

## HOUSE AMENDMENTS TO HOUSE BILL 2758

By COMMITTEE ON BUSINESS AND LABOR

May 4

1 On page 1 of the printed bill, line 2, after “ORS” insert “105.115 and”.

2 Delete lines 4 through 30 and delete page 2 and insert:

3 “**SECTION 1.** ORS 105.115 is amended to read:

4 “105.115. (1) Except as provided by subsections (2) and (3) of this section, the following are  
5 causes of unlawful holding by force within the meaning of ORS 105.110, 105.123 and 105.126:

6 “(a) When the tenant or person in possession of any premises fails or refuses to pay rent within  
7 10 days after [it] **the rent** is due under the lease or agreement under which the tenant or person  
8 in possession holds, or to deliver possession of the premises after being in default on payment of rent  
9 for 10 days.

10 “(b) When the lease by its terms has expired and has not been renewed, or when the tenant or  
11 person in possession is holding from month to month, or year to year, and remains in possession  
12 after notice to quit as provided in ORS 105.120, or is holding contrary to any condition or covenant  
13 of the lease or is holding possession without any written lease or agreement.

14 “(c) **When the owner or possessor of a recreational vehicle that was placed or driven onto**  
15 **property without the prior consent of the property owner, operator or tenant fails to remove**  
16 **the recreational vehicle. The property owner or operator is not required to serve a notice**  
17 **to quit the property before commencing an action under ORS 105.126 against a recreational**  
18 **vehicle owner or possessor holding property by force as described in this paragraph.**

19 “(2) In the case of a dwelling unit to which ORS chapter 90 applies:

20 “(a) The following are causes of unlawful holding by force within the meaning of ORS 105.110  
21 and 105.123:

22 “(A) When the tenant or person in possession of any premises fails or refuses to pay rent within  
23 72 hours or 144 hours, as the case may be, of the notice required by ORS 90.394.

24 “(B) When a rental agreement by its terms has expired and has not been renewed, or when the  
25 tenant or person in possession remains in possession after a valid notice terminating the tenancy  
26 pursuant to ORS chapter 90, or is holding contrary to any valid condition or covenant of the rental  
27 agreement or ORS chapter 90.

28 “(b) A landlord may not file an action for the return of possession of a dwelling unit based upon  
29 a cause of unlawful holding by force as described in paragraph (a) of this subsection until after the  
30 expiration of a rental agreement for a fixed term tenancy or after the expiration of the time period  
31 provided in a notice terminating the tenancy.

32 “(3) In an action under subsection (2) of this section, ORS chapter 90 shall be applied to deter-  
33 mine the rights of the parties, including:

34 “(a) Whether and in what amount rent is due;

35 “(b) Whether a tenancy or rental agreement has been validly terminated; and

1 “(c) Whether the tenant is entitled to remedies for retaliatory conduct by the landlord as pro-  
2 vided by ORS 90.385 and 90.765.

3 **“SECTION 2.** ORS 650.390 is amended to read:

4 **“650.390.** (1) A warrantor shall, for a warranty provided by the warrantor:

5 “(a) Provide reasonable compensation to a dealer for diagnostic and repair services;

6 “(b) Allow a dealer reasonable periods for completing diagnostic and repair services;

7 “(c) Inform a dealer in writing of:

8 “(A) The compensation that the warrantor will pay the dealer to perform warranty service; and

9 “(B) The time period that the warrantor will allow the dealer to perform warranty service;

10 “[*(d) Reimburse the dealer an amount equal to at least 130 percent of the dealer’s cost of warranty*  
11 *parts, plus the cost to the dealer to return warranty parts to the supplier of the parts;*]

12 **“(d) Reimburse the dealer in an amount equal to 130 percent of the dealer’s cost of war-**  
13 **ranty parts, plus the dealer’s shipping expense to return warranty parts to the supplier of**  
14 **the parts, where ‘warranty parts’ includes parts for which a parts supplier provides a sepa-**  
15 **rate warranty directly to a consumer and where ‘cost’ means not less than the same price**  
16 **a dealer pays to a warrantor or supplier for the same part when purchased for a nonwar-**  
17 **ranty repair;**

18 “(e) Approve or disapprove a dealer’s warranty service claim within 30 days of the dealer’s  
19 submission of the claim to the warrantor; and

20 “(f) Fulfill all warranty obligations.

21 “(2) In determining the dealer’s compensation for warranty service, the warrantor shall:

22 “(a) Consider the prevailing rate for labor charged by other dealers in the communities served  
23 by the dealer’s area of sales responsibility; and

24 “(b) Pay the dealer a rate for labor that is not less than the reasonable rate the dealer charges  
25 to consumers for nonwarranty service.

26 “(3) A dealer shall submit a warranty service claim to the warrantor within 30 days of the  
27 dealer’s completion of the warranty service.

28 “(4) A dealer shall notify the warrantor if the dealer is unable to perform a warranty service.

29 “(5) If the warrantor approves a dealer’s warranty service claim or fails to disapprove the claim  
30 within 30 days after submission, the warrantor shall pay the warranty service claim within 45 days  
31 of the submission of the claim.

32 “(6) A warrantor may not disapprove a dealer’s warranty service claim without good cause.

33 “(7) A warrantor may disapprove a dealer’s warranty service claim if the dealer:

34 “(a) Failed to comply in a material respect with the warrantor’s written policies and procedures  
35 for the performance of warranty service;

36 “(b) Failed to properly account for the dealer’s warranty service; or

37 “(c) Misrepresented warranty service performed or parts used.

38 **“(8) If a warrantor disapproves a dealer’s claim for a defective part on the basis that the**  
39 **part is not defective, the warrantor may:**

40 **“(a) Return the part to the dealer at the warrantor’s expense; or**

41 **“(b) Pay the dealer not less than the same price the dealer pays to a warrantor or sup-**  
42 **plier for the part when purchased for a nonwarranty repair.**

43 **“(9) A warrantor that issues a recall shall include in a recall notice to dealers and owners**  
44 **of new recreational vehicles the date by which the warrantor expects to make available to**  
45 **dealers parts and equipment necessary to correct the defects for which the warrantor issued**

1 **the recall. The warrantor shall compensate dealers for repairs that dealers make to correct**  
2 **the defects.**

3 “[8] (10) A grantor or warrantor may not:

4 “(a) Misrepresent a dealer’s obligation to perform or pay for warranty service; or

5 “(b) Require a dealer to provide a warranty to a consumer for a recreational vehicle or other  
6 product.

7 “[9] (11) A warrantor may audit a dealer’s records of a claim for warranty service for a period  
8 of one year from the date the dealer submitted the claim. If, during an audit, the warrantor discov-  
9 ers a fraudulent claim, the warrantor may extend the audit period for up to one additional year.

10 **“SECTION 3. The amendments to ORS 650.390 by section 2 of this 2007 Act apply to all**  
11 **warrantors operating and all warranties provided on or after the effective date of this 2007**  
12 **Act.”.**

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