

Enrolled
House Bill 3016

Sponsored by COMMITTEE ON BUSINESS, LABOR AND CONSUMER AFFAIRS (at the request of Plumbing and Mechanical Contractors Association)

CHAPTER

AN ACT

Relating to building code fees adopted by municipalities; creating new provisions; and amending ORS 455.210.

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

SECTION 1. ORS 455.210 is amended to read:

455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits issued by the Department of Consumer and Business Services for the construction, reconstruction, alteration and repair of prefabricated structures and of buildings and other structures and the installation of mechanical heating and ventilating devices and equipment. The fees 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 in a newspaper under ORS 294.401.**

(b) Ten or more persons or an association with 10 or more members may[, *within 30 days of the adoption of a fee under paragraph (a) of this subsection, appeal the fee*] **appeal the adoption of a fee described in this subsection** to the Director of the Department of Consumer and Business Services. [*Within 60 days of the receipt of the appeal,*] **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[*and*]. **The director shall** approve the fee if the director feels [*it*] **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; [*and*]

(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 294.401 and this section and standards adopted by the director under ORS 455.148 (11) or 455.150 (11).

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

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

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

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

SECTION 2. The amendments to ORS 455.210 by section 1 of this 2005 Act apply to new or increased fees initially proposed publicly by a municipality on or after the effective date of this 2005 Act.

Passed by House April 25, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate May 24, 2005

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President of Senate

Received by Governor:

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Approved:

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Governor

Filed in Office of Secretary of State:

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Secretary of State