

Senate Bill 906

Sponsored by Senator ATKINSON

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**.

Establishes Residential Structures Board. Changes composition of Building Codes Structures Board. Transfers Building Codes Structures Board functions relating to one and two family dwelling programs to Residential Structures Board. Replaces One and Two Family Dwelling Code with Low-Rise Residential Dwelling Code. Makes changes operative January 1, 2004.

Establishes Mechanical Board. Becomes operative July 1, 2004.

Transfers Tri-County Building Industry Service Board functions to Department of Consumer and Business Services. Makes transfer operative January 1, 2004.

Modifies investigative and enforcement procedures for municipal building inspection programs.

Requires certain building code professionals to wear visible identification when providing professional services. Provides exception for health or safety reasons.

Prohibits falsely advertising as or otherwise purporting to be licensed to make electrical installations or purporting to be acting as business making electrical installations.

Authorizes adoption of conflict of interest rules for electrical inspectors.

Limits electrical permit exception for person making installation on property of person or family member.

Creates new construction contractor license class for property owners who are developers. Adds informational requirement for contractor license applications by limited liability company. Makes new license class operative October 1, 2003.

Temporarily allows developer claims regarding unlicensed work.

Provides guidelines for payment to contractors and subcontractors on construction contracts. Establishes requirements for billing cycle, objections to billing and payment of bill. Provides exceptions. Establishes time by which contractor must make payment to subcontractors after receiving payment from owner. Prescribes interest penalty for unpaid amounts. Provides that construction contract may not be subject to law of another state. Exempts contracts for construction, alteration, repair, maintenance, moving or demolition of residential structure. Applies to contracts negotiated or advertised on or after January 1, 2004.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to building industry activities; creating new provisions; amending ORS 446.003, 446.423, 447.072, 447.076, 455.010, 455.030, 455.085, 455.100, 455.110, 455.132, 455.144, 455.153, 455.156, 455.220, 455.310, 455.420, 455.467, 455.525, 455.530, 455.610, 455.622, 455.625, 455.627, 455.630, 455.715, 455.800, 455.805, 455.815, 455.842, 455.844, 455.846, 469.700, 479.540, 479.560, 479.620, 479.905, 479.940, 701.005, 701.010, 701.065, 701.075, 701.085, 701.105, 701.115 and 705.145 and section 2, chapter 329, Oregon Laws 1999; repealing ORS 455.840 and 455.848 and section 8, chapter 1082, Oregon Laws 1999; and declaring an emergency.

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

BUILDING CODE AND SPECIALTY CODE ADMINISTRATION

SECTION 1. Section 2 of this 2003 Act is added to and made a part of ORS chapter 455.

SECTION 2. (1) There is established a Residential Structures Board consisting of nine members appointed by the Governor.

(2) The members of the board shall assist the Director of the Department of Consumer

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 and Business Services in administering the low-rise residential dwelling program described
2 in this chapter.

3 (3) The board must consist of:

4 (a) One contractor specializing in the construction of residential structures;

5 (b) One contractor specializing in the remodeling of residential structures;

6 (c) One contractor specializing in building multifamily housing three stories or less above
7 grade;

8 (d) One home designer or architect;

9 (e) One building official;

10 (f) One representative of residential building trade subcontractors;

11 (g) One structural engineer;

12 (h) One representative of a utility or energy supplier; and

13 (i) One public member who does not receive compensation from any interest represented
14 under paragraphs (a) to (h) of this subsection.

15 **SECTION 3.** Notwithstanding the term of office specified in ORS 455.144, of the members
16 first appointed to the Residential Structures Board:

17 (1) Two shall serve terms ending on July 1, 2004.

18 (2) Two shall serve terms ending on July 1, 2005.

19 (3) Two shall serve terms ending on July 1, 2006.

20 (4) Three shall serve terms ending on July 1, 2007.

21 **SECTION 4.** (1) There is established a Mechanical Board consisting of nine members ap-
22 pointed by the Governor.

23 (2) The members of the board shall assist the Director of the Department of Consumer
24 and Business Services in administering the code adopted pursuant to ORS 455.020 for me-
25 chanical devices and equipment.

26 (3) The board must consist of:

27 (a) One representative of the plumbing industry;

28 (b) One sheet metal and air conditioner contractor;

29 (c) One municipal mechanical inspector possessing the highest level of mechanical in-
30 spector certification issued by the Department of Consumer and Business Services;

31 (d) One heating, venting and air conditioning contractor;

32 (e) One heating, venting and air conditioning installer;

33 (f) One sheet metal and air conditioner installer;

34 (g) One representative of a natural gas company or other utility;

35 (h) One building official; and

36 (i) One public member who does not receive compensation from any interest represented
37 under paragraphs (a) to (h) of this subsection.

38 (4) At least one of the board members described in subsection (3)(b) or (d) of this section
39 must be an owner or operator of a contracting business employing 10 or fewer persons at the
40 time of the member's appointment to the term.

41 **SECTION 5.** Notwithstanding the term of office specified in ORS 455.144, of the members
42 first appointed to the Mechanical Board:

43 (1) Two shall serve terms ending on July 1, 2005.

44 (2) Two shall serve terms ending on July 1, 2006.

45 (3) Two shall serve terms ending on July 1, 2007.

1 **(4) Three shall serve terms ending on July 1, 2008.**

2 **SECTION 6.** ORS 446.003 is amended to read:

3 446.003. As used in ORS 446.003 to 446.200 and 446.225 to 446.285, and for the purposes of ORS
4 chapters 195, 196, 197, 215 and 227, the following definitions shall apply, unless the context requires
5 otherwise, or unless administration and enforcement by the State of Oregon under the existing or
6 revised National Manufactured Housing Construction and Safety Standards Act would be adversely
7 affected, and except as provided in ORS 446.265:

8 (1) “Accessory building or structure” means any portable, demountable or permanent structure
9 established for use of the occupant of the manufactured structure and as further defined by rule by
10 the Director of the Department of Consumer and Business Services.

11 (2)(a) “Alteration” means any change, addition, repair, conversion, replacement, modification or
12 removal of any equipment or installation [*which*] **that** may affect the operation, construction or oc-
13 cupancy of a manufactured structure.

14 (b) “Alteration” does not [*mean*] **include**:

15 (A) Minor repairs with approved component parts;

16 (B) Conversion of listed fuel-burning appliances in accordance with the terms of their listing;

17 (C) Adjustment and maintenance of equipment; or

18 (D) Replacement of equipment or accessories in kind.

19 (3) “Approved” means approved, licensed or certified by the Department of Consumer and
20 Business Services or its designee.

21 (4) “Awning” means any stationary structure, permanent or demountable, used in conjunction
22 with a manufactured structure, other than window awning, for the purpose of providing shelter from
23 the sun and rain, and having a roof with supports and not more than one wall or storage cabinet
24 substituting for a wall.

25 (5) “Board” means the Manufactured Structures and Parks Advisory Board.

26 (6) “Cabana” means a stationary, lightweight structure [*which*] **that** may be prefabricated, or
27 demountable, with two or more walls, used adjacent to and in conjunction with a manufactured
28 structure to provide additional living space.

29 (7) “Carport” means a stationary structure consisting of a roof with its supports and not more
30 than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

31 (8) “Certification” means an evaluation process by which the department verifies a manufactur-
32 er’s ability to produce manufactured structures to the department rules and to the department ap-
33 proved quality control manual.

34 (9) “Conversion” or “to convert” means the process of changing a manufactured structure in
35 whole or in part from one type of vehicle or structure to another.

36 (10) “Dealer” means any person engaged in selling or distributing manufactured structures or
37 equipment, or both, primarily to persons who in good faith purchase or lease manufactured struc-
38 tures or equipment, or both, for purposes other than resale.

39 (11) “Department” means the Department of Consumer and Business Services.

40 (12) “Director” means the Director of the Department of Consumer and Business Services.

41 (13) “Distributor” means any person engaged in selling and distributing manufactured structures
42 or equipment for resale.

43 (14) “Equipment” means materials, appliances, subassembly, devices, fixtures, fittings and
44 apparatuses used in the construction, plumbing, mechanical and electrical systems of a manufactured
45 structure.

1 (15) "Federal manufactured housing construction and safety standard" means a standard for
2 construction, design and performance of a manufactured dwelling promulgated by the Secretary of
3 Housing and Urban Development pursuant to the federal National Manufactured Housing Con-
4 struction and Safety Standards Act of 1974 (Public Law 93-383).

5 (16) "Fire inspector" means a deputy or assistant of the State Fire Marshal.

6 (17) "Fire Marshal" means the State Fire Marshal.

7 (18) "Imminent safety hazard" means an imminent and unreasonable risk of death or severe
8 personal injury.

9 (19) "Insignia of compliance" means:

10 (a) For a manufactured dwelling built to HUD standards for such dwellings, the HUD label; or

11 (b) For all other manufactured structures, the insignia issued by this state indicating compliance
12 with state law.

13 (20) "Inspecting authority" or "inspector" means the Director of the Department of Consumer
14 and Business Services or representatives as appointed or authorized to administer and enforce pro-
15 visions of ORS 446.111, 446.160, 446.176, 446.225 to 446.285, 446.310 to 446.350, 446.990 and this sec-
16 tion.

17 (21) "Installation" in relation to:

18 (a) "Construction" means the arrangements and methods of construction, fire and life safety,
19 electrical, plumbing and mechanical equipment and systems within a manufactured structure.

20 (b) "Siting" means the manufactured structure and cabana foundation support and tiedown, the
21 structural, fire and life safety, electrical, plumbing and mechanical equipment and material con-
22 nections and the installation of skirting and temporary steps.

23 (22) "Installer" means any individual licensed by the director to install, set up, connect, hook
24 up, block, tie down, secure, support, install temporary steps, install skirting for or make electrical,
25 plumbing or mechanical connections to manufactured dwellings or cabanas or who provides consul-
26 tation or supervision for any of these activities, except architects licensed under ORS 671.010 to
27 671.220 or engineers licensed under ORS 672.002 to 672.325.

28 (23) "Limited installer" means any individual with a limited license issued by the director who
29 is engaged in the occupation of installing, setting up, connecting, hooking up, supporting, blocking,
30 tying down, securing, installing temporary steps, installing skirting or making electrical, plumbing
31 or mechanical connections to manufactured dwellings or cabanas under the direct supervision of a
32 licensed installer.

33 (24) "Listed" means equipment or materials included in a list, published by an organization
34 concerned with product evaluation acceptable to the department that maintains periodic inspection
35 of production of listed equipment or materials, and whose listing states either that the equipment
36 or materials meets appropriate standards or has been tested and found suitable in a specified man-
37 ner.

38 (25) "Lot" means any space, area or tract of land, or portion of a manufactured dwelling park,
39 mobile home park or recreation park that is designated or used for occupancy by one manufactured
40 structure.

41 (26)(a) "Manufactured dwelling" means:

42 (A) Residential trailer, a structure constructed for movement on the public highways that has
43 sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used
44 for residential purposes and that was constructed before January 1, 1962.

45 (B) Mobile home, a structure constructed for movement on the public highways that has sleep-

1 ing, cooking and plumbing facilities, that is intended for human occupancy, that is being used for
2 residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met
3 the construction requirements of Oregon mobile home law in effect at the time of construction.

4 (C) Manufactured home:

5 (i) For any purpose other than that set forth in sub-subparagraph (ii) of this subparagraph,
6 “manufactured home” means a structure constructed for movement on the public highways that has
7 sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used
8 for residential purposes and that was constructed in accordance with federal manufactured housing
9 construction and safety standards and regulations in effect at the time of construction; or

10 (ii) For purposes of implementing any contract pertaining to manufactured homes between the
11 department and the federal government, “manufactured home” has the meaning given the term in
12 the contract.

13 (b) “Manufactured dwelling” does not [*mean*] **include** any building or structure constructed to
14 conform to the State of Oregon Structural Specialty Code or the [*One and Two Family*] **Low-Rise**
15 **Residential** Dwelling Code adopted pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630 or
16 any unit identified as a recreational vehicle by the manufacturer.

17 (27) “Manufactured dwelling park” means any place where four or more manufactured dwellings
18 are located within 500 feet of one another on a lot, tract or parcel of land under the same owner-
19 ship, the primary purpose of which is to rent or lease space or keep space for rent or lease to any
20 person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer
21 space free in connection with securing the trade or patronage of such person. “Manufactured
22 dwelling park” does not include a lot or lots located within a subdivision being rented or leased for
23 occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by
24 the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010
25 to 92.190.

26 (28)(a) “Manufactured structure” means a:

27 (A) “Recreational vehicle” as set forth in this section;

28 (B) “Manufactured dwelling” as set forth in this section; or

29 (C) “Recreational structure” as set forth in this section.

30 (b) “Manufactured structure” does not [*apply to*] **include** any building or structure regulated
31 under the State of Oregon Structural Specialty Code or the [*One and Two Family*] **Low-Rise Resi-**
32 **dential** Dwelling Code.

33 (29) “Manufacturer” means any person engaged in manufacturing, building, rebuilding, altering,
34 converting or assembling manufactured structures or equipment.

35 (30) “Manufacturing” means the building, rebuilding, altering or converting of manufactured
36 structures that bear or are required to bear an Oregon insignia of compliance.

37 (31) “Minimum safety standards” means the plumbing, mechanical, electrical, thermal, fire and
38 life safety, structural and transportation standards prescribed by rules adopted by the director.

39 (32) “Mobile home park” means any place where four or more manufactured structures are lo-
40 cated within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the
41 primary purpose of which is to rent space or keep space for rent to any person for a charge or fee
42 paid or to be paid for the rental or use of facilities or to offer space free in connection with securing
43 the trade or patronage of such person. “Mobile home park” does not include a lot or lots located
44 within a subdivision being rented or leased for occupancy by no more than one manufactured
45 dwelling per lot if the subdivision was approved by the municipality unit having jurisdiction under

1 an ordinance adopted pursuant to ORS 92.010 to 92.190.

2 (33) "Municipality" means a city, county or other unit of local government otherwise authorized
3 by law to enact codes.

4 (34) "Provider" means any person approved by the director to provide instruction for the pur-
5 pose of licensing manufactured dwellings and cabana installers or certifying manufactured dwelling
6 inspectors.

7 (35) "Ramada" means a stationary structure having a roof extending over a manufactured
8 structure, which may also extend over a patio or parking space for motor vehicles, and is used
9 principally for protection from snow, sun or rain.

10 (36) "Recreational structure" means a campground structure with or without plumbing, heating
11 or cooking facilities intended to be used by any particular occupant on a limited-time basis for rec-
12 reational, seasonal, emergency or transitional housing purposes and may include yurts, cabins, fabric
13 structures or similar structures as further defined, by rule, by the director.

14 (37) "Recreational vehicle" means a vehicle with or without motive power, which is designed for
15 human occupancy and to be used temporarily for recreational, seasonal or emergency purposes and
16 as further defined, by rule, by the director.

17 (38) "Sale" means rent, lease, sale or exchange.

18 (39) "Skirting" means a weather resistant material used to enclose the space below the manu-
19 factured structure.

20 (40) "Tiedown" means any device designed to anchor a manufactured structure securely to the
21 ground.

22 (41) "Transitional housing accommodations" means accommodations described under ORS
23 446.265.

24 (42) "Utilities" means the water, sewer, gas or electric services provided on a lot for a manu-
25 factured structure.

26 **SECTION 7.** ORS 446.423 is amended to read:

27 446.423. **Except as otherwise provided in ORS 455.220 (1)**, all moneys deposited to the Con-
28 sumer and Business Services Fund that are derived pursuant to ORS 446.003 to 446.200, 446.210,
29 446.225 to 446.285, 446.395 to 446.420 and 455.220 (1) are continuously appropriated to the Depart-
30 ment of Consumer and Business Services for carrying out any of the duties, functions and powers
31 of the department under ORS 446.003 to 446.200, 446.210, 446.225 to 446.285 and 446.395 to 446.420,
32 and rules adopted thereunder, without regard to the source of the moneys.

33 **SECTION 8.** ORS 447.072 is amended to read:

34 447.072. Notwithstanding ORS 455.610, the Department of Consumer and Business Services, with
35 the approval of the State Plumbing Board, shall adopt rules to create an exemption from permit and
36 inspection requirements for ordinary minor repairs in [*one and two family*] **low-rise residential**
37 dwellings and commercial structures when the board finds that the plumbing does not involve any
38 changes or alterations of the existing plumbing system. The exemption from the permit:

39 (1) [*Shall*] **May** not include new construction or replacement of water heaters or underground
40 plumbing; and

41 (2) Shall be available only to registered plumbing contractors or persons exempt from licensing
42 under ORS 693.020.

43 **SECTION 9.** ORS 447.076 is amended to read:

44 447.076. Notwithstanding ORS 455.610, the Department of Consumer and Business Services, with
45 the approval of the State Plumbing Board, shall adopt rules to create a mandatory inspection pro-

1 gram for minor plumbing installations made by registered plumbing contractors in [*one or two*
2 *family*] **low-rise residential** dwellings. The rules adopted by the department shall:

3 (1) Define the term “minor plumbing installations” [, *which shall*] **in a manner that does** not
4 include new construction;

5 (2) Designate which minor plumbing installations are under the inspection program; and

6 (3) Provide for random inspection of minor plumbing installations.

7 **SECTION 10.** ORS 455.010 is amended to read:

8 455.010. As used in this chapter, unless the context requires otherwise:

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

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

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

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

14 (D) The Manufactured Structures and Parks Advisory Board established under ORS 446.280;

15 [*or*]

16 (E) The Board of Boiler Rules established under ORS 480.535; **or**

17 **(F) The Residential Structures Board established under section 2 of this 2003 Act.**

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

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

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

22 (4) **“Low-Rise Residential Dwelling Code” means the adopted specialty code prescribing**
23 **standards for the construction of residential dwellings that are three stories or less above**
24 **grade and have an exterior door for each dwelling unit, but are not facilities or homes de-**
25 **scribed in ORS 443.400 or transient lodging.**

26 [(4)] (5) “Municipality” means a city, county or other unit of local government otherwise au-
27 thorized by law to administer a building code.

28 [(5) “*One and Two Family Dwelling Code*” means the adopted specialty code prescribing standards
29 for the construction of one and two family dwellings.]

30 (6) “Prefabricated structure” means a building or subassembly which has been in whole or sub-
31 stantial part manufactured or assembled using closed construction at an off-site location to be
32 wholly or partially assembled on-site; but does not include a manufactured structure.

33 (7) “Specialty code” means a code of regulations adopted under ORS 446.062, 446.185, 447.020 (2),
34 455.020 (2), 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545; but does not include regulations
35 adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.010 to 479.200 and
36 479.210 to 479.220.

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

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

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

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

45 (b) Any portion, of a building or structure that has been damaged by earthquake, or by fire or

1 explosion resulting from an earthquake, to the extent that the structural strength or stability of the
2 building is substantially less than it was prior to the earthquake.

3 **SECTION 11.** ORS 455.010, as amended by section 10 of this 2003 Act, is amended to read:

4 455.010. As used in this chapter, unless the context requires otherwise:

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

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

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

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

10 (D) The Manufactured Structures and Parks Advisory Board established under ORS 446.280;

11 (E) The Board of Boiler Rules established under ORS 480.535; [*or*]

12 (F) The Residential Structures Board established under section 2 of this 2003 Act[.]; **or**

13 **(G) The Mechanical Board established under section 4 of this 2003 Act.**

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

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

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

18 (4) “Low-Rise Residential Dwelling Code” means the adopted specialty code prescribing stan-
19 dards for the construction of residential dwellings that are three stories or less above grade and
20 have an exterior door for each dwelling unit, but are not facilities or homes described in ORS
21 443.400 or transient lodging.

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

24 (6) “Prefabricated structure” means a building or subassembly which has been in whole or sub-
25 stantial part manufactured or assembled using closed construction at an off-site location to be
26 wholly or partially assembled on-site; but does not include a manufactured structure.

27 (7) “Specialty code” means a code of regulations adopted under ORS 446.062, 446.185, 447.020 (2),
28 455.020 (2), 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545; but does not include regulations
29 adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.010 to 479.200 and
30 479.210 to 479.220.

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

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

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

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

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

42 **SECTION 12.** ORS 455.030 is amended to read:

43 455.030. (1) Except as otherwise provided by this section, the Director of the Department of
44 Consumer and Business Services shall be subject to ORS 183.310 to 183.550 in the adoption,
45 amendment or repeal of regulations authorized by, and in the issuance of orders in contested cases

1 arising under, this chapter.

2 (2)(a) In addition to the notice requirements of ORS 183.335, notice of a public hearing on
3 adoption, amendment or repeal of a specialty code shall be given to the governing bodies of all
4 municipalities and the notice shall state that copies of the proposed action may be obtained from
5 the Department of Consumer and Business Services.

6 (b) The notice of proposed rule change shall include a finding by the advisory board that the
7 added cost, if any, is necessary to the health and safety of the occupants or the public or necessary
8 to conserve scarce resources.

9 (c) The director shall maintain a roster of individuals who wish to be notified of any changes
10 to or interpretations of the [*One and Two Family*] **Low-Rise Residential** Dwelling Code. Sub-
11 scribers to the list may be charged a reasonable amount necessary to defray the cost of maintaining
12 the list and advising the subscribers of changes in the code.

13 (3) The director [*shall not be*] **is not** required to publish or distribute those parts of a specialty
14 code of regulations adopted by reference. However, the director shall publish with a specialty code
15 and annually thereafter a list of places where copies of those parts of the specialty code adopted
16 by reference may be obtained together with the approximate cost thereof. The director shall file one
17 copy of the rule with the Secretary of State. All standards referred to in any specialty code or any
18 of the modifications thereto need not be so filed. All standards and specialty codes referred to in the
19 specialty code shall be kept on file and available for inspection in the offices of the department.

20 (4) Any interested person may propose amendments to the state building code, which proposed
21 amendments may be either applicable to all municipalities or, where it is alleged and established
22 that conditions exist within a municipality or some municipalities that are not generally found
23 within other municipalities, amendments may be restricted in application to such municipalities.
24 Amendments proposed to the state building code under this subsection shall be in conformity with
25 the policy and purpose prescribed by ORS 455.020. The justification and the particular circumstances
26 requiring the proposed amendments shall be fully stated in the proposal. The director shall submit
27 all proposed amendments to the appropriate advisory board. The board shall review and report its
28 recommendations to the director on the amendments within 180 days after the date of submission
29 by the director.

30 (5) The director, with the approval of the advisory board, may adopt or modify and adopt any
31 amendments proposed to the director under subsection (4) of this section. The director shall, within
32 30 days after the date of receipt of the recommendations of the advisory board, notify the person
33 proposing the amendments of the adoption, modification and adoption or denial of the proposed
34 amendments. Upon adoption, a copy of each amendment shall be distributed to the governing bodies
35 of all municipalities affected thereby.

36 (6) The director shall from time to time make or cause to be made investigations, or may accept
37 authenticated reports from authoritative sources, concerning new materials or modes of construction
38 intended for use in the construction of buildings or structures, or intended for use in other activity
39 regulated by the state building code, and shall, where necessary, propose amendments to the code
40 setting forth the conditions under which the materials or modes may be used, in accordance with
41 the standards and procedures of this chapter.

42 **SECTION 13.** ORS 455.085 is amended to read:

43 455.085. (1) [*In addition to the requirements of ORS 455.110 (2),*] The Director of the Department
44 of Consumer and Business Services shall, upon receipt of adequate funds under subsection (2) of this
45 section, publish all state building code provisions relating to the design, construction, prefabrication,

1 equipment or appliance installation, quality of materials, use and occupancy location and repair of
 2 detached [*one or two family*] **low-rise residential** dwellings[, *not more than three stories in height,*]
 3 in two separate publications. One publication shall contain the applicable provisions of the specialty
 4 code adopted under ORS 479.730 (1) and the other publication shall contain the remaining applicable
 5 provisions of the state building code. The text of the publications made under this section shall be
 6 readable at the ninth grade level of reading, as determined by the director under one or more
 7 standard recognized readability formulas, including, but not limited to, the Flesch, Fry or Dale Chall
 8 tests.

9 (2) The publications under subsection (1) of this section shall be paid for by funds donated by
 10 interested citizens, who shall be made aware of the project by the Department of Consumer and
 11 Business Services through public service announcements and other nominal-cost advertising. Funds
 12 shall be collected until sufficient funds are available to conduct the publication. Refunds shall be
 13 made to the donors if sufficient funds are not collected.

14 **SECTION 14.** ORS 455.100 is amended to read:

15 455.100. The Director of the Department of Consumer and Business Services shall have general
 16 supervision over the administration of the state building code regulations, including **providing**
 17 **statewide interpretations for** the plumbing, elevator, electrical, manufactured structures, boiler,
 18 amusement ride, structural[;], mechanical, heating and ventilating[; *one and two family*], **low-rise**
 19 **residential** dwelling[;] and prefabricated structures codes.

20 **SECTION 15.** ORS 455.100, as amended by section 14 of this 2003 Act, is amended to read:

21 455.100. The Director of the Department of Consumer and Business Services shall have general
 22 supervision over the administration of the state building code regulations, including providing
 23 statewide interpretations for the plumbing, elevator, electrical, manufactured structures, boiler,
 24 amusement ride, structural, mechanical, [*heating and ventilating,*] low-rise residential dwelling and
 25 prefabricated structures codes.

26 **SECTION 16.** ORS 455.110 is amended to read:

27 455.110. Except as otherwise provided by ORS chapters 446, 447, 460, 476, ORS 479.010 to
 28 479.220, 479.510 to 479.945, 479.990 and 479.995 and ORS chapter 480:

29 (1) The Director of the Department of Consumer and Business Services shall coordinate, **inter-**
 30 **pret** and generally supervise the adoption, administration and enforcement of the state building
 31 code.

32 (2) The director with the approval of the appropriate advisory boards shall adopt [*and publish*
 33 *the specialty codes, including codes of*] **codes and standards, including** regulations as authorized
 34 by ORS 455.020 [*(2) providing standards for*] **governing** the construction, reconstruction, alteration
 35 and repair of buildings and other structures and the installation of mechanical devices and equip-
 36 ment therein[, *governing matters of materials, design and construction, fire protection in one-family*
 37 *and two-family dwellings, health, sanitation, safety and maximum energy conservation*]. **The regu-**
 38 **lations may include rules for the administration and enforcement of a certification system**
 39 **for persons performing work under the codes and standards adopted under this subsection.**
 40 **However, this subsection does not authorize the establishment of a separate certification for**
 41 **performing work on low-rise residential dwellings.**

42 (3) The director with the approval of the appropriate advisory boards may amend such codes
 43 from time to time. The codes of regulations and any amendment thereof shall conform in so far as
 44 practicable to model building codes generally accepted and in use throughout the United States. If
 45 there is no nationally recognized model code, consideration shall be given to the existing specialty

1 codes presently in use in this state. Such model codes with modifications considered necessary and
 2 specialty codes may be adopted by reference. The codes so promulgated and any amendments thereof
 3 shall be based on the application of scientific principles, approved tests and professional judgment
 4 and, to the extent that it is practical to do so, the codes shall be promulgated in terms of desired
 5 results instead of the means of achieving such results, avoiding wherever possible the incorporation
 6 of specifications of particular methods or materials. To that end the codes shall encourage the use
 7 of new methods, new materials and maximum energy conservation.

8 **SECTION 17.** ORS 455.132 is amended to read:

9 455.132. (1) There is established in the Department of Consumer and Business Services a Build-
 10 ing Codes Structures Board consisting of [15] **nine** members.

11 (2) The Building Codes Structures Board shall assist the Director of the Department of Con-
 12 sumer and Business Services in administering the structural, mechanical, one- and two-family
 13 dwellings, prefabricated structures and energy programs described in this chapter and the accessi-
 14 bility to persons with physical disabilities program described in ORS 447.210 to 447.280.

15 (3) The board shall consist of [*a representative selected from individuals recommended by the*
 16 *Oregon Disabilities Commission and*] members broadly representative of the industries and pro-
 17 fessions involved in the development and construction of buildings and energy conservation, includ-
 18 ing:

19 (a) An architect **or engineer**;

20 [(b) A homebuilder;]

21 [(c) An energy supplier;]

22 [(d) A representative of a recognized environmental group;]

23 [(e) A prefabricated structure builder;]

24 **(b) A general contractor, as defined in ORS 701.005, specializing in the construction of**
 25 **buildings more than three stories above grade;**

26 **(c) A contractor specializing in construction for heavy industry;**

27 **(d) A representative of the building trade;**

28 **(e) A representative of a utility or energy supplier;**

29 (f) A representative of a fire protection agency;

30 [(g) A remodeler;]

31 [(h) A low income housing representative;]

32 [(i) An engineer;]

33 [(j)] **(g)** A building official;

34 [(k) An owner or manager of more than two rental housing units;]

35 [(L)] **(h)** An owner or manager of a commercial office building; and

36 [(m)] **(i)** [*Two public members who do*] **A public member who does** not receive compensation
 37 from any interest described in paragraphs (a) to [(L)] **(h)** of this subsection.

38 **SECTION 18.** ORS 455.132, as amended by section 17 of this 2003 Act, is amended to read:

39 455.132. (1) There is established in the Department of Consumer and Business Services a Build-
 40 ing Codes Structures Board consisting of nine members.

41 (2) The Building Codes Structures Board shall assist the Director of the Department of Con-
 42 sumer and Business Services in administering the structural, mechanical, [*one- and two-family*
 43 *dwellings,*] prefabricated structures and energy programs described in this chapter and the accessi-
 44 bility to persons with physical disabilities program described in ORS 447.210 to 447.280.

45 (3) The board shall consist of members broadly representative of the industries and professions

1 involved in the development and construction of buildings and energy conservation, including:

2 (a) An architect or engineer;

3 (b) A general contractor, as defined in ORS 701.005, specializing in the construction of buildings
4 more than three stories above grade;

5 (c) A contractor specializing in construction for heavy industry;

6 (d) A representative of the building trade;

7 (e) A representative of a utility or energy supplier;

8 (f) A representative of a fire protection agency;

9 (g) A building official;

10 (h) An owner or manager of a commercial office building; and

11 (i) A public member who does not receive compensation from any interest described in para-
12 graphs (a) to (h) of this subsection.

13 **SECTION 19.** ORS 455.132, as amended by sections 17 and 18 of this 2003 Act, is amended to
14 read:

15 455.132. (1) There is established in the Department of Consumer and Business Services a Build-
16 ing Codes Structures Board consisting of nine members.

17 (2) The Building Codes Structures Board shall assist the Director of the Department of Con-
18 sumer and Business Services in administering the structural, [*mechanical*,] prefabricated structures
19 and energy programs described in this chapter and the accessibility to persons with physical disa-
20 bilities program described in ORS 447.210 to 447.280.

21 (3) The board shall consist of members broadly representative of the industries and professions
22 involved in the development and construction of buildings and energy conservation, including:

23 (a) An architect or engineer;

24 (b) A general contractor, as defined in ORS 701.005, specializing in the construction of buildings
25 more than three stories above grade;

26 (c) A contractor specializing in construction for heavy industry;

27 (d) A representative of the building trade;

28 (e) A representative of a utility or energy supplier;

29 (f) A representative of a fire protection agency;

30 (g) A building official;

31 (h) An owner or manager of a commercial office building; and

32 (i) A public member who does not receive compensation from any interest described in para-
33 graphs (a) to (h) of this subsection.

34 **SECTION 20.** ORS 455.144 is amended to read:

35 455.144. (1) The [*boards described in ORS 455.132 and 455.138*] **Building Codes Structures**
36 **Board, the Electrical and Elevator Board and the Residential Structures Board** shall each be
37 organized and governed as described in this section.

38 (2)(a) The term of office of each member is four years and no member shall be eligible for ap-
39 pointment to more than two full terms of office. The Governor shall appoint the members of each
40 board and the board members shall serve at the pleasure of the Governor.

41 (b) Before the expiration of the term of a member, the Governor shall appoint a successor whose
42 term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy
43 for any cause, the Governor shall make an appointment to become immediately effective for the
44 unexpired term.

45 (3) A member of each board is entitled to compensation and expenses as provided in ORS

1 292.495.

2 (4) A board shall select one of its members as chairperson and another as vice chairperson, for
 3 such terms and with duties and powers necessary for the performance of the functions of such office
 4 as the board determines.

5 (5) A majority of the members of a board constitutes a quorum for the transaction of business.

6 (6) Each board shall meet [*at least*] once every three months at a place, day and hour determined
 7 by the board. A board shall also meet at other times and places specified by the call of [*its chair-*
 8 *person or of a majority of the members of the board*] **the Director of the Department of Consumer**
 9 **and Business Services.**

10 (7) In accordance with applicable provisions of ORS 183.310 to 183.550, the director [*of the De-*
 11 *partment of Consumer and Business Services*] may adopt rules necessary for the administration of the
 12 laws that the Department **of Consumer and Business Services** is charged with administering.

13 (8) The Governor may remove a board member for good cause. “Good cause” for removal of a
 14 member includes, but is not limited to, three unexcused absences during any 12-month period from
 15 a regularly scheduled board meeting.

16 (9) The appointment of a member of a board is subject to confirmation by the Senate pursuant
 17 to section 4, Article III of the Oregon Constitution.

18 **SECTION 21.** ORS 455.144, as amended by section 20 of this 2003 Act, is amended to read:

19 455.144. (1) The Building Codes Structures Board, the Electrical and Elevator Board, [*and*] the
 20 Residential Structures Board **and the Mechanical Board** shall each be organized and governed as
 21 described in this section.

22 (2)(a) The term of office of each member is four years and no member shall be eligible for ap-
 23 pointment to more than two full terms of office. The Governor shall appoint the members of each
 24 board and the board members shall serve at the pleasure of the Governor.

25 (b) Before the expiration of the term of a member, the Governor shall appoint a successor whose
 26 term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy
 27 for any cause, the Governor shall make an appointment to become immediately effective for the
 28 unexpired term.

29 (3) A member of each board is entitled to compensation and expenses as provided in ORS
 30 292.495.

31 (4) A board shall select one of its members as chairperson and another as vice chairperson, for
 32 such terms and with duties and powers necessary for the performance of the functions of such office
 33 as the board determines.

34 (5) A majority of the members of a board constitutes a quorum for the transaction of business.

35 (6) Each board shall meet once every three months at a place, day and hour determined by the
 36 board. A board shall also meet at other times and places specified by the call of the Director of the
 37 Department of Consumer and Business Services.

38 (7) In accordance with applicable provisions of ORS 183.310 to 183.550, the director may adopt
 39 rules necessary for the administration of the laws that the Department of Consumer and Business
 40 Services is charged with administering.

41 (8) The Governor may remove a board member for good cause. “Good cause” for removal of a
 42 member includes, but is not limited to, three unexcused absences during any 12-month period from
 43 a regularly scheduled board meeting.

44 (9) The appointment of a member of a board is subject to confirmation by the Senate pursuant
 45 to section 4, Article III of the Oregon Constitution.

1 **SECTION 22.** ORS 455.153 is amended to read:

2 455.153. (1) A municipality may administer any specialty code or building requirements as
3 though the code or requirements were ordinances of the municipality if the municipality is author-
4 ized to administer:

5 (a) The specialty code under ORS chapter 447 or 455 or ORS 479.510 to 479.945 and 479.995.

6 (b) Mobile or manufactured dwelling parks requirements adopted under ORS 446.062.

7 (c) Temporary parks requirements adopted under ORS 446.105.

8 (d) Manufactured dwelling installation, support and tiedown requirements adopted under ORS
9 446.230.

10 (e) Park or camp requirements adopted under ORS 455.680.

11 (2) Administration of any specialty code or building requirement includes establishing a program
12 intended to verify compliance with state licensing requirements and all other administrative and
13 judicial aspects of enforcement of the code or requirement. Nothing in this section affects the con-
14 current jurisdiction of the Director of the Department of Consumer and Business Services, the
15 Building Codes Structures Board, the State Plumbing Board, the Manufactured Structures and Parks
16 Advisory Board, [or] the Electrical and Elevator Board **or the Residential Structures Board** to
17 impose civil penalties for violations committed within municipalities.

18 **SECTION 23.** ORS 455.153, as amended by section 22 of this 2003 Act, is amended to read:

19 455.153. (1) A municipality may administer any specialty code or building requirements as
20 though the code or requirements were ordinances of the municipality if the municipality is author-
21 ized to administer:

22 (a) The specialty code under ORS chapter 447 or 455 or ORS 479.510 to 479.945 and 479.995.

23 (b) Mobile or manufactured dwelling parks requirements adopted under ORS 446.062.

24 (c) Temporary parks requirements adopted under ORS 446.105.

25 (d) Manufactured dwelling installation, support and tiedown requirements adopted under ORS
26 446.230.

27 (e) Park or camp requirements adopted under ORS 455.680.

28 (2) Administration of any specialty code or building requirement includes establishing a program
29 intended to verify compliance with state licensing requirements and all other administrative and
30 judicial aspects of enforcement of the code or requirement. Nothing in this section affects the con-
31 current jurisdiction of the Director of the Department of Consumer and Business Services, the
32 Building Codes Structures Board, the State Plumbing Board, the Manufactured Structures and Parks
33 Advisory Board, the Electrical and Elevator Board, [or] the Residential Structures Board **or the**
34 **Mechanical Board** to impose civil penalties for violations committed within municipalities.

35 **SECTION 24.** ORS 455.156 is amended to read:

36 455.156. (1) Notwithstanding any other provision of this chapter, ORS chapter 693 or ORS
37 447.010 to 447.156, 447.992, 479.510 to 479.945, 479.990 or 479.995, the Department of Consumer and
38 Business Services shall carry out the provisions of this section.

39 (2)(a) A municipality that establishes a building inspection program under ORS 455.148 or a
40 plumbing inspection program under ORS 455.150 covering installations under the plumbing specialty
41 code or [One and Two Family] **Low-Rise Residential** Dwelling Code may act on behalf of the State
42 Plumbing Board to investigate violations of and enforce ORS 447.030, 447.040, 693.030 and 693.040
43 and to issue notices of proposed assessment of civil penalties for those violations.

44 (b) A municipality that establishes a building inspection program under ORS 455.148 or an
45 electrical inspection program under ORS 455.150 covering installations under the electrical specialty

1 code or [*One and Two Family*] **Low-Rise Residential** Dwelling Code may act on behalf of the
 2 Electrical and Elevator Board to investigate violations of and enforce ORS 479.550 (1) and 479.620
 3 and to issue notices of proposed assessment of civil penalties for those violations.

4 (c) **A municipality that establishes a building inspection program under ORS 455.148 or**
 5 **455.150 may investigate violations and enforce any provisions of the program administered**
 6 **by the municipality.**

7 (3) The department shall establish:

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

11 (b) A program to provide that all of the moneys recovered by the department, less collection
 12 expenses, be paid to the municipality that initiated the charges when a person charged with a vio-
 13 lation as provided in subsection (2) of this section, **other than a violation of a licensing re-**
 14 **quirement**, agrees to the entry of an assessment of civil penalty or does not [*ask for*] **request a**
 15 hearing, and an order assessing a penalty is entered against the person;

16 (c) **A uniform citation process to be used in all jurisdictions of the state. The process**
 17 **may include but need not be limited to all program areas administered by a municipality**
 18 **under ORS 455.148 or 455.150 and may provide a uniform method for checking license status**
 19 **and issuing citations, and a consistent basis for enforcement, including fine amounts;**

20 [(c)] (d) A program to provide a division of the moneys recovered by the department with the
 21 municipality that initiated the charges, when a person charged with a violation as provided in sub-
 22 section (2) of this section, **other than a violation of a licensing requirement**, requests a hearing
 23 and is assessed a penalty. One-half of the amounts recovered shall be paid to the municipality. The
 24 department shall keep an amount equal to its costs of processing the proceeding and collection ex-
 25 penses out of the remaining one-half and remit the balance, if any, to the municipality; and

26 [(d)] (e) A program to require municipalities to investigate violations of the department's permit
 27 requirements for plumbing installations and services under the plumbing specialty code and for
 28 plumbing and electrical installations and services under the [*One and Two Family*] **Low-Rise Res-**
 29 **idential** Dwelling Code, and to:

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

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

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

36 (5)(a) It shall be a defense for any person charged with a penalty for violation of a building in-
 37 spection program permit requirement covering plumbing installations under the plumbing specialty
 38 code, electrical permit requirements under ORS 479.550 or plumbing or electrical requirements un-
 39 der the [*One and Two Family*] **Low-Rise Residential** Dwelling Code that the person was previously
 40 penalized for the same occurrence.

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

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

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

3 (ii) A civil penalty pursuant to ORS 479.995 for violation of ORS 479.550 for failure to obtain
4 an electrical permit;

5 (iii) A civil penalty pursuant to ORS 455.895 for failure to obtain an electrical permit under the
6 [*One and Two Family*] **Low-Rise Residential** Dwelling Code; or

7 (iv) A municipal penalty, other than an investigative fee, for making an electrical installation
8 under the electrical specialty code or the [*One and Two Family*] **Low-Rise Residential** Dwelling
9 Code without a permit; or

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

12 (ii) A civil penalty pursuant to ORS 447.992 for failure to obtain a plumbing permit as required
13 under the plumbing specialty code;

14 (iii) A civil penalty pursuant to ORS 455.895 for failure to obtain a plumbing permit under the
15 [*One and Two Family*] **Low-Rise Residential** Dwelling Code; or

16 (iv) A municipal penalty, other than an investigative fee, for making a plumbing installation
17 under the plumbing specialty code or the [*One and Two Family*] **Low-Rise Residential** Dwelling
18 Code without a permit.

19 **SECTION 25.** ORS 455.220 is amended to read:

20 455.220. (1) [*For the purpose of defraying the costs of training and other educational programs*
21 *administered by the Department of Consumer and Business Services under this chapter*] There is
22 hereby imposed a surcharge in the amount of one percent of the total building permit fees and
23 hourly charges collected when an applicant chooses to pay an hourly rate instead of purchasing a
24 permit in connection with the construction of, or addition or alteration to, buildings and equipment
25 or appurtenances. **Up to one-half of the surcharge collected under this subsection may be used**
26 **to fund the activities of the Tri-County Building Industry Service Center. The remainder of**
27 **the surcharge collected under this subsection shall be used for the purpose of defraying the**
28 **costs of training and other educational programs administered by the Department of Con-**
29 **sumer and Business Services under this chapter.**

30 (2) Permit surcharges shall be collected by each municipality and remitted to the Director of the
31 Department of Consumer and Business Services. Each municipality having a population greater than
32 40,000 shall, on a monthly basis, prepare and submit to the director a report of permits and certif-
33 icates issued in each class or category and fees and surcharges thereon collected during the month,
34 together with other statistical information as required by the director concerning construction ac-
35 tivity regulated by the parts of the state building code administered by the municipality. All other
36 municipalities shall submit such a report on a quarterly basis. The report shall be in a form pre-
37 scribed by the director and shall be submitted, together with a remittance covering the surcharges
38 collected, by no later than the 15th day following the month or quarter in which the surcharges are
39 collected.

40 (3)(a) Except as provided in subsection (4) of this section, all surcharges and other fees pre-
41 scribed by ORS 455.010 to 455.240 and 455.410 to 455.740 and payable to the department, except fees
42 received under ORS 455.148 (6) or 455.150 (6), shall be deposited by the director in the Consumer
43 and Business Services Fund created by ORS 705.145.

44 (b) Notwithstanding subsection [(4)(a)] (1) of this section, the [*training*] surcharge imposed under
45 subsection (1) of this section for permits established under ORS 446.062 (3), 446.176, 446.405 (2),

1 446.430 (2) and 455.170 (2) shall be deposited in the Consumer and Business Services Fund estab-
 2 lished under ORS 705.145 and is continuously appropriated to the department for use as provided in
 3 ORS 446.423.

4 [(4)(a) *From the amount appropriated biennially to the department for the purpose of defraying the*
 5 *costs of training and other educational programs under subsection (1) of this section, the director shall*
 6 *transfer to the Tri-County Building Industry Service Center Account established under ORS 455.848*
 7 *an amount not to exceed one-half of the biennial appropriation.*]

8 [(b)] (4) The director shall [*deposit*] **use** funds received under ORS 455.210 (6) [*in*] **to fund the**
 9 **activities of** the Tri-County Building Industry Service Center [*Account established under ORS*
 10 *455.848*].

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

14 **SECTION 26.** ORS 455.310 is amended to read:

15 455.310. (1) It is not the purpose of this chapter to require that permits be obtained or fees be
 16 paid for repairs and maintenance [*which*] **that** do not violate the intent of the structural and fire
 17 and life safety specialty provisions of the State of Oregon Structural Specialty Code and the [*One*
 18 *and Two Family*] **Low-Rise Residential** Dwelling Code, adopted pursuant to ORS 455.020 and
 19 455.610, ORS chapter 476, ORS 479.010 to 479.200 and 479.210 to 479.220, when such repair or
 20 maintenance is done on a single-family residence, or a private garage, carport or storage shed that
 21 is accessory to a single-family residence.

22 (2) Items designated by the Director of the Department of Consumer and Business Services, with
 23 the advice of the [*Building Codes*] **Residential** Structures Board, shall be exempt from permits and
 24 fees required under this chapter. The director shall, pursuant to ORS 183.310 to 183.550, develop and
 25 maintain an applicable list of such exempt items, which shall include, but not be limited to, concrete
 26 slabs, driveways, sidewalks, masonry repair, porches, patio covers, painting, interior wall, floor or
 27 ceiling covering, nonbearing partitions, shelving, cabinet work, gutters, downspouts, small accessory
 28 buildings, door and window replacements, replacement or repair of siding and replacement or repair
 29 of roofing. In making the list of exempt items, the director shall further define the items on the list
 30 contained in this subsection so that no item which adversely affects the structural integrity of the
 31 dwelling shall be on the list.

32 **SECTION 27.** ORS 455.420 is amended to read:

33 455.420. (1) Each individual dwelling unit in a multifamily residential building constructed after
 34 October 4, 1977, shall have installed a separate, individual electrical meter for each such dwelling
 35 unit except where a building inspector certified under ORS 455.715 to 455.740 determines that pur-
 36 suant to standards adopted by the Director of the Department of Consumer and Business Services
 37 the installation of a single, central electrical meter for all the dwelling units in such building would
 38 facilitate an overall reduction in electrical consumption by such units.

39 (2) For the purpose of carrying out the provisions of subsection (1) of this section, the director,
 40 based on recommendations of the [*Building Codes*] **Residential** Structures Board, shall adopt by rule
 41 standards for determining whether the installation of a single electrical meter for all dwelling units
 42 in a multifamily residential building facilitates an overall reduction in electrical consumption by
 43 such units.

44 **SECTION 28.** ORS 455.467 is amended to read:

45 455.467. (1) Except as provided in subsection (2) of this section, for specialty code plan reviews

1 of simple [*one and two family*] **low-rise residential** dwellings, the Department of Consumer and
 2 Business Services or a municipality that administers a building inspection program under ORS
 3 455.148 or 455.150 shall approve or disapprove the specialty code building plan:

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

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

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

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

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

13 (c) Based on conditions that exist in the affected municipality, the Director of the Department
 14 of Consumer and Business Services authorizes a different plan review schedule as described in a
 15 building inspection program submitted under ORS 455.148 or 455.150.

16 (3) For specialty code plan reviews of commercial structures, a municipality shall include in its
 17 building inspection program submitted under ORS 455.148 or 455.150 a process for plan review ser-
 18 vices. The municipality shall include in its program detailed reasons supporting the proposed plan
 19 review process. The plan review services provided by the municipality shall:

20 (a) Allow an applicant to defer the submittal of plans for one or more construction phases for
 21 a commercial construction project in accordance with the state building code; and

22 (b) Allow an applicant to receive permits for each of the phases of a commercial construction
 23 project as described in the state building code when the plan review for that phase is approved.

24 (4) For a phased commercial construction project as described in subsection (3) of this section,
 25 the municipality shall inform the applicant of the detailed plans necessary for each phase of the
 26 project and the estimated time for initial and phased review of the building plans for conformance
 27 with the state building code.

28 (5) An applicant submitting plans under subsection (3) of this section is responsible for ensuring
 29 that the project meets all specialty code requirements and that the project does not proceed beyond
 30 the level of approval authorized by the building official.

31 (6) A municipality that repeatedly fails to meet the plan review period described in this section
 32 or otherwise authorized in its building inspection program submitted under ORS 455.148 or 455.150
 33 shall be considered to be engaging in a pattern of conduct of failing to provide timely plan reviews
 34 under ORS 455.160.

35 **SECTION 29.** ORS 455.525 is amended to read:

36 455.525. (1) In the manner provided in ORS 183.310 to 183.550 for the adoption of rules and after
 37 consideration of available technology and costs, the Building Codes Structures Board **and the**
 38 **Residential Structures Board** shall establish basic and uniform performance standards to provide
 39 maximum energy conservation and use of passive solar energy in the design, construction, recon-
 40 struction, alteration and repair of buildings and other structures. Such standards shall be submitted
 41 to the Director of the Department of Consumer and Business Services for proposed inclusion in the
 42 state building code as provided by ORS 455.030 (4).

43 (2) Any testing requirements adopted under subsection (1) of this section do not apply to
 44 fenestration products that are for use within residential structures if the fenestration products are:

45 (a) Used in the creation of sunrooms and solariums and constructed with a minimum of a one-

1 half inch space between the panes; or

2 (b) Fenestration products used as skylights that constitute no more than 10 percent of the total
3 glazing used in any dwelling unit.

4 (3) The **Residential Structures** Board and the director shall jointly adopt by rule default
5 thermal performance values for residential fenestration products that are produced in low volume.
6 Any testing requirements adopted under subsection (1) of this section or ORS 455.020 or 455.030 do
7 not apply to residential fenestration products that are produced in low volume.

8 (4) Fenestration products manufactured for use as skylights that are subject to the provisions
9 of subsection (1) of this section and have frames that are wood, thermal break aluminum or alumi-
10 num with vinyl shall be deemed to meet any performance standards included in the state building
11 code when the following glazing configurations are used:

12 (a) A minimum one-half inch space between the panes and low-e (emissivity) glass; or

13 (b) Triple-layered acrylic.

14 (5) Regulations relating to the use and conservation of energy adopted pursuant to ORS 455.020
15 (2) shall be reviewed by the **Building Codes Structures Board and the Residential Structures**
16 Board.

17 **SECTION 30.** ORS 455.530 is amended to read:

18 455.530. The Building Codes Structures Board **and the Residential Structures Board** may:

19 (1) Apply for and receive moneys from any person, from the federal government, [or] from this
20 state or **from** any [of its agencies or departments] **state agency or department**.

21 (2) Contract with any public agency for the performance of services or the exchange of em-
22 ployees or services by one to the other necessary in carrying out the purposes of ORS 455.525 and
23 455.530.

24 **SECTION 31.** ORS 455.610 is amended to read:

25 455.610. (1) The Director of the Department of Consumer and Business Services shall adopt, and
26 amend as necessary, a [*One and Two Family Dwelling Code based upon nationally recognized codes*
27 *as adopted in Oregon.*] **Low-Rise Residential Dwelling Code that contains all requirements, in-**
28 **cluding structural design provisions, related to the construction of residential dwellings**
29 **three stories or less above grade. The code provisions for plumbing and electrical require-**
30 **ments must be compatible with other specialty codes adopted by the director. The Electrical**
31 **and Elevator Board, the Building Codes Structures Board and the State Plumbing Board shall**
32 **review, respectively, amendments to the electrical, mechanical or plumbing provisions of the**
33 **code.**

34 (2) Changes or amendments to the code adopted under subsection (1) of this section may be made
35 when:

36 (a) Required by geographic or climatic conditions unique to Oregon;

37 (b) Necessary to be compatible with other statutory provisions;

38 (c) Changes to the national codes are adopted in Oregon; or

39 (d) Necessary to authorize the use of building materials and techniques that are consistent with
40 nationally recognized standards and building practices.

41 [(3) *The energy conservation provisions adopted in the One and Two Family Dwelling Code shall*
42 *also be adopted in the State of Oregon Structural Specialty Code.*]

43 [(4)] (3) The water conservation provisions for toilets, urinals, shower heads and interior faucets
44 adopted in the [*One and Two Family*] **Low-Rise Residential** Dwelling Code shall be the same as
45 those adopted under ORS 447.020 to meet the requirements of ORS 447.145.

1 [(5)] (4) The **Low-Rise Residential Dwelling** Code shall be adopted and amended as provided
2 by ORS 455.030 and 455.110.

3 [(6) *The Building Codes Structures Board is the only appropriate board to advise the director on
4 the adoption of or amendments to the One and Two Family Dwelling Code adopted under this section.
5 Amendments shall be reviewed by the other appropriate specialty boards.*]

6 [(7) *Amendments to the One and Two Family Dwelling Code shall be included in the other ap-
7 propriate specialty codes.*]

8 [(8)] (5) The director, by rule, shall establish uniform standards for a municipality to allow an
9 alternate method of construction to the requirements for [*structures*] **one and two family dwellings**
10 built to the [*One and Two Family*] **Low-Rise Residential** Dwelling Code in areas where the local
11 jurisdiction determines that the fire apparatus means of approach to a property or water supply
12 serving a property does not meet applicable fire code or state building code requirements. The al-
13 ternate method of construction, which may include but is not limited to the installation of automatic
14 fire sprinkler systems, must be approved in conjunction with the approval of an application under
15 ORS 197.522.

16 [(9)] (6) For lots of record existing before July 2, 2001, or property that receives any approval
17 for partition, subdivision or construction under ORS 197.522 before July 2, 2001, a municipality al-
18 lowing an alternate method of construction to the requirements for [*structures*] **one and two family**
19 **dwellings** built to the [*One and Two Family*] **Low-Rise Residential** Dwelling Code may apply the
20 uniform standards established by the director pursuant to subsection [(8)] (5) of this section. For
21 property that receives all approvals for partition, subdivision or construction under ORS 197.522 on
22 or after July 2, 2001, a municipality allowing an alternate method of construction to the require-
23 ments for [*structures*] **one and two family dwellings** built to the [*One and Two Family*] **Low-Rise**
24 **Residential** Dwelling Code must apply the uniform standards established by the director pursuant
25 to subsection [(8)] (5) of this section.

26 **SECTION 32.** ORS 455.610, as amended by section 31 of this 2003 Act, is amended to read:

27 455.610. (1) The Director of the Department of Consumer and Business Services shall adopt, and
28 amend as necessary, a Low-Rise Residential Dwelling Code that contains all requirements, including
29 structural design provisions, related to the construction of residential dwellings three stories or less
30 above grade. The code provisions for plumbing and electrical requirements must be compatible with
31 other specialty codes adopted by the director. The Electrical and Elevator Board, the [*Building*
32 *Codes Structures*] **Mechanical** Board and the State Plumbing Board shall review, respectively,
33 amendments to the electrical, mechanical or plumbing provisions of the code.

34 (2) Changes or amendments to the code adopted under subsection (1) of this section may be made
35 when:

36 (a) Required by geographic or climatic conditions unique to Oregon;

37 (b) Necessary to be compatible with other statutory provisions;

38 (c) Changes to the national codes are adopted in Oregon; or

39 (d) Necessary to authorize the use of building materials and techniques that are consistent with
40 nationally recognized standards and building practices.

41 (3) The water conservation provisions for toilets, urinals, shower heads and interior faucets
42 adopted in the Low-Rise Residential Dwelling Code shall be the same as those adopted under ORS
43 447.020 to meet the requirements of ORS 447.145.

44 (4) The Low-Rise Residential Dwelling Code shall be adopted and amended as provided by ORS
45 455.030 and 455.110.

1 (5) The director, by rule, shall establish uniform standards for a municipality to allow an alter-
 2 nate method of construction to the requirements for one and two family dwellings built to the
 3 Low-Rise Residential Dwelling Code in areas where the local jurisdiction determines that the fire
 4 apparatus means of approach to a property or water supply serving a property does not meet ap-
 5 plicable fire code or state building code requirements. The alternate method of construction, which
 6 may include but is not limited to the installation of automatic fire sprinkler systems, must be ap-
 7 proved in conjunction with the approval of an application under ORS 197.522.

8 (6) For lots of record existing before July 2, 2001, or property that receives any approval for
 9 partition, subdivision or construction under ORS 197.522 before July 2, 2001, a municipality allowing
 10 an alternate method of construction to the requirements for one and two family dwellings built to
 11 the Low-Rise Residential Dwelling Code may apply the uniform standards established by the director
 12 pursuant to subsection (5) of this section. For property that receives all approvals for partition,
 13 subdivision or construction under ORS 197.522 on or after July 2, 2001, a municipality allowing an
 14 alternate method of construction to the requirements for one and two family dwellings built to the
 15 Low-Rise Residential Dwelling Code must apply the uniform standards established by the director
 16 pursuant to subsection (5) of this section.

17 **SECTION 33.** ORS 455.622 is amended to read:

18 455.622. Notwithstanding ORS 447.020, 455.715 to 455.740, 479.810 (3) or 479.855, the Department
 19 of Consumer and Business Services shall adopt education, training and examination requirements
 20 that allow certification of inspectors to perform inspections **on one and two family dwellings** under
 21 one or more aspects of the [*One and Two Family*] **Low-Rise Residential** Dwelling Code adopted
 22 under ORS 455.610 to 455.630.

23 **SECTION 34.** ORS 455.625 is amended to read:

24 455.625. The Director of the Department of Consumer and Business Services shall, by rule,
 25 adopt:

26 (1) A list of information required for [*one and two family*] **low-rise residential dwelling** building
 27 permits; and

28 (2) A priority schedule for [*one and two family*] **low-rise residential** dwelling inspections and
 29 plan review requirements.

30 **SECTION 35.** ORS 455.627 is amended to read:

31 455.627. The Department of Consumer and Business Services, in consultation with the [*appro-*
 32 *prate advisory board as defined in ORS 455.010*] **Residential Structures Board**, shall adopt rules
 33 to create a mandatory random inspection program for minor electrical installations made by elec-
 34 trical contractors in [*one and two family*] **low-rise residential** dwellings.

35 **SECTION 36.** ORS 455.630 is amended to read:

36 455.630. (1) The [*One and Two Family*] **Low-Rise Residential** Dwelling Code shall be enforced
 37 by inspectors and building officials qualified pursuant to ORS 455.715 to 455.740.

38 (2) Notwithstanding subsection (1) of this section, enforcement of electrical specialty code, per-
 39 mit and licensing provisions shall be under the sole authority of the Electrical and Elevator Board
 40 in the Department of Consumer and Business Services.

41 **SECTION 37.** ORS 455.715 is amended to read:

42 455.715. As used in ORS 455.715 to 455.740, unless the context otherwise requires:

43 (1) "Building official" means a person charged by a municipality with responsibility for admin-
 44 istration and enforcement of the state building code in the municipality.

45 (2) "Business of providing prefabricated structure plan approvals and inspections" means an in-

1 dependent contractor providing prefabricated structure plan approval or inspection services, or both,
2 under the following specialty codes, as provided in ORS 455.020, 455.705 and 455.715:

- 3 (a) Structural;
- 4 (b) Mechanical;
- 5 (c) Plumbing;
- 6 (d) Electrical; and
- 7 (e) [*One and two family*] **Low-rise residential** dwelling.

8 (3) "Inspector" means:

9 (a) A person, including a plans examiner, acting under the authority and direction of a building
10 official and charged with the responsibility of routine enforcement of any specialty code; or

11 (b) A person, including a plans examiner, who provides enforcement of any specialty code, who
12 is personally in the business of providing prefabricated structure plan approvals or inspections or
13 is employed by such a business.

14 **SECTION 38.** ORS 455.800 is amended to read:

15 455.800. As used in ORS 455.800 to 455.820:

16 (1) "Building official" means a person who is a building official as defined in ORS 455.715 or a
17 Department of Consumer and Business Services employee charged with enforcement or adminis-
18 tration of the state building code.

19 (2) "Building trade committee" means a group composed of experienced and knowledgeable local
20 general contractors or other persons having substantial expertise in various aspects of one and two
21 family dwelling construction **under the Low-Rise Residential Dwelling Code.**

22 (3) "General contractor" has the meaning given that term in ORS 701.005.

23 (4) "Master builder" means a person certified under ORS 455.810.

24 (5) "Qualified construction company" means a company that has been:

25 (a) Continuously licensed by the Construction Contractors Board during the preceding 60
26 months as a general contractor; or

27 (b) Continuously licensed by the Construction Contractors Board during at least the preceding
28 24 months as a general contractor and by one or more other states during the balance of the pre-
29 ceding 60 months in an occupation equivalent to that of a general contractor.

30 (6) "Regular employee" means a person who:

31 (a) Is continuously employed by, and on the regular payroll of, a qualified construction company;

32 (b) Has filed a withholding exemption certificate pursuant to ORS 316.182 for work performed
33 for the qualified construction company; and

34 (c) Is available during working hours to supervise on-site dwelling construction, including but
35 not limited to supervising the installation of:

36 (A) Drywall;

37 (B) Electrical systems;

38 (C) Footings;

39 (D) Foundations;

40 (E) Framing;

41 (F) Insulation;

42 (G) Mechanical systems;

43 (H) Plumbing systems; and

44 (I) Stairs.

45 (7) "Whole dwelling remodel" means a project that includes the installation in an existing

1 dwelling of all of the following:

- 2 (a) Drywall;
- 3 (b) Electrical systems;
- 4 (c) Footings;
- 5 (d) Foundations;
- 6 (e) Framing;
- 7 (f) Insulation;
- 8 (g) Mechanical systems; and
- 9 (h) Plumbing systems.

10 **SECTION 39.** ORS 455.805 is amended to read:

11 455.805. An individual may apply to the Department of Consumer and Business Services to be
 12 tested and certified as a master builder. The department shall establish uniform criteria for use in
 13 determining whether to grant an application. The criteria must, at a minimum, provide that:

14 (1) The individual must be an owner or regular employee of a qualified construction company
 15 and be authorized by the company to provide assurance to the department that all state and local
 16 code requirements are met.

17 (2) In each of the five preceding calendar years, the individual must either have performed or
 18 supervised a dwelling construction or whole dwelling remodel. In at least two of the years, the
 19 construction or remodel must have occurred in a geographic area that had a master builder pro-
 20 gram.

21 (3) The individual must have completed a program sponsored by a local building trade committee
 22 or other program approved by the department, providing training relating to the [*One and Two*
 23 *Family*] **construction of one and two family dwellings under the Low-Rise Residential Dwelling**
 24 **Code**. A program must include but need not be limited to instruction in:

- 25 (a) Administration;
- 26 (b) Chimneys and fireplaces;
- 27 (c) Decay and termite protections;
- 28 (d) Energy conservation;
- 29 (e) Footings and foundations;
- 30 (f) Roof-ceiling construction;
- 31 (g) Roof coverings;
- 32 (h) Site inspections;
- 33 (i) Wall construction, assemblies and coverings; and
- 34 (j) Wood and metal framing.

35 (4) The individual must have scored at least 75 percent on a written examination, approved and
 36 administered by the department, covering the [*One and Two Family*] **appropriate aspects of the**
 37 **Low-Rise Residential Dwelling Code**.

38 (5)(a) The individual must not be the subject of an adverse final order issued by the Construction
 39 Contractors Board or Department of Consumer and Business Services based upon acts committed
 40 within 36 months preceding the application date that:

- 41 (A) Violated a specialty code, licensing or permit requirement; or
- 42 (B) Resulted in a claim being filed with the board or department against the individual.

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

SECTION 40. ORS 455.815 is amended to read:

455.815. (1) Local government establishment of a master builder program is voluntary. A local government electing to establish or terminate a program shall notify the Department of Consumer and Business Services. If terminating a program, the local government must give the notice six months before the program terminates.

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

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

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

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

(b) The building official determines that:

(A) The work is not of a highly technical nature; and

(B) There is no unreasonable potential risk to safety of the structure.

(5) A building official may not waive government performance of plan review or required inspections for:

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

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

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

(a) Drywall;

(b) Footings and setbacks;

(c) Foundation walls, Ufer grounding rods and rebar;

(d) Insulation;

(e) Masonry fireplace pre-cover;

(f) Masonry rebar;

(g) Gutters, downspouts and foundation drains;

(h) Roof sheathing nailing;

(i) Suspended ceilings;

(j) Underfloor structural; and

(k) Wall sheathing nailing.

SECTION 41. ORS 455.842 is amended to read:

455.842. (1) The [*Tri-County Building Industry Service Board*] **Department of Consumer and**

1 **Business Services** shall establish **and staff** a Tri-County Building Industry Service Center to make
 2 available to licensed contractors and their employees, local governments and the public the re-
 3 sources and services described in ORS 455.844. [*The Department of Consumer and Business Services*
 4 *shall provide staff to support the activities of the service center. Staff shall be considered public em-*
 5 *ployees for purposes of the State Personnel Relations Law.*]

6 [(2) *In accordance with ORS 183.310 to 183.550, the board shall adopt rules necessary for enforcing*
 7 *the laws that the board is charged with administering.*]

8 [(3)] (2) [*With the approval of*] The Director of the Department of Consumer and Business
 9 Services[, *the board*] may adopt by rule a reasonable fee schedule for the purpose of recovering the
 10 costs incurred by the [*board*] **department** and the service center in providing services under ORS
 11 455.844. Fees adopted and imposed under this section shall be in addition to the total **building** per-
 12 mit fees otherwise imposed in Clackamas, Multnomah and Washington Counties. A municipality shall
 13 collect fees adopted and imposed under this section and remit the fees to the [*director. The director*
 14 *shall deposit the fees in the Tri-County Building Industry Service Center Account established under*
 15 *ORS 455.848*] **department**.

16 **SECTION 42.** ORS 455.844 is amended to read:

17 455.844. The [*Tri-County Building Industry Service Board*] **Department of Consumer and**
 18 **Business Services** shall:

19 (1) Develop and administer an installation label program for minor installations under the state
 20 building code, including but not limited to electrical installations under ORS 455.627, 479.540 and
 21 479.570 and plumbing installations under ORS 447.076;

22 (2) Develop standard application forms and procedures for use by municipalities in Clackamas,
 23 Multnomah and Washington Counties when issuing structural, mechanical, electrical, plumbing and
 24 other permits when such permits do not require a review of building plans;

25 (3) Develop standard application forms and procedures for issuing building permits and record-
 26 ing inspections;

27 (4) Develop standard forms and procedures for reviewing building plans;

28 (5) Establish standardized criteria and methodology for determining fee amounts for permits that
 29 are required under the state building code established under ORS 455.030;

30 (6) Maintain and make available to the public the names of persons certified to review building
 31 plans;

32 (7) Maintain and make available to the public the names of persons certified to perform techni-
 33 cal inspections;

34 [(8) *Review the qualifications of persons applying for licensing or certification as an inspector in*
 35 *Clackamas, Multnomah and Washington Counties under any specialty code adopted under ORS*
 36 *455.030. Notwithstanding ORS 455.737, the board may certify a person as eligible to sit for examination*
 37 *required under ORS chapter 446, 447, 455, 460, 479 or 480. Nothing in this subsection affects the*
 38 *minimum qualifications for licensing, certification or registration under ORS chapter 446, 447, 455, 460,*
 39 *479 or 480. Examinations and other testing for persons applying for licensing, certification or regis-*
 40 *tration under one or more of the specialty codes shall be conducted as provided under the laws and*
 41 *regulations relating to each specialty code;*]

42 [(9) *Develop and make available appropriate training for persons to review building plans and*
 43 *perform inspections;*]

44 [(10)] (8) Administer prepaid **building** permit cost accounts;

45 [(11)] (9) Establish [*within the Tri-County Building Industry Service Center*] sufficient resources

1 to assist local building officials in interpreting the state building code;

2 [(12)] (10) Establish a process to facilitate consistent application of the state building code for
3 the *[geographical jurisdiction covered by the board]* **area served by the Tri-County Building In-**
4 **dustry Service Center**; and

5 [(13)] (11) Develop a process for resolving disputes between local building officials and con-
6 tractors or developers regarding site-specific application of one or more provisions of the state
7 building code.

8 **SECTION 43.** ORS 455.846 is amended to read:

9 455.846. In accordance with the applicable provisions of ORS 183.310 to 183.550, *[the Tri-County*
10 *Building Industry Service Board, with the approval of]* the Director of the Department of Consumer
11 and Business Services[,] may adopt rules necessary for the implementation of ORS *[455.840,]* 455.842
12 and 455.844 *[and section 8, chapter 1082, Oregon Laws 1999]*.

13 **SECTION 44.** ORS 469.700 is amended to read:

14 469.700. (1) The *[Building Codes]* **Residential** Structures Board, after public hearing, shall adopt
15 a recommended voluntary energy efficiency rating system for single family residences and provide
16 the Office of Energy with a copy thereof.

17 (2) The rating system shall provide a single numerical value or other simple concise means to
18 measure the energy efficiency of any single family residence, taking into account factors including,
19 but not limited to, the heat loss characteristics of ceilings, walls, floors, windows, doors and heating
20 ducts.

21 (3) Upon adoption of the rating system under subsections (1) and (2) of this section, the Office
22 of Energy shall publicize the availability of the system, and encourage its voluntary use in real es-
23 tate transactions.

24 (4) As used in subsections (1) to (3) of this section, “single family residence” means a structure
25 designed as a residence for one family and sharing no common wall with another residence of any
26 type.

27 **SECTION 45.** ORS 479.905, as amended by section 4, chapter 728, Oregon Laws 2001, is
28 amended to read:

29 479.905. For the purposes of ORS 479.870 and 479.905 to 479.945, except where the context re-
30 quires otherwise:

31 (1) “Class A limited energy technician” means a person licensed to install, alter and repair all
32 limited energy systems.

33 (2) “Class B limited energy technician” means a person licensed to install, alter and repair all
34 limited energy systems that do not include protective signaling, including but not limited to:

35 (a) HVAC;

36 (b) Medical;

37 (c) Boiler controls;

38 (d) Intercom and paging systems;

39 (e) Clock systems;

40 (f) Data telecommunication installations; and

41 (g) Instrumentation.

42 (3) “HVAC” means thermostat and associated control wiring of heating, ventilation, air condi-
43 tioning and refrigeration systems. “HVAC” does not include boiler controls.

44 (4) “Limited energy electrical activity” means installation, alteration, maintenance, replacement
45 or repair of electrical wiring and electrical products that do not exceed 100 volt-amperes in Class

1 2 and Class 3 installations, or that do not exceed 300 volt-amperes for landscape low voltage lighting
 2 systems that are cord connected to a ground fault circuit interrupter receptacle, under the electrical
 3 specialty code and the [*One and Two Family*] **Low-Rise Residential** Dwelling Code.

4 (5) "Protective signaling" includes fire alarm, nurse call, burglar alarm, security and voice
 5 evacuation systems and other systems that are part of a fire or life safety system.

6 **SECTION 46.** ORS 479.940, as amended by section 7, chapter 728, Oregon Laws 2001, is
 7 amended to read:

8 479.940. (1) The licensure provisions of ORS 479.510 to 479.945 and 479.995 do not apply to the
 9 following activity on Class II and III systems in one and two family dwellings **regulated under the**
 10 **Low-Rise Residential Dwelling Code:**

- 11 (a) Prewiring of cable television and telephone systems owned by the owner of the residence;
- 12 (b) Garage door openers;
- 13 (c) Vacuum systems;
- 14 (d) Audio and stereo systems;
- 15 (e) HVAC;
- 16 (f) Landscape sprinkler controls;
- 17 (g) Landscape lighting; and
- 18 (h) Doorbells.

19 (2) The provisions of subsection (1) of this section apply only to persons or businesses licensed
 20 and in good standing with the Construction Contractors Board.

21 (3)(a) The licensure provisions of ORS 479.510 to 479.945 and 479.995 do not apply to limited
 22 energy electrical activity involving landscape irrigation control wiring and outdoor landscape
 23 lighting installed by a business licensed under ORS 671.510 to 671.710.

24 (b) A business exempt from licensing under this section shall issue an identification card to its
 25 landscape irrigation control wiring or outdoor landscape lighting installer. The form for the iden-
 26 tification card shall be provided by the State Landscape Contractors Board. The identification card
 27 shall include the name of the installer, the name and State Landscape Contractors Board identifi-
 28 cation number of the landscaping business and the date of issue of the identification card. The card
 29 shall be carried by the installer at the job site when performing the allowed electric installations.

30 (4) The licensure provisions of ORS 479.510 to 479.945 and 479.995 do not apply to limited energy
 31 electrical activity involving the installation, maintenance or repair of lottery equipment at retail
 32 locations by employees or vendors of the Oregon State Lottery Commission. The exemption provided
 33 by this subsection does not authorize work by unlicensed persons on systems of 115 volts or more.

34 (5) All nonlicensure requirements of ORS 479.510 to 479.945 and 479.995, including permits for
 35 and compliance with the electrical specialty code, apply to activities conducted under subsections
 36 (1) to (4) of this section. If any person or business repeatedly violates the permit or code compliance
 37 requirements, in addition to any other remedy, the Electrical and Elevator Board may suspend,
 38 condition or revoke a person's or business's right to use this provision.

39 **SECTION 47.** ORS 705.145 is amended to read:

40 705.145. (1) There is created in the State Treasury a fund to be known as the Consumer and
 41 Business Services Fund, separate from the General Fund. All moneys collected or received by the
 42 Department of Consumer and Business Services, except moneys collected pursuant to ORS 735.612
 43 and those moneys required to be paid into the Workers' Benefit Fund, shall be paid into the State
 44 Treasury and credited to the Consumer and Business Services Fund. Moneys in the fund may be
 45 invested in the same manner as other state moneys and any interest earned shall be credited to the

1 fund.

2 (2) The department shall keep a record of all moneys deposited in the Consumer and Business
3 Services Fund that shall indicate, by separate account, the source from which the moneys are de-
4 rived, the interest earned and the activity or program against which any withdrawal is charged.

5 (3) Should moneys credited to any one account be withdrawn, transferred or otherwise used for
6 purposes other than the program or activity for which the account is established, interest shall ac-
7 crue on the amount withdrawn from the date of withdrawal and until such funds are restored.

8 (4) Moneys in the fund shall provide and are appropriated for the administrative expenses of the
9 department and for its expenses in carrying out its functions and duties under any provision of law.

10 (5) Except as provided in ORS 705.165, it is the intention of the Legislative Assembly that the
11 performance of the various duties and functions of the department in connection with each of its
12 programs shall be financed by the fees, assessments and charges established and collected in con-
13 nection with those programs.

14 (6) There is created by transfer from the Consumer and Business Services Fund a revolving ad-
15 ministrative account in the amount of \$100,000. The revolving account shall be disbursed by checks
16 or orders issued by the director or the Workers' Compensation Board and drawn upon the State
17 Treasury, to carry on the duties and functions of the department and the board. All checks or orders
18 paid from the revolving account shall be reimbursed by a warrant drawn in favor of the department
19 charged against the Consumer and Business Services Fund and recorded in the appropriate subsid-
20 iary record.

21 (7) For the purposes of ORS chapter 656, the revolving account created pursuant to subsection
22 (6) of this section may also be used to:

23 (a) Pay compensation benefits; and

24 (b) Refund to employers amounts paid to the Consumer and Business Services Fund in excess
25 of the amounts required by ORS chapter 656.

26 (8) Notwithstanding subsections (2), (3) and (5) of this section **and except as provided in ORS**
27 **455.220 (1)**, the moneys derived pursuant to ORS 446.003 to 446.200, 446.210, 446.225 to 446.285,
28 446.395 to 446.420 and 455.220 (1) and deposited to the fund, interest earned on those moneys and
29 withdrawals of moneys for activities or programs under ORS 446.003 to 446.200, 446.210, 446.225 to
30 446.285 and 446.395 to 446.420, or education and training programs pertaining thereto, must be as-
31 signed to a single account within the fund.

32 (9) Notwithstanding subsections (2), (3) and (5) of this section, the moneys derived pursuant to
33 ORS 455.240 or 460.370 or from state building code or specialty code program fees for which the
34 amount is established by department rule pursuant to ORS 455.020 (2) and deposited to the fund,
35 interest earned on those moneys and withdrawals of moneys for activities or programs described
36 under ORS 455.240 or 460.310 to 460.370, structural or mechanical specialty code programs or ac-
37 tivities for which a fee is collected under ORS 455.020 (2), or programs described under subsection
38 (10) of this section that provide training and education for persons employed in producing, selling,
39 installing, delivering or inspecting manufactured structures or manufactured dwelling parks or re-
40 creation parks, must be assigned to a single account within the fund.

41 (10) Notwithstanding ORS chapter 279, the department may, after consultation with the appro-
42 priate specialty code advisory boards established under ORS 446.280, 455.132, 455.138, 480.535 and
43 693.115, contract for public or private parties to develop or provide training and education programs
44 relating to the state building code and associated licensing or certification programs.

45 **SECTION 48.** Section 2, chapter 329, Oregon Laws 1999, is amended to read:

1 **Sec. 2.** The Director of the Department of Consumer and Business Services [*shall conduct a re-*
 2 *view of the latest developments in communications and cable service technology. Based on the results*
 3 *of the review, the director*] shall adopt, amend or repeal the state building code as necessary to es-
 4 tablish viable standards for providing advanced telecommunications and cable service technology to
 5 newly constructed [*one and two family*] **low-rise residential** dwellings.

6 **SECTION 49.** ORS 455.840 and 455.848 and section 8, chapter 1082, Oregon Laws 1999, are
 7 **repealed.**

8 **SECTION 50.** (1) Notwithstanding section 2 of this 2003 Act and the amendments to ORS
 9 446.003, 455.010, 455.030, 455.100, 455.110, 455.132, 455.153, 455.156, 455.310, 455.420, 455.467,
 10 455.525, 455.530, 455.610, 455.622, 455.625, 455.627, 455.630, 455.715, 455.800, 455.805, 455.815,
 11 469.700, 479.905 and 479.940 and section 2, chapter 329, Oregon Laws 1999, by sections 6, 10,
 12 12, 14, 16, 18, 22, 24, 26 to 31, 33 to 40, 44 to 46 and 48 of this 2003 Act, any rule or standard
 13 for one and two family dwellings adopted by the Building Codes Structures Board prior to the
 14 operative date set forth in section 53 (1) of this 2003 Act continues in full force and effect
 15 until superseded by rules for low-rise residential dwellings adopted by the Residential Struc-
 16 tures Board.

17 (2) Notwithstanding section 4 of this 2003 Act and the amendments to ORS 455.010,
 18 455.100, 455.132, 455.153 and 455.610 by sections 11, 15, 19, 23 and 32 of this 2003 Act, any rule
 19 or standard for mechanical, heating and ventilating devices and equipment adopted by the
 20 Building Codes Structures Board prior to the operative date set forth in section 53 (2) of this
 21 2003 Act continues in full force and effect until superseded by rules for mechanical, heating
 22 and ventilating devices and equipment adopted by the Mechanical Board.

23 (3) In adopting rules, the Residential Structures Board and the Mechanical Board shall
 24 specifically identify any rule adopted by the Building Codes Structures Board that is being
 25 superseded. The board adopting a rule shall notify the Building Codes Structures Board that
 26 the Building Codes Structures Board rule has been superseded.

27 **SECTION 51.** (1) Section 2 of this 2003 Act and the amendments to ORS 446.003, 455.010,
 28 455.030, 455.100, 455.110, 455.132, 455.153, 455.156, 455.310, 455.420, 455.467, 455.525, 455.530,
 29 455.610, 455.622, 455.625, 455.627, 455.630, 455.715, 455.800, 455.805, 455.815, 469.700, 479.905 and
 30 479.940 and section 2, chapter 329, Oregon Laws 1999, by sections 6, 10, 12, 14, 16, 18, 22, 24,
 31 26 to 31, 33 to 40, 44 to 46 and 48 of this 2003 Act do not:

32 (a) Suspend, limit, terminate or prevent an order issued by the Building Codes Structures
 33 Board prior to, on or after the operative date set forth in section 53 (1) of this 2003 Act based
 34 on events occurring prior to that date; or

35 (b) Eliminate or prevent a fee, civil penalty or other liability imposed by the Building
 36 Codes Structures Board prior to, on or after the operative date set forth in section 53 (1) of
 37 this 2003 Act based on events occurring prior to that date.

38 (2) The Building Codes Structures Board may transfer to the Residential Structures
 39 Board the power to enforce an order, fee, civil penalty or other liability described in sub-
 40 section (1) of this section relating to a residential dwelling three stories or less above grade.

41 (3) Section 4 of this 2003 Act and the amendments to ORS 455.010, 455.100, 455.132, 455.153
 42 and 455.610 by sections 11, 15, 19, 23 and 32 of this 2003 Act do not:

43 (a) Suspend, limit, terminate or prevent an order issued by the Building Codes Structures
 44 Board prior to, on or after the operative date set forth in section 53 (2) of this 2003 Act based
 45 on events occurring prior to that date; or

1 (b) Eliminate or prevent a fee, civil penalty or other liability imposed by the Building
2 Codes Structures Board prior to, on or after the operative date set forth in section 53 (2) of
3 this 2003 Act based on events occurring prior to that date.

4 (4) The Building Codes Structures Board may transfer to the Mechanical Board the
5 power to enforce an order, fee, civil penalty or other liability described in subsection (3) of
6 this section relating to mechanical, heating and ventilating devices and equipment.

7 (5) The amendments to ORS 455.132 by section 17 of this 2003 Act do not suspend, limit,
8 terminate, prevent or otherwise affect any action taken by the Building Codes Structures
9 Board prior to, on or after the effective date of this 2003 Act.

10 (6) On the effective date of this 2003 Act, the office of members of the Tri-County
11 Building Industry Service Board shall cease. This subsection and the amendments to ORS
12 455.842, 455.844 and 455.846 by sections 41 to 43 of this 2003 Act and the repeal of ORS 455.840
13 and 455.848 and section 8, chapter 1082, Oregon Laws 1999, by section 49 of this 2003 Act do
14 not suspend, limit, terminate, prevent or otherwise affect any action of the Department of
15 Consumer and Business Services taken by or through the board prior to the effective date
16 of this 2003 Act.

17 **SECTION 52.** (1) The Director of the Department of Consumer and Business Services and
18 the Governor may take all actions prior to the operative date set forth in section 53 (1) of
19 this 2003 Act necessary to facilitate the carrying out of sections 2 and 3 of this 2003 Act and
20 the amendments to statutes and session law by sections 6 to 10, 12 to 14, 16, 18, 20, 22, 24 to
21 31, 33 to 40 and 44 to 48 of this 2003 Act on and after the operative date set forth in section
22 53 (1) of this 2003 Act.

23 (2) The director and the Governor may take all actions prior to the operative date set
24 forth in section 53 (2) of this 2003 Act necessary to facilitate the carrying out of sections 4
25 and 5 of this 2003 Act and the amendments to ORS 455.010, 455.100, 455.132, 455.144, 455.153
26 and 455.610 by sections 11, 15, 19, 21, 23 and 32 of this 2003 Act on and after the operative
27 date set forth in section 53 (2) of this 2003 Act.

28 (3) For purposes of administrative convenience, the Governor may adjust the initial term
29 of office for the persons first appointed to the Building Codes Structures Board pursuant to
30 the amendments to ORS 455.132 by section 17 of this 2003 Act.

31 (4) On the effective date of this 2003 Act, the office of persons holding positions on the
32 Building Codes Structures Board eliminated by the amendments to ORS 455.132 by section
33 17 of this 2003 Act shall cease. For board positions that are combined under the amendments
34 to ORS 455.132 by section 17 of this 2003 Act, the Governor shall determine which of the of-
35 fices continue or cease.

36 **SECTION 53.** (1) Sections 1 to 3 of this 2003 Act and the amendments to statutes and
37 session law by sections 6 to 10, 12 to 14, 16, 18, 20, 22, 24 to 31, 33 to 40 and 44 to 48 of this
38 2003 Act become operative on January 1, 2004.

39 (2) Sections 4 and 5 of this 2003 Act and the amendments to ORS 455.010, 455.100, 455.132,
40 455.144, 455.153 and 455.610 by sections 11, 15, 19, 21, 23 and 32 of this 2003 Act become oper-
41 ative on July 1, 2004.

42 CONSTRUCTION CONTRACTS

43
44
45 **SECTION 54.** As used in sections 54 to 58 of this 2003 Act:

1 (1) "Construction contract" means a written or oral construction agreement, including
2 all plans, specifications and addenda relating to:

3 (a) Excavating, landscaping, demolishing and detaching existing structures, leveling, fill-
4 ing in and other preparation of land for the making and placement of a building, structure
5 or superstructure;

6 (b) Creation or making of a building, structure or superstructure; and

7 (c) Alteration, partial construction and repairs done in and upon a building, structure or
8 superstructure.

9 (2) "Contractor" has the meaning given that term in ORS 87.005.

10 (3) "Days" means calendar days.

11 (4) "Material supplier" means any person providing materials or products under a con-
12 struction contract by any contractual means including oral authorization, written contract,
13 purchase order, price agreement or rental agreement.

14 (5) "Original contractor" has the meaning given that term in ORS 87.005.

15 (6) "Owner" has the meaning given that term in ORS 701.410.

16 (7) "Subcontractor" has the meaning given that term in ORS 87.005.

17 **SECTION 55.** (1) By mutual agreement with an original contractor, an owner may make
18 progress payments to the original contractor on a construction contract that is anticipated
19 to last less than 60 days. An owner shall make progress payments to the original contractor
20 on all other construction contracts. Progress payments shall be made on the basis of an
21 approved and certified billing or estimate for the work performed and the materials or pro-
22 ducts supplied during the preceding 30-day billing cycle, or an alternate billing cycle as stated
23 in the construction contract. If billings or estimates are to be submitted in alternate, rather
24 than 30-day billing cycles, the construction contract shall specify the alternate billing cycles
25 in a clear and conspicuous manner as prescribed in subsection (2) of this section. Except as
26 provided in subsection (3) of this section, the owner shall make progress payments to the
27 original contractor within 14 days after the date the billing is submitted pursuant to sub-
28 section (4) of this section.

29 (2) A construction contract may provide for an alternate billing cycle if the plans and
30 specifications specifically set forth that there is an alternate billing cycle and the owner
31 provides for each page of plans and specifications a statement substantially similar to the
32 following statement:

33 _____

34
35 **Notice of Alternate Billing Cycle**

36
37 The contract will allow the owner to require the submission of billings or estimates in
38 billing cycles other than 30-day cycles. Billings or estimates for the contract shall be sub-
39 mitted as follows:

40 _____
41 _____
42 _____
43 _____

44
45 (3) An owner may make progress payments later than 14 days after the date the billing

1 or estimate is submitted if:

2 (a) The owner is responsible for providing plans and specifications that expressly allow
3 in a clear and conspicuous manner an extended payment, defined by a specified number of
4 days after the billing or estimate is submitted; and

5 (b) The owner provides for each page of plans and specifications a statement substan-
6 tially similar to the following statement:

7 _____
8
9 **Notice of Extended Payment Provision**

10
11 **The contract will allow the owner to make payment within _____ days after the date**
12 **a billing or estimate is submitted.**

13 _____
14
15 (4) The owner is deemed to have received the billing or estimate when the billing or es-
16 timate is submitted to any person designated by the owner for the receipt, review or approval
17 of the billing or estimate. A billing or estimate is deemed to be certified 10 days after the
18 owner receives the billing or estimate, unless before that time the owner or the owner’s
19 agent prepares and issues a written statement detailing those items in the billing or estimate
20 that are not approved. An owner may decline to approve a billing or estimate or portion of
21 a billing or estimate for:

22 (a) Unsatisfactory work progress;

23 (b) Defective construction work, materials or products not remedied;

24 (c) Disputed work, materials or products, not to exceed 150 percent of the amount in
25 dispute;

26 (d) Failure to comply with other material provisions of the construction contract;

27 (e) Third party claims filed or reasonable evidence that such a claim will be filed;

28 (f) Failure of the original contractor or a subcontractor to make timely payments to
29 subcontractors and material suppliers for labor, equipment, materials and products;

30 (g) Damage to the owner;

31 (h) Reasonable evidence that the construction contract cannot be completed for the un-
32 paid balance of the construction contract sum; or

33 (i) Other items as allowed under the contract terms and conditions.

34 (5) An owner may withhold from a progress payment an amount that is sufficient to pay
35 the direct expenses the owner reasonably expects to incur to correct any items set forth in
36 writing pursuant to subsection (4) of this section. The owner may also withhold a reasonable
37 amount as retainage as defined in ORS 701.410.

38 (6) An owner may extend the period within which the billing or estimate may be certified
39 if:

40 (a) The owner is responsible for providing plans and specifications that expressly allow
41 in a clear and conspicuous manner an extended period within which a billing or estimate may
42 be certified; and

43 (b) The owner provides for each page of plans and specifications, including bid plans and
44 construction plans, a statement substantially similar to the following statement:
45 _____

**Notice of Extended Certification
Period Provision**

The contract will allow the owner to certify billings and estimates within _____ days after the billings and estimates are received from the original contractor.

(7) After a subcontractor or material supplier submits a bid or proposal or other written pricing information to an original contractor, an owner and the original contractor may change the specified number of days after certification during which the owner may make payment to the original contractor or within which the owner must certify a billing or estimate. Any original contractor, subcontractor or material supplier that does not provide written consent to the change will continue to be paid as indicated in the plans and specifications.

(8) When an original contractor completes and an owner approves all work under a construction contract, the owner shall make payment in full of all remaining amounts due on the construction contract within seven days. When an original contractor completes and an owner approves all work under a portion of a construction contract for which the contract states a separate price, the owner shall make payment in full of all remaining amounts due on that portion of the construction contract, subject to the satisfaction of any issue described in subsection (4) of this section or section 56 (4) of this 2003 Act.

(9) Payment is not required under this section unless the original contractor provides the owner with a billing or estimate for the work performed or the materials or products supplied in accordance with the terms of the construction contract between the parties.

(10) A construction contract may not alter the right of any original contractor, subcontractor or material supplier to receive prompt and timely progress payments as provided under this section.

(11) If an owner or a person designated by the owner as responsible for making progress payments on a construction contract does not make a timely payment under this section, the owner shall pay the original contractor interest on the unpaid balance at the rate of one and one-half percent a month or fraction of a month, or at a higher rate as the parties to the construction contract may agree.

(12) On the written request of a subcontractor, the owner shall notify the subcontractor within five days after the issuance of a progress payment to the original contractor. On the written request of a subcontractor, the owner shall notify the subcontractor within five days after the owner makes the final payment to the original contractor on the construction contract.

(13) In any action, claim or arbitration brought to collect payments or interest pursuant to this section, the prevailing party shall be awarded reasonable costs and attorney fees.

(14) If the owner and original contractor are a single entity, that entity shall pay subcontractors and material suppliers within 14 days after the billing or estimate is received unless the deadlines for certification or payment have been modified pursuant to subsection (3) or (6) of this section.

SECTION 56. (1) Performance by an original contractor, subcontractor or material sup-

1 plier in accordance with the provisions of a construction contract entitles the original con-
2 tractor, subcontractor or material supplier to payment from the party with whom the
3 original contractor, subcontractor or material supplier contracts.

4 (2) If a subcontractor or material supplier has performed in accordance with the pro-
5 visions of a construction contract, the original contractor shall pay to the subcontractor or
6 material supplier, and each subcontractor shall pay to its subcontractors or material sup-
7 pliers, the full amount received for such subcontractor's work and for materials and pro-
8 ducts supplied based on the subcontract or purchase order terms and conditions within seven
9 days of receipt by the original contractor or subcontractor of a progress payment or final
10 payment. Payment is not required under this subsection unless a subcontractor or material
11 supplier provides to the original contractor or subcontractor a billing or invoice for the work
12 performed or materials or products supplied in compliance with the terms of the contract
13 between the parties. Each subcontractor or material supplier must provide an appropriate
14 waiver of any mechanic's or materialman's lien in accordance with subcontract or purchase
15 order terms and conditions. The original contractor or subcontractor may require that such
16 waivers of lien be notarized.

17 (3) Any failure to reasonably account for the application or use of payments, as proven
18 in a legal proceeding authorized under the terms of the construction contract, may consti-
19 tute grounds for disciplinary action by the Construction Contractors Board under ORS
20 701.135.

21 (4) Nothing in this section prevents an original contractor when submitting a bill or es-
22 timate to an owner, or a subcontractor when submitting a bill or estimate to the original
23 contractor, from omitting from the bill estimate amounts withheld from payment to a sub-
24 contractor or material supplier for:

- 25 (a) Unsatisfactory work progress;
- 26 (b) Defective construction work, materials or products not remedied;
- 27 (c) Disputed work, materials or products, not to exceed 150 percent of the amount in
28 dispute;
- 29 (d) Failure to comply with other material provisions of the construction contract;
- 30 (e) Third party claims filed or reasonable evidence that such a claim will be filed;
- 31 (f) Failure of the subcontractor to make timely payments to subcontractors and material
32 suppliers for labor, equipment, materials and products;
- 33 (g) Damage to an original contractor, subcontractor or material supplier;
- 34 (h) Reasonable evidence that the subcontract cannot be completed for the unpaid balance
35 of the subcontract sum;
- 36 (i) A reasonable amount for retainage, as defined in ORS 701.410, that does not exceed
37 the actual percentage allowed by the subcontract or purchase order; or
- 38 (j) Other items as allowed under the subcontract or purchase order terms and conditions.

39 (5) If a progress or final payment to a subcontractor or material supplier is delayed by
40 more than seven days after receipt of a progress or final payment by an original contractor
41 or subcontractor, the original contractor or subcontractor shall pay its subcontractor or
42 material supplier interest beginning on the eighth day, except during periods of time during
43 which payment is withheld pursuant to subsection (4) of this section, at the rate of one and
44 one-half percent a month or a fraction of a month on the unpaid balance or at such higher
45 rate as the parties agree.

1 (6) In any action, claim or arbitration brought to collect payments or interest under this
2 section, the prevailing party shall be awarded reasonable costs and attorney fees.

3 **SECTION 57.** (1) An original contractor may suspend performance under a construction
4 contract, or terminate a construction contract if performance is suspended for longer than
5 30 days, for failure by the owner to make timely payment of the amount certified under
6 section 55 of this 2003 Act. An original contractor shall provide written notice to an owner
7 at least seven days before the original contractor suspends performance or terminates the
8 contract, unless a shorter notice period is prescribed in the contract. An original contractor
9 may not be deemed in breach of a construction contract for suspending performance or
10 terminating a construction contract pursuant to this subsection. A construction contract
11 may not extend the notice period under this subsection.

12 (2) A subcontractor may suspend performance under a construction contract, or termi-
13 nate a construction contract if performance is suspended for longer than 30 days, for failure
14 by the owner to make timely payment of amounts certified under section 55 of this 2003 Act
15 or the subcontractor fails to receive payment for the certified work under section 56 (2) of
16 this 2003 Act. A subcontractor shall provide written notice to the original contractor and
17 owner at least three days before the subcontractor suspends performance or terminates the
18 contract, unless a shorter notice period is prescribed in the contract. A subcontractor may
19 not be deemed in breach of a construction contract for suspending performance or termi-
20 nating a contract pursuant to this subsection. A construction contract may not extend the
21 notice period under this subsection.

22 (3) A subcontractor may suspend performance under a construction contract, or termi-
23 nate a construction contract if performance is suspended for longer than 30 days, if the
24 owner makes timely payment of amounts certified under section 55 of this 2003 Act for the
25 subcontractor's work but the original contractor fails to pay the subcontractor for the cer-
26 tified work. A subcontractor shall provide written notice to the original contractor and
27 owner at least seven days before the subcontractor suspends performance or terminates the
28 contract, unless a shorter notice period is prescribed in the contract. A subcontractor may
29 not be deemed in breach of a construction contract for suspending performance or termi-
30 nating a contract pursuant to this subsection. A construction contract may not extend the
31 notice period under this subsection.

32 (4) A subcontractor may suspend performance under a construction contract, or termi-
33 nate a construction contract if performance is suspended for longer than 30 days, if the
34 owner fails to approve portions of the contractor's billing or estimate under section 55 of this
35 2003 Act for that subcontractor's work but the reasons for that failure are not the fault of
36 or directly related to the subcontractor's work. A subcontractor shall provide written notice
37 to the original contractor and the owner at least seven days before the subcontractor sus-
38 pends performance or terminates the contract, unless a shorter notice period is prescribed
39 in the contract. A subcontractor may not be deemed in breach of a construction contract for
40 suspending performance or terminating a contract pursuant to this subsection. A con-
41 struction contract may not extend the notice period under this subsection.

42 (5) A contractor or subcontractor may not submit a notice of suspension under this
43 section until the lawful period for payment to the contractor or subcontractor has expired.

44 (6) An original contractor or subcontractor that suspends performance as provided in
45 this section is not required to furnish further labor, materials, products or services until the

1 original contractor or subcontractor is paid the amount that was certified under section 55
 2 of this 2003 Act, together with any documented, substantial and reasonably incurred costs
 3 for mobilization resulting from the shutdown or start-up of a project.

4 (7) In any action, claim or arbitration brought pursuant to this section, the prevailing
 5 party shall be awarded reasonable costs and attorney fees.

6 (8) Written notice required under this section is deemed to have been provided if the
 7 notice:

8 (a) Is delivered in person to the owner, original contractor, subcontractor or a person
 9 designated by the owner, original contractor or subcontractor to receive notice; or

10 (b) Is delivered by certified mail, return receipt requested, or other means that provides
 11 written, third party verification of delivery to the last business address of the owner, original
 12 contractor or subcontractor known to the party giving notice.

13 **SECTION 58.** (1) A construction contract may not include any provision, covenant or
 14 clause that:

15 (a) Makes the contract subject to the laws of another state or that requires any liti-
 16 gation, arbitration or other dispute resolution proceeding arising from the contract to be
 17 conducted in another state; or

18 (b) States that a party to the contract cannot suspend performance under the contract
 19 or terminate the contract if another party to the contract fails to make prompt payments
 20 under the contract pursuant to sections 54 to 58 of this 2003 Act.

21 (2) Any provision, covenant or clause described in subsection (1) of this section is void
 22 and unenforceable.

23 **SECTION 59.** Sections 54 to 58 of this 2003 Act do not apply to:

24 (1) A contract for the construction, alteration, repair, maintenance, moving or demoli-
 25 tion of a residential building as defined in ORS 87.021; or

26 (2) A public contract under ORS chapter 279.

27 **SECTION 60.** The provisions of sections 54 to 58 of this 2003 Act apply to construction
 28 contracts for which the plans and specifications are first published on or after January 1,
 29 2004.

30
 31 **BUILDING TRADE LICENSEE IDENTIFICATION**

32
 33 **SECTION 61.** Section 62 of this 2003 Act is added to and made a part of ORS chapter 455.

34 **SECTION 62.** (1) A person who is registered, licensed or certified by the State Plumbing
 35 Board or the Director of the Department of Consumer and Business Services pursuant to
 36 ORS 460.057, 460.059, 479.630, 479.910, 480.630, 693.060, 693.103 or 693.111 must wear and visibly
 37 display an identification badge indicating the person's current license, registration or certif-
 38 ication status while performing work for which the license, registration or certification is
 39 required. The authority that registers, licenses or certifies the person shall specify the size
 40 and content of the identification badge and may establish such other specifications as the
 41 authority deems appropriate.

42 (2) Subsection (1) of this section does not apply under any circumstances in which
 43 wearing or displaying the identification badge may create a danger to the public health or
 44 safety of the person or the public.

45 (3) Nothing in this section is intended to require the display of a contractor or business

1 **license, registration, certification or other authorization.**

2
3 **ELECTRICAL CODE AND INSPECTORS**

4
5 **SECTION 63. Section 64 of this 2003 Act is added to and made a part of ORS 479.510 to**
6 **479.945.**

7 **SECTION 64. The Director of the Department of Consumer and Business Services, with**
8 **the approval of the Electrical and Elevator Board, may adopt rules regulating or prohibiting**
9 **conflicts of interest for electrical inspectors in regard to any work performed by an inspector**
10 **or a related party under a license issued under ORS 479.630.**

11 **SECTION 65. ORS 479.540 is amended to read:**

12 479.540. (1) Except as otherwise provided in this subsection, a person is not required to obtain
13 a license to make an electrical installation on **residential or farm** property that is owned by the
14 person or a member of the person’s immediate family if the property is not intended for sale, ex-
15 change, lease or rent. The following apply to the exemption established in this subsection:

16 (a) The exemption established for a person under this subsection does not exempt the work
17 performed by the person from having to comply with the requirements for such work under ORS
18 chapter 455 or this chapter and rules adopted thereunder.

19 (b) If the property is a building used as a residence and is for rent, lease, sale or exchange, this
20 subsection establishes an exemption for work on, alterations to or replacement of parts of electrical
21 installations as necessary for maintenance of the existing electrical installations on that property,
22 but does not exempt new electrical installations or substantial alterations to existing electrical in-
23 stallations on that property. As used in this paragraph, “new electrical installations or substantial
24 alterations” does not include the replacement of an existing garbage disposal, dishwasher or electric
25 hot water heater with a similar appliance of 30 amps or less, single phase, by a landlord, landlord’s
26 agent or the employee of the landlord or landlord’s agent.

27 (2) An electrical contractor license is not required in connection with an electrical installation:

28 (a) Of meters and similar devices for measuring electricity by a person principally engaged in
29 the business of generating or selling electricity in connection with the construction or maintenance
30 of electrical lines, wires or equipment.

31 (b) Of ignition or lighting systems for motor vehicles.

32 (c) To be made by a person on the person’s property in connection with the person’s business.

33 (d) To be made by a public utility, telecommunications carrier as defined in ORS 133.721 or
34 municipality for generation, transmission or distribution of electricity on property which it owns or
35 manages.

36 (3) A person whose sole business is generating or selling electricity in connection with the
37 construction or maintenance of electrical lines, wires or equipment, is not required to obtain a li-
38 cense to transform, transmit or distribute electricity from its source to the service head of the
39 premises to be supplied thereby.

40 (4)(a) A person is not required to obtain a license for the repair or replacement of light fixtures,
41 light switches, lighting ballast, electrical outlets or smoke alarms in a building used for housing
42 purposes that is owned, leased, managed or operated by a housing authority and the person doing
43 the repair or replacement is a member of the housing authority’s regular maintenance staff.

44 (b) A license is not required for:

45 (A) Temporary demonstrations;

1 (B) A street lighting system located on a public street or in a right of way if the system is
2 similar to a system provided by a public utility and the installation or maintenance, or both, is
3 performed by a qualified employee of a licensed electrical contractor principally engaged in the
4 business of installing and maintaining such systems; or

5 (C) An outdoor transmission or distribution system, whether overhead or underground, if the
6 system is similar to a system provided by a public utility and the installation or maintenance, or
7 both, is performed by a qualified employee of a licensed electrical contractor principally engaged in
8 the business of installing and maintaining such systems.

9 (c) For the purposes of this subsection, "qualified employee" means an employee who has regis-
10 tered with or graduated from a State of Oregon or federally approved apprenticeship course de-
11 signed for the work being performed. The supervising electrician signature required under ORS
12 479.560 (1)(b) does not apply to contractors working under this subsection.

13 (5) The provisions of ORS 479.510 to 479.945 and 479.995 do not apply:

14 (a) To electrical products owned by, supplied to or to be supplied to a public utility as defined
15 in ORS 757.005 or telecommunications carrier as defined in ORS 133.721;

16 (b) To electrical installations made by or for such a public utility or telecommunications carrier
17 where the electrical installations are an integral part of the equipment or electrical products of such
18 utility; or

19 (c) To any electrical generation plant owned or operated by a municipality to the same extent
20 as a public utility or telecommunications carrier under paragraphs (a) and (b) of this subsection.

21 (6) A permit is not required:

22 (a) For the repair or replacement of light fixtures, light switches, lighting ballast, electrical
23 outlets or smoke alarms in a building used for housing purposes that is owned, leased, managed or
24 operated by a housing authority; or

25 (b) For the repair, alteration or replacement of existing electrical products or electrical instal-
26 lations authorized by ORS 479.560 (3) at an industrial plant, a commercial office building, a building
27 that is owned, leased, managed or operated by the state or a local government entity or other fa-
28 cilities designated by the Electrical and Elevator Board when the owner, operating manager or
29 electrical contractor of the facility meets the provisions of ORS 479.630 (1) and (2) and:

30 (A) Obtains a master permit for inspection under ORS 479.560 (3); or

31 (B) Obtains a master individual inspection permit under ORS 479.565.

32 (7) In cases of emergency in industrial plants, a permit is not required in advance for electrical
33 installation made by a person licensed as a general supervising electrician, a general journeyman
34 electrician or an electrical apprentice under ORS 479.630 if an application accompanied by appro-
35 priate fee for a permit is submitted to the Department of Consumer and Business Services within
36 five days after the commencement of such electrical work.

37 (8)(a) A license or permit is not required for the installation or assembly of industrial electrical
38 equipment by the duly authorized agents of the factory, vendor or owner.

39 (b) The license and permit exemptions of this subsection do not apply to activity in an area
40 where industrial electrical equipment is installed in or enters a hazardous location or penetrates
41 or enters a fire rated assembly or plenum rated assembly.

42 (c) As used in this subsection:

43 (A) "Duly authorized agents" means individuals trained by the factory or a vendor or by expe-
44 rience and who are knowledgeable in the operation, maintenance, repair and installation of indus-
45 trial electrical equipment.

1 (B) "Installation or assembly" means the reassembly at a job site of equipment that is wired and
2 assembled at the factory and then disassembled for shipping purposes or of existing equipment that
3 is relocated. "Installation or assembly" does not include work involving field fabricated assemblies
4 or any other electrical product that is not an original part of the industrial electrical equipment.
5 "Installation or assembly" does not include the connection of industrial electrical equipment to a
6 power source.

7 (9) A person is not required to obtain a license or permit to set in place and connect a certified
8 electrical product as long as the work performed is not an electrical installation as defined in ORS
9 479.530.

10 (10) The provisions of ORS 479.510 to 479.945 and 479.995 do not apply to electrical installations
11 involving:

12 (a) Communication and signal systems of railroad companies.

13 (b) Telephone terminal equipment and communications systems including all grandfathered or
14 registered telephone terminal equipment and communications systems identified in the Federal
15 Communications Commission rules and regulations, Volume X, part 68, and all terminal equipment
16 and communications systems that are utilized in conjunction with private line communications ser-
17 vices.

18 (c) Remote and permanent broadcast systems of radio and television stations licensed by the
19 Federal Communications Commission if the systems are not part of the building's permanent wiring.

20 (11)(a) The board may grant partial or complete exemptions by rule for any electrical product
21 from any of the provisions of ORS 455.610 to 455.630 or 479.510 to 479.945 and 479.995 if the board
22 determines that the electrical product does not present a danger to the health and safety of the
23 people of this state.

24 (b) If the board grants an exemption pursuant to subsection (1) of this section, the board may
25 determine that the product may be installed by a person not licensed under ORS 479.510 to 479.945
26 and 479.995.

27 (12) ORS 479.760 does not apply to products described in this subsection that comply with the
28 minimum electrical installation safety code. This subsection does not exempt any products used in
29 locations determined to be hazardous in the electrical code of this state. The following apply to this
30 subsection:

31 (a) Except as provided in paragraph (b) of this subsection, the exemption under this subsection
32 applies to:

33 (A) Industrial electrical equipment that is factory wired using separately certified components
34 and is custom-made, limited produced or outside the scope, as determined by the Director of the
35 Department of Consumer and Business Services, of the standards and requirements of Underwriters
36 Laboratories, Canadian Standards Association or American National Standards Institute as in effect
37 on October 23, 1999.

38 (B) The rotating equipment portion of power generation equipment.

39 (C) Testing equipment used in a laboratory or hospital.

40 (D) Commercial electrical air conditioning equipment.

41 (E) Prefabricated work performed by an electrical contractor with licensed electrical personnel
42 in the contractor's place of business for assembly on the job site if the work is composed of parts
43 that are certified electrical products.

44 (b) Notwithstanding paragraph (a) of this subsection, the board may require any of the products
45 described in paragraph (a) of this subsection to be subject to the certification requirements under

1 ORS 479.760 if the board determines that the product or class of products has presented a fire or
2 life safety hazard in use. A determination under this paragraph shall be effective as to any such
3 product or class of products sold or offered for sale after the date of the determination becomes
4 final. The board may reinstate any exemption removed under this paragraph if the board determines
5 that the reasons for the removal of the exemption have been corrected.

6 (13) ORS 479.760 does not apply to electrical equipment that has been in use for one year or
7 more and that is offered for sale.

8 (14) A person who holds a limited maintenance specialty contractor license or a limited pump
9 installation specialty contractor license issued under ORS 479.510 to 479.945 and 479.995 or a person
10 who is the employee of such license holder and who is listed with the board as an employee is not
11 required to have a journeyman license or supervising electrician's license to perform work author-
12 ized under the person's license.

13 (15) A person is not required to obtain a permit for work on, alterations to or replacement of
14 parts of electrical installations as necessary for maintenance of existing electrical installations on
15 residential property owned by the person or by a member of the person's immediate family. This
16 subsection does not establish an exemption for new electrical installations or substantial alterations
17 to existing electrical installations.

18 (16) A permit is not required for those minor electrical installations for which the board has
19 authorized an installation label.

20 (17) A residential home, as defined in ORS 443.580, and an adult foster home, as defined in ORS
21 443.705, is not a multifamily dwelling and only electrical installation standards and safety require-
22 ments applicable to single family dwellings apply to such homes.

23 (18) The permit requirements of ORS 479.550 and the license requirements of ORS 479.620 do
24 not apply to cable television installations.

25 (19) The provisions of any electrical products code or rule adopted pursuant to ORS 479.510 to
26 479.945 and 479.995 apply to cable and such products installed as part of a cable television instal-
27 lation.

28 (20) As used in this section, "smoke alarm" shall have the meaning given that term under ORS
29 479.250.

30 **SECTION 66.** ORS 479.560 is amended to read:

31 479.560. (1) The Department of Consumer and Business Services or a designated agent shall is-
32 sue a permit to:

33 (a) Any applicant who has complied with ORS 479.510 to 479.945 and 479.995 and the rules is-
34 sued thereunder, covering an electrical installation to be made on [*the applicant's own property*]
35 **residential or farm property owned by the applicant or a member of the applicant's immedi-**
36 **ate family** as allowed under ORS 479.540 (1).

37 (b) A licensed electrical contractor or an agent the contractor has designated to the department
38 or the department's designated agent in a record signed by the electrical contractor. The depart-
39 ment or department's designated agent shall only issue a permit under this subsection if the appli-
40 cation for the permit is accompanied by a signed statement that the electrical contractor's general
41 supervising electrician of record will sign the permit before an inspection of the electrical work is
42 requested. A contractor or the contractor's general supervisor will promptly request an inspection
43 of electrical work performed under a permit issued under this subsection. A permit issued under this
44 subsection shall state the name of the electrical contractor.

45 (2) A permit issued to an electrical contractor upon the request of the contractor's supervising

1 electrician is void upon the end of the employment of such supervising electrician before completion
2 of the electrical installation.

3 (3) Except for the installation or alteration of an electrical service, the owner, operating man-
4 ager or electrical contractor of an industrial plant who meets the provisions of ORS 479.630 (1) and
5 (2), a commercial office building, a building that is owned, leased, managed or operated by the state
6 or a local government entity or other facilities designated by the Electrical and Elevator Board, in
7 lieu of the required inspection permit, may apply to the department or municipality providing in-
8 spection service for a master electrical inspection permit. Under the permit the authority having
9 jurisdiction shall cause a periodic inspection to be made of the electrical installations. The authority
10 may also cause a cover inspection, which shall be made before electrical installations are covered.
11 The periodic inspection under the permit shall be done at least once a year or more frequently based
12 on the needs of the particular plant, building or facility. The department shall adopt rules in ac-
13 cordance with ORS 183.310 to 183.550 for:

14 (a) The annual issuance of the master electrical inspection permit;

15 (b) The conduct of the inspections on the electrical installations and electrical products;

16 (c) The granting of a waiver of payment of permit fees other than for the master electrical in-
17 spection permit; and

18 (d) The fixing and collecting of inspection fees at the cost of making the inspection according
19 to the time required of the inspector.

20 21 **ELECTRICAL CONTRACTORS**

22
23 **SECTION 67.** ORS 479.620 is amended to read:

24 479.620. Subject to ORS 479.540, [no] a person [shall] **may not**:

25 (1) **Without an electrical contractor's license**, engage in the business of making electrical
26 installations [*without an electrical contractor's license*], **advertise as or otherwise purport to be**
27 **licensed to make electrical installations or purport to be acting as a business that makes**
28 **electrical installations.**

29 (2) Except as provided in ORS 479.630 (10)(c) and (11)(f), direct, supervise or control the making
30 of an electrical installation without a supervising electrician's license.

31 (3) Except as provided in subsection (5) of this section, make any electrical installation without
32 a supervising or journeyman electrician's license.

33 (4) Perform work on an electrical installation as an apprentice electrician without an electrical
34 apprentice's license.

35 (5) Make any electrical installation on a single or multifamily dwelling unit not exceeding three
36 floors above grade, as provided in ORS 479.630 (14), without a limited residential electrician's li-
37 cense.

38 (6) Permit or suffer any electrical installation on property which the person owns, controls,
39 manages or supervises to be made by a person not licensed to make such an installation.

40 (7) Install, maintain, replace or repair electrical wiring or electrical products on an oil module
41 without a Class I oil module electrician's license.

42 (8) Perform electrical work on an oil module in the capacity of helper or trainee without a Class
43 II oil module electrician's license.

44 45 **LICENSED DEVELOPERS**

1 **SECTION 68. The Construction Contractors Board shall develop a separate class of con-**
 2 **tractor license for contractors who are licensed developers.**

3 **SECTION 68a. Section 68 of this 2003 Act is added to and made a part of ORS chapter**
 4 **701.**

5 **SECTION 69.** ORS 701.005 is amended to read:

6 701.005. As used in this chapter:

7 (1) "Board" means the Construction Contractors Board.

8 (2) "Contractor" means a person who, for compensation or with the intent to sell, arranges or
 9 undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from,
 10 improve, inspect, move, wreck or demolish, for another, any building, highway, road, railroad, exca-
 11 vation or other structure, project, development or improvement attached to real estate or to do any
 12 part thereof. "Contractor" includes general contractors, residential-only contractors and specialty
 13 contractors as defined in this section.

14 (3) "General contractor" means a contractor whose business operations require the use of more
 15 than two unrelated building trades or crafts that the contractor supervises or performs in whole or
 16 part, whenever the sum of all contracts on any single property, including materials and labor, ex-
 17 ceeds an amount established by rule by the board. "General contractor" does not include specialty
 18 contractors or limited contractors, as described in ORS 701.085.

19 (4) "Home inspector" means a person who, for a fee, inspects and provides written reports on
 20 the overall physical condition of a residential structure and the appurtenances thereto. "Home in-
 21 spector" does not include persons certified under ORS chapter 455 to inspect new, repaired or al-
 22 tered structures for compliance with the state building code.

23 (5) "Inspector" means a contractor registered with the board who inspects or otherwise provides
 24 services to a property owner or other contractor but does not substantively add to or subtract from
 25 a structure. "Inspector" includes but is not limited to a home inspector certified or licensed under
 26 ORS 701.350, a lead-based paint inspector licensed under ORS 701.515 and a cross connection and
 27 backflow prevention device inspector certified under ORS 448.279. "Inspector" does not include city
 28 or county inspectors acting under ORS 701.225 or an inspector as defined in ORS 455.715.

29 (6) "Large commercial structure" means a structure that is not a residential structure or small
 30 commercial structure.

31 **(7) "Licensed developer" means a contractor who owns property or an interest in prop-**
 32 **erty and arranges for construction work, if the contractor:**

33 **(a) Engages in the business of arranging for construction work and performing other**
 34 **activities associated with the improvement of real property, with the intent to sell the**
 35 **property;**

36 **(b) Acts in association with one or more licensed general contractors and the general**
 37 **contractor or combination of general contractors have sole responsibility for overseeing all**
 38 **phases of construction activity on the property; and**

39 **(c) Does not perform any construction work on the property.**

40 [(7)] (8) "Residential-only contractor" means a general contractor or specialty contractor who
 41 performs work exclusively in connection with residential structures and small commercial struc-
 42 tures, and the appurtenances thereto. "Residential-only contractor" includes, but is not limited to:

43 (a) A person who purchases or owns property and constructs or for compensation arranges for
 44 the construction of one or more residential structures or small commercial structures with the in-
 45 tent of selling the structures;

1 (b) A school district, as defined in ORS 332.002, that permits students to construct a residential
 2 structure or small commercial structure as an educational experience to learn building techniques
 3 and sells the completed structure;

4 (c) A community college district, as defined in ORS 341.005, that permits students to construct
 5 a residential structure or small commercial structure as an educational experience to learn building
 6 techniques and sells the completed structure; or

7 (d) Any person except a landscape contractor, nurseryman, gardener or person engaged in the
 8 commercial harvest of forest products who is engaged as an independent contractor to remove trees,
 9 prune trees, remove tree limbs or stumps or to engage in tree or limb guying.

10 [(8)] (9) "Residential structure" means a residence, including a site-built home, modular home
 11 constructed off-site, floating home as defined in ORS 830.700, condominium unit, manufactured
 12 dwelling or duplex, or a multiunit residential building consisting of four units or less that is not part
 13 of a multistructure complex of buildings.

14 [(9)] (10) "Small commercial structure" means a nonresidential structure that has a ground area
 15 of 4,000 square feet or less, including exterior walls, and not more than 20 feet in height from the
 16 top surface of the lowest flooring to the highest interior overhead finish of the structure.

17 [(10)] (11) "Specialty contractor" means a contractor who performs work on a structure, project,
 18 development or improvement and whose operations as such do not fall within the definition of
 19 "general contractor." "Specialty contractor" includes a person who performs work regulated under
 20 ORS chapter 446.

21 **SECTION 70.** ORS 701.010 is amended to read:

22 701.010. The Construction Contractors Board may adopt rules to make licensure optional for
 23 persons who offer, bid or undertake to perform work peripheral to construction, as defined by ad-
 24 ministrative rule of the Construction Contractors Board. The following persons are exempt from
 25 licensure under this chapter:

26 (1) A person who is constructing, altering, improving or repairing personal property.

27 (2) A person who is constructing, altering, improving or repairing a structure located within the
 28 boundaries of any site or reservation under the jurisdiction of the federal government.

29 (3) A person who furnishes materials, supplies, equipment or finished product and does not fab-
 30 ricate them into, or consume them, in the performance of the work of a contractor.

31 (4) A person working on one structure or project, under one or more contracts, when the ag-
 32 gregate price of all of that person's contracts for labor, materials and all other items is less than
 33 \$500 and such work is of a casual, minor or inconsequential nature. This subsection does not apply
 34 to a person who advertises or puts out any sign or card or other device that might indicate to the
 35 public that the person is a contractor.

36 (5) An owner who contracts for work to be performed by a licensed contractor. This subsection
 37 does not apply to a person who, in the pursuit of an independent business, constructs, remodels,
 38 repairs or for compensation and with the intent to sell the structure, arranges to have constructed,
 39 remodeled or repaired a structure with the intent of offering the structure for sale before, upon or
 40 after completion. It is prima facie evidence that there was an intent of offering the structure for sale
 41 if the person who constructed, remodeled or repaired the structure or arranged to have the struc-
 42 ture constructed, remodeled or repaired does not occupy the structure after its completion.

43 (6) A person performing work on a property that person owns or performing work as the owner's
 44 employee, whether the property is occupied by the owner or not, or a person performing work on
 45 that person's residence, whether or not that person owns the residence. This subsection does not

1 apply to a person performing work on a structure owned by that person or the owner's employee if
 2 the work is performed, in the pursuit of an independent business, with the intent of offering the
 3 structure for sale before, upon or after completion.

4 (7) A person licensed in one of the following trades or professions when operating within the
 5 scope of that license:

6 (a) An architect licensed by the State Board of Architect Examiners.

7 (b) A registered professional engineer licensed by the State Board of Examiners for Engineering
 8 and Land Surveying.

9 (c) A water well contractor licensed by the Water Resources Department.

10 (d) A sewage disposal system installer licensed by the Department of Environmental Quality.

11 (e) A landscaping business licensed under ORS 671.510 to 671.710 that constructs fences, decks,
 12 arbors, driveways, walkways or retaining walls when:

13 (A) Performed in conjunction with landscaping work; or

14 (B) Not performed in conjunction with landscaping work and that has filed a bond under ORS
 15 671.690 (1)(b).

16 (f) A pesticide operator licensed under ORS 634.116 who does not conduct inspections for wood
 17 destroying organisms for the transfer of real estate.

18 (g) An appraiser certified or licensed under ORS chapter 674 by the Appraiser Certification and
 19 Licensure Board.

20 (8) A person who performs work subject to this chapter as an employee of a contractor.

21 (9) A manufacturer of a manufactured home constructed under standards established by the
 22 federal government.

23 (10) A person involved in the movement of:

24 (a) Modular buildings or structures other than manufactured structures not in excess of 14 feet
 25 in width.

26 (b) Structures not in excess of 16 feet in width when the structures are being moved by their
 27 owner if the owner is not a contractor required to be licensed under this chapter.

28 (11) A commercial lending institution or surety company that arranges for the completion, repair
 29 or remodeling of a structure. As used in this subsection, "commercial lending institution" means
 30 any bank, mortgage banking company, trust company, savings bank, savings and loan association,
 31 credit union, national banking association, federal savings and loan association, insurance company
 32 or federal credit union maintaining an office in this state.

33 (12) A real estate licensee as defined in ORS 696.010 or the employee of that licensee when
 34 performing work on a structure that the real estate licensee manages under a contract.

35 (13) Units of government other than those specified in ORS 701.005 [(7)(b)] **(8)(b)** and (c).

36 **SECTION 71.** ORS 701.065 is amended to read:

37 701.065. (1) Except as provided in subsection (2) of this section, a contractor may not perfect a
 38 claim of a construction lien, or commence a claim with the Construction Contractors Board, in ar-
 39 bitration or in any court of this state for compensation for the performance of any work or for the
 40 breach of any contract for work that is subject to this chapter, unless the contractor had a valid
 41 license issued by the board:

42 (a) At the time the contractor bid or entered into the contract for performance of the work; and

43 (b) Continuously while performing the work for which compensation is sought.

44 (2) The board, arbitrator or court shall not apply the provisions of subsection (1) of this section
 45 to a lien or claim if the board, arbitrator or court determines that:

1 (a) The contractor either did not have a valid license at any time required under subsection (1)
2 of this section, or had an initial issuance thereof, and:

3 (A) The contractor was not aware of the requirement that the contractor be licensed, and the
4 contractor submitted a completed application for a license within a number of days established by
5 the board, but not more than 90 days, of the date the contractor became aware of the requirement;

6 (B) At the time the contractor perfected a claim of a construction lien or commenced any other
7 claim subject to the provisions of subsection (1) of this section, the contractor was licensed by the
8 board; and

9 (C) Enforcement of the provisions of subsection (1) of this section would result in substantial
10 injustice to the contractor; [or]

11 (b) The contractor was licensed by the board for some but not all of the times required under
12 subsection (1) of this section and had a lapse in such license and:

13 (A) The contractor was not aware of the lapse in the license for more than a number of days
14 established by the board, but not to exceed 90 days, before submitting a completed application for
15 license renewal with the board;

16 (B) Except for perfection of a claim of a construction lien and a suit to foreclose the lien, at the
17 time the contractor commenced any other claim subject to the provisions of subsection (1) of this
18 section the contractor's license was renewed under ORS 701.115 to include the entire time period
19 for which a license was required under subsection (1) of this section; and

20 (C) For perfection of a claim of a construction lien and a suit to foreclose the lien, the con-
21 tractor's license was renewed under ORS 701.115 for the entire time period for which a license was
22 required under subsection (1) of this section, but not later than 90 days following perfection of the
23 lien[.];

24 **(c)(A) The contractor is a licensed developer and did not have a valid license during all
25 or part of the period described in subsection (1) of this section;**

26 **(B) The licensed developer was unaware of the license requirement and obtained a license
27 within a time established by the board, not to exceed 90 days after the licensed developer
28 learned of the requirement;**

29 **(C) The licensed developer was licensed at the time the licensed developer perfected the
30 lien or commenced the claim; and**

31 **(D) Enforcement of subsection (1) of this section would result in substantial injustice to
32 the licensed developer; or**

33 **(d) The claim:**

34 **(A) Is directed against a person or entity that:**

35 **(i) Is subject to ORS chapter 671, 672 or 701;**

36 **(ii) Provides construction or design labor or services of any kind; or**

37 **(iii) Manufactures, distributes, rents or otherwise provides materials, supplies, equip-
38 ment, systems or products; and**

39 **(B) Arises out of defects, deficiencies or inadequate performance in the construction,
40 design, labor, services, materials, supplies, equipment, systems or products provided.**

41 (3) If a contractor falsely swears to information provided under ORS 701.075 or knowingly vio-
42 lates the provisions of ORS 656.029, 670.600 or 701.075, the contractor may not perfect a claim of a
43 construction lien, or commence a claim with the board, in arbitration or in any court of this state
44 for compensation for the performance of any work on a residential structure or for the breach of
45 any contract for work on a residential structure that is subject to this chapter.

1 **SECTION 72.** Notwithstanding ORS 701.065, a contractor is not barred from commencing
 2 a claim described in ORS 701.065 (2)(d) with the Construction Contractors Board, in arbi-
 3 tration or in a court, for construction work performed in whole or in part prior to April 1,
 4 2004, if the contractor obtains a license as a licensed developer prior to April 1, 2004, and at
 5 the time of the work the contractor:

6 (1) Owns the property or an interest in the property associated with the construction
 7 work;

8 (2) Arranges for the construction work;

9 (3) Is engaged in the business of arranging for construction work and performing other
 10 activities associated with the improvement of real property, with the intent to sell the
 11 property;

12 (4) Acts in association with one or more licensed general contractors and the general
 13 contractor or combination of general contractors have sole responsibility for overseeing all
 14 phases of construction activity on the property; and

15 (5) Does not perform any construction work on the property.

16 **SECTION 73.** ORS 701.075 is amended to read:

17 701.075. (1) An applicant for a construction contractor license must submit the application on
 18 a form prescribed by the Construction Contractors Board. The application shall include, but not be
 19 limited to, at least the following information regarding the applicant:

20 (a) Classification of the license being sought.

21 (b) A list of unsatisfied judgments resulting from bond claims and litigation involving the appli-
 22 cant or its principals within the prior five years.

23 (c) Social Security number.

24 (d) Workers' compensation insurance account number if help is hired or traded.

25 (e) Unemployment insurance account number if help is hired.

26 (f) State withholding tax account number if help is hired.

27 (g) Federal employer identification number, if help is hired or if self-employed and participating
 28 in a retirement plan.

29 (h) The name and address of:

30 (A) Each partner, [or] venturer **or member**, if the applicant is a partnership, [or] joint venture
 31 **or limited liability company**.

32 (B) The owner, if the applicant is an individual proprietorship.

33 (C) The corporate officers, if the applicant is a corporation.

34 (2) An applicant shall conform to the information provided by the applicant on the application
 35 and to the terms of the application.

36 (3) The board shall adopt by rule an application form that requires an applicant to indicate, as
 37 set forth in ORS 670.600, the basis under which the applicant qualifies as an independent contractor.

38 (4) Prior to licensure, an applicant must demonstrate compliance with the licensure education
 39 requirements described in ORS 701.280 (1) and pass an examination based on the requirements.

40 (5) Prior to licensure, an applicant shall submit proof satisfactory to the board that the applicant
 41 has the legal capacity to contract.

42 (6) Notwithstanding subsection (4) of this section, the examination requirement for licensure
 43 does not apply to a person registered with the board prior to July 1, 2000, unless the person's license
 44 has lapsed more than two years prior to the application date.

45 (7) A business licensed under this chapter must at all times have at least one owner or employee

1 who:

2 (a) Has passed an examination under subsection (4) of this section; or

3 (b) Is exempt under subsection (6) of this section from examination and was, at any time prior
4 to July 1, 2000, an owner of the business or an employee designated by an owner to exercise man-
5 agement or supervisory authority over the construction activities of the business.

6 **(8) Subsections (4), (6) and (7) of this section do not apply to a licensed developer.**

7 **SECTION 74.** ORS 701.085 is amended to read:

8 701.085. (1) An applicant for issuance or renewal of a contractor license shall file with the
9 Construction Contractors Board a surety bond with one or more corporate sureties authorized to
10 do business in this state in the amount set forth in subsections (2) to (5) of this section. The surety
11 bond must provide that the applicant, with regard to work subject to this chapter, will pay claims
12 ordered paid by the board under ORS 701.145 or 701.146. Bonds filed under this subsection shall
13 remain in effect for at least one year or until depleted by claims paid under ORS 701.150, unless the
14 surety sooner cancels the bond. At the discretion of the surety the bond may be continued for an
15 additional period by continuation certificate. Except as provided in subsection (6) of this section, the
16 aggregate liability of the surety under the bond for claims against the bond [*shall*] **may** not exceed
17 the penal sum of the bond no matter how many years the bond is in force. Except as provided in
18 subsection (6) of this section, [*no*] **an** extension by continuation certificate, reinstatement, reissue
19 or renewal of the bond [*shall*] **may not** increase the liability of the surety.

20 (2) A general contractor **or licensed developer** shall obtain a surety bond in the amount of
21 \$15,000.

22 (3) A specialty contractor shall obtain a surety bond in the amount of \$10,000.

23 (4) An inspector shall obtain a surety bond in the amount of \$10,000.

24 (5) The board may reduce the amount of the surety bond required by this section to \$5,000 for
25 a contractor upon a showing that the contractor does not perform work as a contractor exceeding
26 \$40,000 in gross annual volume and does not enter into contracts that exceed \$5,000. The board shall
27 designate the contractor as a limited contractor.

28 (6) The board, by rule, may require a licensee to obtain a new surety bond if, pursuant to a
29 board order for payment of a claim described in ORS 701.140, the surety pays a claim out of the
30 bond of the licensee. The new surety bond must be in the amount set forth in subsections (2) to (5)
31 of this section unless a higher amount is required by a board condition or rule described in sub-
32 section (7) or (8) of this section. The board may allow a licensee to obtain, instead of a new bond,
33 a certification that the surety remains liable for the full penal sum of the bond, notwithstanding
34 payment by the surety on the claim.

35 (7) If the amount the licensee must pay against the bond under this section exceeds the amount
36 of the bond, the board shall suspend the contractor's license until the amount owed is paid. The
37 board, as a condition of ending the suspension, may require a contractor requesting reinstatement
38 of a license to file a bond of an amount up to five times as much as the amount required ordinarily
39 of a licensee under this section.

40 (8) The board by rule may establish conditions for applicants or persons licensed under this
41 chapter under which the applicant or licensee must file a bond of an amount up to five times as
42 much as the amount required ordinarily of an applicant or licensee under this section. The board
43 may reduce the amount of bond it would otherwise require if the contractor demonstrates satisfac-
44 tory completion of approved elective classes on dispute resolution and prevention, basic accounting
45 and record keeping or such other classes as the board may prescribe.

1 (9) The bond required under this section is for the exclusive purpose of payment of final orders
2 and arbitration awards of the board in accordance with this chapter.

3 (10) Upon determination under ORS 701.145 or 701.146 of a claim against a contractor who holds
4 a bond required under this section, the board shall notify the surety on the bond of the final order
5 in a manner determined by the board by rule. The notification shall include a list of all claims upon
6 which a final order has been issued.

7 (11) A suit or action may not be commenced against a surety on a bond required under this
8 section until 30 days after the date that the surety is notified by the board under ORS 701.150 that
9 payment is due on the claim.

10 (12) In any action against a surety on a bond under this section that is based on the failure of
11 the surety to pay a claim or on the denial of a claim by the surety, the court may award:

12 (a) Costs;

13 (b) Reasonable attorney fees to the prevailing party as part of the costs; and

14 (c) Twice the amount of any damages that the board ordered the surety to pay on the claim, if
15 the surety arbitrarily and capriciously refused to pay upon order of the board.

16 **SECTION 75.** ORS 701.105 is amended to read:

17 701.105. (1) A contractor who possesses a license as required under this chapter shall have in
18 effect public liability, personal injury and property damage insurance covering the work of the
19 contractor that is subject to this chapter, for an amount not less than:

20 (a) \$500,000 for a general contractor **or licensed developer**.

21 (b) \$300,000 for a residential-only specialty contractor.

22 (c) \$500,000 for all other specialty contractors.

23 (d) \$100,000 for a limited contractor.

24 (e) \$300,000 for an inspector.

25 (2) The contractor shall provide satisfactory evidence to the Construction Contractors Board
26 at the time of licensure and renewal that the insurance required by subsection (1) of this section
27 has been procured and is in effect.

28 **SECTION 76.** ORS 701.115 is amended to read:

29 701.115. (1) A license is valid for two years or four years, at the discretion of the applicant, from
30 the date of issuance unless the license is revoked or suspended as set forth in ORS 701.135. Upon
31 application, a license may be renewed by the same procedure provided for an original license if the
32 applicant:

33 (a) Submits any additional supplemental information or completes any required education as the
34 Construction Contractors Board may require by rule; and

35 (b) Passes the examination required in ORS 701.075 (4), if the applicant has not previously sat-
36 isfied the examination requirement and is not exempt under ORS 701.075 (6) **or (8)**.

37 (2) The board shall issue a pocket-card certificate of licensure to a contractor licensed under
38 this chapter indicating the type of license.

39 (3) The board may vary the dates of license renewal by giving to the licensee written notice of
40 the renewal date assigned and by making appropriate adjustments in the renewal fee.

41 (4) If a contractor applies for renewal not more than one year after the contractor's license
42 lapses, upon the contractor's compliance with the requirements of subsection (1) of this section, the
43 board may renew the lapsed license. The board may designate the effective date of renewal as the
44 last date on which the contractor was licensed.

45 (5) A contractor may convert a license to inactive status if the contractor is not engaged in

1 work as a contractor. A contractor having an inactive license is subject to board licensing re-
2 quirements and fees, but is not subject to the bonding requirement of ORS 701.085 or the insurance
3 requirement of ORS 701.105. An inactive license is not considered a valid license for purposes of
4 offering to undertake construction work, submitting a bid for construction work, obtaining a build-
5 ing permit or performing construction work. A license may not be placed or maintained in inactive
6 status more than once during any two-year period.

7 **SECTION 77. Sections 68 and 72 of this 2003 Act and the amendments to ORS 701.005,**
8 **701.010, 701.065, 701.075, 701.085, 701.105 and 701.115 by sections 69 to 71 and 73 to 76 of this**
9 **2003 Act become operative on October 1, 2003.**

10 **SECTION 78. The unit captions used in this 2003 Act are provided only for the conven-**
11 **ience of the reader and do not become part of the statutory law of this state or express any**
12 **legislative intent in the enactment of this 2003 Act.**

13
14 **EMERGENCY CLAUSE**

15
16 **SECTION 79. This 2003 Act being necessary for the immediate preservation of the public**
17 **peace, health and safety, an emergency is declared to exist, and this 2003 Act takes effect**
18 **on its passage.**