

# House Bill 3016

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

## 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**.

Changes process for seeking review of fees adopted by municipality enforcing state building code or specialty code. Changes criteria for assessing reasonableness of fee. Requires municipality to notify Director of Department of Consumer and Business Services when adopting fee.

## A BILL FOR AN ACT

1  
2 Relating to building code fees adopted by municipalities; creating new provisions; and amending ORS  
3 455.210.

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

5 **SECTION 1.** ORS 455.210 is amended to read:

6 455.210. (1) Fees shall be prescribed as required by ORS 455.020 for plan review and permits  
7 issued by the Department of Consumer and Business Services for the construction, reconstruction,  
8 alteration and repair of prefabricated structures and of buildings and other structures and the in-  
9 stallation of mechanical heating and ventilating devices and equipment. The fees may not exceed 130  
10 percent of the fee schedule printed in the "Uniform Building Code," 1979 Edition, and in the "Uni-  
11 form Mechanical Code," 1979 Edition, both published by the International Conference of Building  
12 Officials. Fees are not effective until approved by the Oregon Department of Administrative Ser-  
13 vices.

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

17 (3)(a) A municipality may adopt by ordinance or regulation such fees as may be necessary and  
18 reasonable to provide for the administration and enforcement of any specialty code or codes for  
19 which the municipality has assumed responsibility under ORS 455.148 or 455.150. **A municipality**  
20 **shall give the director notice of the proposed adoption of a new or increased fee under this**  
21 **subsection. The municipality shall give the notice to the director at the time the municipality**  
22 **provides the opportunity for public comment under ORS 294.160 regarding the fee or, if the**  
23 **proposed fee is contained in an estimate of municipal budget resources, at the time notice**  
24 **of the last budget meeting is published in a newspaper under ORS 294.401.**

25 (b) Ten or more persons or an association with 10 or more members may[, *within 30 days of the*  
26 *adoption of a fee under paragraph (a) of this subsection, appeal the fee*] **appeal the adoption of a fee**  
27 **described in this subsection** to the Director of the Department of Consumer and Business Services.  
28 [*Within 60 days of the receipt of the appeal,*] **The persons or association must file the appeal no**  
29 **later than 60 days after the director receives notice of the proposed adoption of the fee from**  
30 **the municipality under paragraph (a) of this subsection. However, if the municipality failed**

**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 **to give notice to the director, an appeal may be filed with the director within one year after**  
 2 **adoption of the new or increased fee. Upon receiving a timely appeal,** the director shall, after  
 3 notice to affected parties and hearing, review the municipality's **fee adoption process and the** costs  
 4 of administering and enforcing the specialty code or codes referred to in paragraph (a) of this  
 5 subsection[ *and*]. **The director shall** approve the fee if the director feels [*it*] **the fee** is necessary  
 6 and reasonable. If the director does not approve the fee upon appeal, the fee is not effective. The  
 7 appeal process provided in this paragraph does not apply to fees that have been submitted for a vote  
 8 and approved by a majority of the electors voting on the question.

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

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

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

16 (B) The fee is calculated with the same or a similar calculation method as the fee charged by  
 17 other municipalities for the same service; [*and*]

18 (C) The fee is the same type as the fee charged by other municipalities for the same level of  
 19 service[.]; **and**

20 **(D) The municipality, in adopting the fee, complied with ORS 294.160, 294.361 and 294.401**  
 21 **and this section and standards adopted by the director under ORS 455.148 (11) or 455.150 (11).**

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

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

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

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

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