

**Enrolled**  
**Senate Bill 133**

Sponsored by Senator DEVLIN, Representative VEGA PEDERSON (Presession filed.)

CHAPTER .....

AN ACT

Relating to the Department of Consumer and Business Services system for electronic access to building code information; creating new provisions; amending ORS 455.095, 455.097, 455.185 and 455.210; and repealing section 8, chapter 69, Oregon Laws 2007.

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

**SECTION 1.** As used in ORS 455.095, 455.097 and 455.185, “construction-related” means consisting of, or involving the approving, enabling, expediting or facilitating of, the alteration, construction, demolishing, development, improvement, inspection, moving, operation, repair or wrecking of, or the addition to or subtraction from, public improvements, real property or a structure.

**SECTION 2.** ORS 455.095 is amended to read:

455.095. (1) The Department of Consumer and Business Services shall develop and implement a system that provides electronic access to building codes information. The department shall make the system accessible for use by municipalities in carrying out the building inspection programs administered and enforced by the municipalities.

**(2) The department may also make the system available for use by other public bodies that provide construction-related services including, but not limited to, public bodies described in ORS 455.185 (4).** The [*building codes*] information and services available through the system may include, but need not be limited to:

- [(1)] (a) Licensing, permit, inspection and other relevant information;
- [(2)] (b) Access to forms;
- [(3)] (c) Electronic submission of permit applications;
- [(4)] (d) Electronic submission of plans for review;
- [(5)] (e) Electronic issuance of minor label or other appropriate permits;
- [(6)] (f) Access to permit and inspection processes; [*and*]
- [(7)] (g) Scheduling of inspections, tracking of corrections and granting of approvals[.]; **and**
- (h) The coordination and tracking of construction-related services.**

**(3) The use of the system described in this section by a municipality or other public body is voluntary. Nonparticipation in the system by a municipality or other public body is not grounds for the department to suspend, revoke authorization for or assume the administration of a building inspection program described in ORS 455.148 or 455.150 or to impose other disciplinary actions or sanctions against a municipality or other public body.**

**SECTION 3.** ORS 455.097 is amended to read:

455.097. (1) As used in this section, “form and format”:

(a) Means the arrangement, organization, configuration, structure or style of, or method of delivery for, providing required information or providing the substantive equivalent of required information.

(b) Does not mean altering the substance of information or the addition or omission of information.

(2) The purpose of this section and ORS 455.095 is to enable the Department of Consumer and Business Services to develop and implement a system that:

(a) Provides electronic access to building codes information;

(b) Is designed to offer a full range of electronic building permits services;

(c) Allows the streamlining of building inspection services;

(d) Provides a uniform form and format for submitting building codes information electronically; [and]

(e) Is available for use by any municipality administering and enforcing a building inspection program[.]; **and**

**(f) At the discretion of the department:**

**(A) Is available for use by other public bodies that provide construction-related services; and**

**(B) Supports access for other purposes that may include, but need not be limited to, access for the coordination and tracking of construction-related services.**

(3) The department shall adopt rules to govern the form and format of building permit applications, building plans, specifications, [and] other building program information **and any other information** exchanged through the electronic building codes information system described in ORS 455.095.

(4) The department may waive a contrary form and format requirement imposed by statute or ordinance or by the rules of another agency for the submission of information in physical form to the extent the waiver is necessary to facilitate the submission of the information electronically. The department may accept an electronic reproduction of a signature, stamp, seal, certification or notarization as the equivalent of the original or may accept the substitution of identifying information for the signature, stamp, seal, certification or notarization. The department may not waive a requirement imposed by statute or ordinance or by the rules of another agency, other than a form and format requirement.

(5) A person exchanging information through the electronic building codes information system in a form and format acceptable to the department is not subject to any licensing sanction, civil penalty, fine, permit disapproval or revocation or other sanction for failure to comply with a form or format requirement imposed by statute, ordinance or rule for submission of the information in physical form, including but not limited to any requirement that the information be in a particular form or of a particular size, be submitted with multiple copies, be physically attached to another document, be an original document or be signed, stamped, sealed, certified or notarized.

**SECTION 4.** ORS 455.185 is amended to read:

455.185. (1) Notwithstanding ORS 455.148, 455.150 and 455.153, upon request by one or more municipalities and with the consent of all affected parties, the Director of the Department of Consumer and Business Services may enter into an agreement for the Department of Consumer and Business Services to uniformly administer and enforce all or a portion of a building inspection program within a geographic area. The geographic area may be a municipality, a region comprising parts of more than one municipality or a region comprising multiple municipalities. The geographic area need not correspond to the jurisdictional boundaries of municipalities. The agreement may provide for the department to perform administration and enforcement for a specified period or for carrying out one or more particular projects.

(2) The terms of an agreement under **subsection (1) of** this section may specify whether the department is to utilize department resources or combine resources with one or more of the municipalities to carry out an agreement. An agreement may combine department and local government resources in any manner that the parties believe will provide for the efficient and uniform

administration of the building inspection program within the geographic area, including but not limited to full, divided, mutual or joint performance of any of the administrative or enforcement functions by any of the parties to the agreement. A decision by the director regarding whether to enter into an agreement under **subsection (1) of this section**, and the content of any agreement that the director enters into under **subsection (1) of this section**, is not subject to review by the Attorney General or the Oregon Department of Administrative Services and is subject to challenge or appeal under ORS chapter 183 only for failure to comply with an express requirement created under ORS 455.185 to 455.198.

(3) An agreement under **subsection (1) of this section** is not an abandonment of a building inspection program for purposes of ORS 455.148 or 455.150.

**(4) If the Department of Consumer and Business Services enters into an agreement under subsection (1) of this section, the department and a public body that offers construction-related services in the geographic area may enter into an agreement for providing access to the construction-related services on the electronic information system described in ORS 455.095 and 455.097. The agreement may include, but need not be limited to, provision for access that allows the electronic submission of an application to the public body for a construction-related permit. As used in this subsection, “public body” has the meaning given that term in ORS 174.109.**

**SECTION 5.** ORS 455.210, as amended by section 6, chapter 69, Oregon Laws 2007, and section 30, chapter 473, Oregon Laws 2011, is amended to read:

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

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

(3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and reasonable to provide for the administration and enforcement of any specialty code or codes for which the municipality has assumed responsibility under ORS 455.148 or 455.150. A municipality shall give the director notice of the proposed adoption of a new or increased fee under this subsection. The municipality shall give the notice to the director at the time the municipality provides the opportunity for public comment under ORS 294.160 regarding the fee or, if the proposed fee is contained in an estimate of municipal budget resources, at the time notice of the last budget meeting is published under ORS 294.426.

(b) Ten or more persons or an association with 10 or more members may appeal the adoption of a fee described in this subsection to the Director of the Department of Consumer and Business Services. The persons or association must file the appeal no later than 60 days after the director receives notice of the proposed adoption of the fee from the municipality under paragraph (a) of this subsection. However, if the municipality failed to give notice to the director, an appeal may be filed with the director within one year after adoption of the new or increased fee. Upon receiving a timely appeal, the director shall, after notice to affected parties and hearing, review the municipality’s fee adoption process and the costs of administering and enforcing the specialty code or codes referred to in paragraph (a) of this subsection. The director shall approve the fee if the director feels the fee is necessary and reasonable. If the director does not approve the fee upon appeal, the fee is not effective. The appeal process provided in this paragraph does not apply to fees that have been submitted for a vote and approved by a majority of the electors voting on the question.

(c) Fees collected by a municipality under this subsection shall be used for the administration and enforcement of a building inspection program for which the municipality has assumed responsibility under ORS 455.148 or 455.150.

(d) For purposes of paragraph (b) of this subsection, in determining whether a fee is reasonable the director shall consider whether:

(A) The fee is the same amount as or closely approximates the amount of the fee charged by other municipalities of a similar size and geographic location for the same level of service;

(B) The fee is calculated with the same or a similar calculation method as the fee charged by other municipalities for the same service;

(C) The fee is the same type as the fee charged by other municipalities for the same level of service; and

(D) The municipality, in adopting the fee, complied with ORS 294.160, 294.361 and 294.426 and this section and standards adopted by the director under ORS 455.148 (11) or 455.150 (11).

(4) Notwithstanding any other provision of this chapter:

(a) For the purpose of partially defraying state administrative costs, there is imposed a surcharge in the amount of four percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, four percent of the total hourly charges collected.

(b) For the purpose of partially defraying state inspection costs, there is imposed a surcharge in the amount of two percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, two percent of the total hourly charges collected.

(c) For the purpose of defraying the cost of administering and enforcing the state building code, there is imposed a surcharge on permit fees and on hourly charges collected instead of permit fees. The surcharge may not exceed one percent of the total permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, one percent of the total hourly charges collected.

**(d) For the purpose of defraying the cost of developing and administering the electronic building codes information system described in ORS 455.095 and 455.097, there is imposed a surcharge in the amount of four percent on permit fees, or if the applicant chooses to pay an hourly rate instead of purchasing a permit, four percent of the total hourly charges collected.**

(5) Municipalities shall collect and remit surcharges imposed under subsection (4) of this section to the director as provided in ORS 455.220.

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

**SECTION 6. Section 8, chapter 69, Oregon Laws 2007, is repealed.**

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**Passed by Senate February 26, 2015**

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House May 19, 2015**

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Tina Kotek, Speaker of House

**Received by Governor:**

.....M,....., 2015

**Approved:**

.....M,....., 2015

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State