

# House Bill 4041

Sponsored by Representatives LEWIS, EVANS; Representatives GRAYBER, LEVY, MEEK, SCHARF, SMITH G  
(Pre-session filed.)

## 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**.

Permits Building Codes Structures Board to adopt licensing standards for performing structural masonry. Permits Construction Contractors Board to adopt licensing standards for applying or installing fireproofing materials in essential facilities.

Requires Department of Consumer and Business Services to adopt rules to require adequate fireproofing in all newly constructed essential facilities. Specifies minimum provisions required in department's rules.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to building codes applicable to essential facilities; creating new provisions; amending ORS  
3 455.117 and 455.447; and prescribing an effective date.

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

5 **SECTION 1.** ORS 455.117 is amended to read:

6 455.117. (1) Except as provided in subsection (3) of this section, a regulatory body listed in  
7 subsection (2) of this section may adopt rules to administer the licensing, certification or registra-  
8 tion of persons regulated by the body. The rules adopted under this section may include, but need  
9 not be limited to:

10 (a) The form and content of an application for issuance or renewal of a license, certificate or  
11 registration;

12 (b) Training and continuing education requirements to maintain a license, certificate or regis-  
13 tration;

14 (c) The form and content of and the process for preparing and administering examinations and  
15 examination reviews;

16 (d) The term of a license, certificate or registration; and

17 (e) The creation of a system for combining two or more licenses, certificates or registrations  
18 issued to an individual by an advisory board or the Department of Consumer and Business Services  
19 into a single license, certificate, registration or other authorization.

20 (2) Subsection (1) of this section applies to the following:

21 (a) Subject to ORS 446.003 to 446.200, 446.225 to 446.285 and 446.395 to 446.420, with the ap-  
22 proval of the Residential and Manufactured Structures Board, the Department of Consumer and  
23 Business Services for purposes of licenses, certificates and registrations issued under ORS 446.003  
24 to 446.200, 446.225 to 446.285 and 446.395 to 446.420.

25 (b) Subject to ORS 447.010 to 447.156 and ORS chapter 693, the State Plumbing Board for pur-  
26 poses of licenses issued under ORS 447.010 to 447.156 and ORS chapter 693.

27 (c) Subject to ORS 460.005 to 460.175, after consultation with the Electrical and Elevator Board,  
28 the department for purposes of licenses issued under ORS 460.005 to 460.175.

**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 (d) Subject to ORS 479.510 to 479.945, the Electrical and Elevator Board for purposes of licenses  
 2 issued under ORS 479.510 to 479.945.

3 (e) Subject to ORS 480.510 to 480.670, the Board of Boiler Rules for purposes of licenses issued  
 4 under ORS 480.510 to 480.670.

5 **(f) The Building Codes Structures Board for the purpose of licensing persons to perform**  
 6 **structural masonry in essential facilities.**

7 **(g) The Construction Contractors Board for the purpose of licensing persons to apply or**  
 8 **install, in accordance with rules the department adopts under ORS 455.447, fireproofing ma-**  
 9 **terials in essential facilities, as defined in ORS 672.107.**

10 (3) This section does not authorize the adoption of rules regulating:

11 (a) Building officials, inspectors, plan reviewers or municipalities;

12 (b) Persons engaged in the manufacture, conversion or repair of prefabricated structures or  
 13 prefabricated components; or

14 (c) Master builders certified under ORS 455.800 to 455.820.

15 **SECTION 2.** ORS 455.447 is amended to read:

16 455.447. (1) As used in this section, unless the context requires otherwise:

17 (a) "ASCE" means the American Society of Civil Engineers.

18 (b) "ASCE 7" means the ASCE Minimum Design Loads and Associated Criteria for Buildings  
 19 and Other Structures that appear in the Oregon Structural Specialty Code.

20 **(c) "Essential facility" has the meaning given that term in ORS 672.107.**

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

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

27 (2) The Department of Consumer and Business Services shall consult, **as appropriate**, with the  
 28 Seismic Safety Policy Advisory Commission, [and] the State Department of Geology and Mineral  
 29 Industries [prior to] **and the State Fire Marshal before** adopting rules[. *Thereafter, the Department*  
 30 *of Consumer and Business Services may adopt rules as set forth*] in **accordance with** ORS 183.325  
 31 to 183.410 to amend the state building code to:

32 (a) Require new building sites to be evaluated on a site specific basis for vulnerability to seismic  
 33 geologic hazards if the sites are for structures that are:

34 (A) Major structures; or

35 (B) Designated under subsection (5) of this section as Tsunami Risk Category III or IV for de-  
 36 sign.

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

39 (c) Provide for the review of geologic and engineering reports for seismic design of new major  
 40 structures or buildings that have been designated under subsection (5) of this section as Tsunami  
 41 Risk Category III and IV for design.

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

44 **(e) Require adequate fireproofing in all newly constructed essential facilities. In adopting**  
 45 **rules under this paragraph, the Department of Consumer and Business Services shall con-**

1 **sider applicable national codes and standards from the National Fire Protection Association,**  
 2 **a successor entity to the National Fire Protection Association or other appropriate na-**  
 3 **tionally recognized code and standards bodies. The rules the department adopts must require**  
 4 **fireproofing materials and installations to meet a minimum two-hour fire resistance standard**  
 5 **and shall prescribe standards for selecting, using and applying or installing fireproofing ma-**  
 6 **terials in essential facilities.**

7 (3)(a) For the purpose of defraying the cost of applying the regulations in subsection [(2)] (2)(a)  
 8 to (d) of this section, there is hereby imposed a surcharge in the amount of one percent of the total  
 9 fees collected under the structural and mechanical specialty codes for major structures and  
 10 buildings that have been designated under subsection (5) of this section as Tsunami Risk Category  
 11 III or IV for design, which fees are retained by the jurisdiction enforcing the particular specialty  
 12 code as provided in ORS 455.150 or enforcing a building inspection program under ORS 455.148.

13 (b) **To defray the costs of administering the rules the department adopts under sub-**  
 14 **section (2)(e) of this section, the department may impose a surcharge on the total fees col-**  
 15 **lected under the structural and mechanical specialty codes for new essential facilities in an**  
 16 **amount the department specifies by rule. The aggregated amount of all surcharges the de-**  
 17 **partment imposes under this paragraph may not exceed the amount necessary to pay the**  
 18 **department’s expenses in administering the rules.**

19 (4) Before submitting design plans for a proposed building designated under subsection (5) of this  
 20 section as Tsunami Risk Category III or IV for design, the developer shall request consultation from  
 21 the State Department of Geology and Mineral Industries with respect to the impacts from potential  
 22 tsunami activity on the proposed building and the department shall provide the developer with the  
 23 best available scientific evidence of potential impacts. The department shall make a determination  
 24 as to the likely impacts and recommend any design or other changes to mitigate the impacts that  
 25 the department deems advisable or necessary. The department shall notify the developer and the  
 26 official responsible for approving the development not later than 45 days after receiving the  
 27 developer’s request. An official that approves the development shall include the department’s deter-  
 28 mination and recommendations with permit documents for the building.

29 (5) Notwithstanding any contrary standard under the structural specialty code, the following  
 30 must be designed to meet or exceed the tsunami loads and effects design standards applicable under  
 31 the provisions related to tsunamis in ASCE 7:

32 (a) Risk Category III buildings and structures, as defined in “Risk Category of Buildings and  
 33 Other Structures,” Table 1604.5 of the Oregon Structural Specialty Code. Buildings and other  
 34 structures described in this paragraph must be designated as Tsunami Risk Category III for design.

35 (b) Risk Category IV buildings and structures, as defined in “Risk Category of Buildings and  
 36 Other Structures,” Table 1604.5 of the Oregon Structural Specialty Code. Buildings and other  
 37 structures described in this paragraph must be designated as Tsunami Risk Category IV for design.

38 (6) The State Department of Geology and Mineral Industries shall report regarding requests,  
 39 determinations and recommendations made under subsection (4) of this section to an interim com-  
 40 mittee of the Legislative Assembly related to general government in the manner provided by ORS  
 41 192.245, no later than September 15 of each year.

42 **SECTION 3. The amendments to ORS 455.117 and 455.447 by sections 1 and 2 of this 2022**  
 43 **Act apply to construction that begins on and after January 1, 2023.**

44 **SECTION 4. (1) The amendments to ORS 455.117 and 455.447 by sections 1 and 2 of this**  
 45 **2022 Act become operative January 1, 2023.**

1           **(2) The Director of the Department of Consumer and Business Services and the Building**  
2 **Codes Structures Board may adopt rules and take any other action before the operative date**  
3 **specified in subsection (1) of this section that is necessary to enable the director or the**  
4 **board, on and after the operative date specified in subsection (1) of this section, to undertake**  
5 **and exercise all of the duties, functions and powers conferred on the director and the board**  
6 **by the amendments to ORS 455.117 and 455.447 by sections 1 and 2 of this 2022 Act.**

7           **SECTION 5. This 2022 Act takes effect on the 91st day after the date on which the 2022**  
8 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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