision. As used in this subsection, a "major code interpretation" means a code interpretation decision that affects or may affect more than one job site or more than one inspection jurisdiction.

(3) If an appeal is made under this section, an inspection authority shall extend the plan review deadline by the number of days it takes for a final decision to be issued for the appeal.

SECTION 16. ORS 479.530 is amended to read:

479.530. As used in ORS 479.510 to 479.945, 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 board under ORS 479.730.

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

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

(4) "Competent inspection service" means an electrical inspection service of a city or county administered under ORS 455.150 **or section 1 of this 2001 Act** that employs electrical inspectors who are certified to meet standards under ORS 479.810.

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

(6) "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 house-keeping 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.

(10) "Electrical product" means any electrical equipment, appliance, material, device or apparatus to convey or be operated by electrical current.

(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.

(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.

(13) "Industrial electrical equipment" means electrical products used in industry or government that utilizes electric energy for mechanical, chemical, heating, lighting or similar purposes, that is designed to service or produce a product and that is used directly in the production of the service or product. "Industrial electrical equipment" does not include:

(a) Wiring to be connected to industrial electrical products.

(b) Any other electrical product that is not an original part of industrial electrical equipment.

(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.

(15) "License" means an annual 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, apprentice electrician or limited elevator journeyman as indicated thereon.

(16) "Minimum safety standards" means safety standards prescribed by the department under ORS 479.730.

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

(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.

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

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

(21) "Uncertified product" means any electrical product that is not an electrical product certified under ORS 479.760.

SECTION 17. ORS 479.760 is amended to read:

479.760. (1) [No] **An** electrical product [shall] **may not** be certified unless it meets minimum safety standards.

(2) Any person may apply to have the Department of Consumer and Business Services certify an electrical product. The department shall certify an electrical product if it is shown to meet minimum safety standards by one of the following methods:

(a) To have an electrical product certified, a person may submit a specimen, sample or prototype to the department within a reasonable time before the date on which certification will be required, together with a fee set by the department sufficient to defray the cost of shipment and evaluation. The department shall evaluate the electrical product to determine whether it meets minimum safety standards. Not later than six months after receipt of a specimen, prototype or sample the department shall complete the required evaluation and give a decision certifying or rejecting the product. The department may appoint a special deputy or enter into an appropriate contract with a testing laboratory approved by the Electrical and Elevator Board under this section for the evaluation required under this paragraph.

(b) To have an electrical product certified, a person may submit satisfactory proof to the department that a specimen, sample or prototype of the product requested to be certified has been inspected by a testing laboratory approved by the Electrical and Elevator Board under this section and the tests of the laboratory show that the electrical product is safe within minimum safety standards.

(3) A city or county that administers and enforces the electrical specialty code under ORS 455.150 **or section 1 of this 2001 Act** shall provide for field inspections of industrial electrical equipment identified by rule by the Director of the Department of Consumer and Business Services. Inspections shall be performed by an electrical specialty code inspector certified by the director, an evaluation firm approved by the director or an electrical specialty code inspector under contract to the state, city or county. Subject to ORS 479.845, a city or county that administers a program for field inspections under this subsection may recover the costs associated with the inspection and any inspection report.

(4) The director shall consider the following as positive indicators of a product's safety:

(a) Components listed by the Canadian Standards Association.
(b) Electrical raceways not used for grounding purposes when not subject to physical damage.
(c) Pilot duty devices such as push buttons, limit switches, relays or cord connectors that are used on control circuits supplied by:

(A) A Class 2 circuit;

(B) An isolating source such that the maximum open circuit voltage potential available to the circuit is not more than 30 volts AC or 42.5 volts DC; or

(C) An isolating source such that the power available to the circuit does not exceed 15 watts.

(d) Unlisted conductors provided the owner, lessee, vendor, manufacturer, installer or approved evaluation firm submits a satisfactory high voltage potential test of the conductor insulation.

(e) Fuses and fuse holders manufactured according to the National Electrical Manufacturers Association standard design and listed by an approved electrical testing laboratory.

(5) The Director of the Department of Consumer and Business Services with the approval of the board shall establish standards and procedures for the approval of testing laboratories to test electrical products in the certification process under this section. Those procedures shall provide for the approval of any testing laboratory that meets those standards established for conducting scientific safety tests of electrical products and equipment.

SECTION 18. ORS 479.845 is amended to read:

479.845. (1) A city or county administering and enforcing the electrical specialty code under provisions of ORS 455.150 [*shall*] **or section 1 of this 2001 Act may** not enact or enforce any ordinance or rule fixing any permit fee for electrical installations that is higher than is necessary to pay for the costs of the city or county in administering and enforcing the electrical specialty code.

(2) Any persons, within 30 days of city or county adoption of a fee increase, may appeal that increase to the Director of the Department of Consumer and Business Services. Within 60 days of the receipt of the appeal, the director shall, after notice to affected parties and hearing, review the city or county costs of administering and enforcing the electrical specialty code and approve the

increase if the director feels it is reasonable and necessary. If the director does not approve the increase upon appeal, the fee increase *[shall]* **is** not *[be]* effective.

(3) Fees collected by a city or county for the enforcement or administration of the electrical specialty code and rules under ORS 479.730 (1) shall be used only for the enforcement and administration of those laws.

SECTION 19. ORS 479.853 is amended to read:

479.853. If any person is aggrieved by a decision made upon inspection under authority of ORS 455.150 or 479.510 to 479.945 **or section 1 of this 2001 Act** of an electrical product or electrical inspection, the person may appeal the decision. The following apply to an appeal under this section:

(1) An appeal under this section shall be subject to ORS 183.310 to 183.550.

(2) An appeal under this section shall be made first to the chief electrical inspector of the Department of Consumer and Business Services. The decision of the department chief inspector may be appealed to the Electrical and Elevator Board. The decision of the Electrical and Elevator Board may only be appealed to the Director of the Department of Consumer and Business Services if codes in addition to the electrical code are at issue.

(3) If the Electrical and Elevator Board determines that a decision by the chief electrical inspector is a major code interpretation, then the inspector shall distribute the decision in writing to all public and private electrical inspection authorities in the state. The decision shall be distributed within 60 days after the board's determination, and there shall be no charge for the distribution of the decision. As used in this subsection, a "major code interpretation" means a code interpretation decision that affects or may affect more than one job site or more than one inspection jurisdiction.

(4) If an appeal is made under this section, an inspection authority shall extend the electrical plan review deadline by the number of days it takes for a final decision to be issued for the appeal.

(5) Unless the department determines that the electrical product or electrical installation presents an immediate fire or life safety hazard, a person may operate an electrical product or electrical installation that is the subject of an appeal under this section until the appeal process is complete. If the department determines that an immediate fire or life safety hazard exists and the product or installation may not be operated during appeal, the department shall provide the person with a written report detailing the problems found by the department. If a determination is made under this subsection that products described in ORS 479.540 (11) may not be operated during appeal, that determination may be appealed immediately under the procedure established in subsection (2) of this section without first completing any appeal procedure established by a city or county.

SECTION 20. ORS 479.855 is amended to read:

479.855. (1) In addition to the provisions of ORS 455.010 to 455.310 and 455.410 to 455.740, any inspection and enforcement program established by a city or county under ORS 455.150 **or section 1 of this 2001 Act** is subject to the provisions of this section. Where the provisions of this section conflict with provisions under ORS 455.010 to 455.310 and 455.410 to 455.740, the provisions of this section shall control.

(2)(a) Except as otherwise provided in this section, any city or county that wishes to establish a program under ORS 456.800 to enforce and administer ORS 479.510 to 479.945, including a program for inspection under a master permit pursuant to ORS 479.560 (3), must first make application to the Department of Consumer and Business Services. The program for inspection under a master permit shall be delegated separately from the general electrical program authorization. The department may authorize the city or county to administer and enforce the provisions of this section and ORS 479.540 and 479.560 if it finds that the city or county can comply with the minimum standards and meet the qualifications for inspections, permit applications and other matters to assure adequate administration and enforcement of electrical inspection programs. The department may authorize the city or county to administer and enforce ORS 479.510 to 479.945 if the department finds that the city or county:

(A) Can comply with minimum standards adopted by the Electrical and Elevator Board by rule for inspections, permit applications and other matters to assure adequate administration and enforcement of ORS 479.510 to 479.945.

(B) Can conduct the electrical plan review, if required by the city or county, in a timely manner and by qualified personnel who meet the standards adopted by rule by the board.

(b) The city or county must assume full responsibility allowed under ORS 455.010 to 455.310 and 455.410 to 455.740 for the enforcement, inspection and administration of the electrical safety laws under that specialty code and ORS 479.510 to 479.945. This subsection does not require a city or county to assume full responsibility for enforcement, inspection and administration of the electrical safety laws if the only enforcement performed by the city or county involves manufactured dwelling electrical utility connections.

(3) The department, subject to ORS 183.310 to 183.550, shall revoke any authority of a city or county to carry on inspections, enforcement or administration of electrical installations and electrical products under ORS 455.150 or section 1 of this 2001 Act if the department determines that the city or county fails to comply with standards adopted by the board or otherwise is not effectively carrying out duties assumed by the city or county under this section.

(4)(a) Except as provided in paragraph (b) of this subsection, a city or county [shall] may not contract with competing electrical contractors to provide permit inspection of electrical installations.

(b) A city or county may contract with competing electrical contractors to provide permit inspection of electrical installations on a temporary basis by a supervising electrician if:

(A) Emergency circumstances exist; and

(B) The city or county has requested that the department perform permit inspections and the department is unable to respond in a timely manner.

(c) Nothing in this subsection prohibits a city or county from contracting with another city or county to perform permit inspections of electrical installations by a supervising electrician.

(5) A city or county that performs electrical installation inspections shall perform license enforcement inspections as a part of routine installation inspections.

Passed by House May 17, 2001

Repassed by House June 8, 2001

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Chief Clerk of House

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Speaker of House

Passed by Senate June 6, 2001

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President of Senate

Received by Governor:

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Governor

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