

# Enrolled Senate Bill 154

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CHAPTER .....

AN ACT

Relating to landlord-tenant law.

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

**SECTION 1.** Sections 2 and 3 of this 2007 Act are added to and made a part of ORS 90.100 to 90.459.

**SECTION 2.** Residence in a Department of Human Services licensed program, facility or home described in ORS 430.306 to 430.375, 430.380, 430.385, 430.395, 430.397 to 430.401, 430.405 to 430.565, 430.570, 430.590, 443.400 to 443.455, 443.705 to 443.825 or 443.835 is not governed by this chapter.

**SECTION 3.** (1) As used in this section:

(a) "Group recovery home" means a place that provides occupants with shared living facilities and that meets the description of a group home under 42 U.S.C. 300x-25.

(b) "Illegal drugs" includes controlled substances or prescription drugs:

(A) For which the tenant does not have a valid prescription; or

(B) That are used by the tenant in a manner contrary to the prescribed regimen.

(c) "Peace officer" means a sheriff, constable, marshal or deputy or a member of a state or city police force.

(2) Notwithstanding ORS 90.375 and 90.435, a group recovery home may terminate a tenancy and peaceably remove a tenant without complying with ORS 105.105 to 105.168 if the tenant has used or possessed alcohol or illegal drugs within the preceding seven days. For purposes of this subsection, the following are sufficient proof that a tenant has used or possessed alcohol or illegal drugs:

(a) The tenant fails a test for alcohol or illegal drug use;

(b) The tenant refuses a request made in good faith by the group recovery home that the tenant take a test for alcohol or illegal drug use; or

(c) Any person has personally observed the tenant using or possessing alcohol or illegal drugs.

(3) A group recovery home that undertakes the removal of a tenant under this section shall personally deliver to the tenant a written notice that:

(a) Describes why the tenant is being removed;

(b) Describes the proof that the tenant has used or possessed alcohol or illegal drugs within the seven days preceding delivery of the notice;

(c) Specifies the date and time by which the tenant must move out of the group recovery home;

(d) Explains that if the removal was wrongful or in bad faith the tenant may seek injunctive relief to recover possession under section 5 of this 2007 Act and may bring an action to recover monetary damages; and

(e) Gives contact information for the local legal services office and for the Oregon State Bar's Lawyer Referral Service, identifying those services as possible sources for free or reduced-cost legal services.

(4) A written notice in substantially the following form meets the requirements of subsection (3) of this section:

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This notice is to inform you that you must move out of \_\_\_\_\_ (insert address of group recovery home) by \_\_\_\_\_ (insert date and time that is not less than 24 hours after delivery of notice).

The reason for this notice is \_\_\_\_\_ (specify use or possession of alcohol or illegal drugs, as applicable, and dates of occurrence).

The proof of your use or possession is \_\_\_\_\_ (specify facts).

If you did not use or possess alcohol or illegal drugs within the seven days before delivery of this notice, if this notice was given in bad faith or if your group recovery home has not substantially complied with section 3 of this 2007 Act, you may be able to get a court to order the group recovery home to let you move back in. You may also be able to recover monetary damages.

You may be eligible for free legal services at your local legal services office \_\_\_\_\_ (insert telephone number) or reduced fee legal services through the Oregon State Bar at 1-800-452-7636.

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(5) Within the notice period, a group recovery home shall allow a tenant removed under this section to follow any emergency departure plan that was prepared by the tenant and approved by the group recovery home at the time the tenancy began. If the removed tenant does not have an emergency departure plan, a representative of the group recovery home shall offer to take the removed tenant to a public shelter, detoxification center or similar location if existing in the community.

(6) The date and time for moving out specified in a notice under subsection (3) of this section must be at least 24 hours after the date and time the notice is delivered to the tenant. If the tenant remains on the group recovery home premises after the date and time for moving out specified in the notice, the tenant is a person remaining unlawfully in a dwelling as described in ORS 164.255 and not a person described in ORS 105.115. Only a peace officer may forcibly remove a tenant who remains on the group recovery home premises after the date and time specified for moving out.

(7) A group recovery home that removes a tenant under this section shall send a copy of the notice described in subsection (3) of this section to the Department of Human Services no later than 72 hours after delivering the notice to the tenant.

(8) A tenant who is removed under subsection (2) of this section may obtain injunctive relief to recover possession and may recover an amount equal to the greater of actual damages or three times the tenant's monthly rent if:

(a) The group recovery home removed the tenant in bad faith or without substantially complying with this section; or

(b) If removal is under subsection (2)(c) of this section, the removal was wrongful because the tenant did not use or possess alcohol or illegal drugs.

(9) Notwithstanding ORS 12.125, a tenant who seeks to obtain injunctive relief to recover possession under section 5 of this 2007 Act must commence the action to seek relief not more than 90 days after the date specified in the notice for the tenant to move out.

(10) In any court action regarding the removal of a tenant under this section, a group recovery home may present evidence that the tenant used or possessed alcohol or illegal drugs within seven days preceding the removal, whether or not the evidence was described in the notice required by subsection (3) of this section.

(11) This section does not prevent a group recovery home from terminating a tenancy as provided by any other provision of this chapter and evicting a tenant as provided in ORS 105.105 to 105.168.

**SECTION 4.** Section 5 of this 2007 Act is added to and made a part of ORS 105.105 to 105.168.

**SECTION 5.** (1) A former tenant removed from a group recovery home under section 3 of this 2007 Act may bring an action for injunctive relief to recover possession if the removal was wrongful or in bad faith.

(2) An action under this section shall be governed by the provisions of ORS 105.105 to 105.168 except that:

(a) The complaint shall be in substantially the following form and shall be available from the court clerk:

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IN THE \_\_\_\_\_ COURT FOR  
THE COUNTY OF \_\_\_\_\_

(Tenant), )  
Plaintiff(s), )  
)  
vs. ) No.\_\_\_\_\_  
)  
(Landlord), )  
)  
Defendant(s). )

COMPLAINT FOR RETURN  
OF POSSESSION OF A  
DWELLING UNIT IN A  
GROUP RECOVERY HOME

I

Defendant is a group recovery home subject to section 3 of this 2007 Act. Defendant removed plaintiff from the group recovery home dwelling unit rented by plaintiff from defendant at:

\_\_\_\_\_ (street and number)

\_\_\_\_\_ (city)

\_\_\_\_\_ (county)

II

Notice of removal from the dwelling unit was served on plaintiff under section 3 of this 2007 Act. The notice of removal was served on:

\_\_\_\_\_ (date)

III

Plaintiff is entitled to possession of the dwelling unit because:

\_\_\_\_\_ Defendant removed plaintiff wrongfully by failing to comply with the procedural requirements of section 3 of this 2007 Act.

\_\_\_\_\_ Defendant removed plaintiff wrongfully because plaintiff did not use or possess alcohol or illegal drugs within seven days preceding delivery of a written notice of removal.

\_\_\_\_\_ Defendant removed plaintiff under section 3 of this 2007 Act in bad faith.

Wherefore, plaintiff prays for possession of the group recovery home dwelling unit and costs and disbursements incurred herein.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of plaintiff

(b) The complaint shall be signed by the plaintiff or an attorney representing the plaintiff as provided by ORCP 17 and served by personal delivery on the group recovery home house president or a person in an equivalent leadership position for the group recovery home.

(c) The answer shall be in substantially the following form and shall be available from the court clerk:

IN THE \_\_\_\_\_ COURT FOR  
THE COUNTY OF \_\_\_\_\_

(Tenant), )  
 )  
 Plaintiff(s), )  
 )  
 vs. ) No. \_\_\_\_\_  
 )  
 (Landlord), )  
 )  
 Defendant(s). )

ANSWER

We deny that the plaintiff is entitled to possession of the group recovery home dwelling unit that is the subject of the complaint because:

\_\_\_\_\_ The defendant removed the plaintiff in compliance with the procedural requirements of section 3 of this 2007 Act.

\_\_\_\_\_ The plaintiff used or possessed alcohol or illegal drugs as described in section 3 of this 2007 Act within seven days preceding delivery of a written notice of removal.

\_\_\_\_\_ The defendant did not remove the plaintiff in bad faith as alleged.

We ask that the plaintiff take nothing by the complaint and that we be awarded our costs and disbursements.

**Date**

**Signature of defendant**

(d) The issue at trial shall be limited to whether the plaintiff is entitled to possession of the dwelling unit described in the complaint.

(e) If the basis for the complaint is that removal was wrongful because the plaintiff did not use or possess alcohol or illegal drugs, the defendant has the burden of proving that the plaintiff used or possessed alcohol or illegal drugs as described in section 3 of this 2007 Act within seven days preceding delivery of the written notice of removal.

(f) A claim for damages may not be asserted by either party in the action for possession of the dwelling unit under this section, but each party may pursue any claim for damages in a separate action.

(g) A party may join an action for possession of the dwelling unit with an action for damages or a claim for other relief, but the proceeding is not governed by the provisions of ORS 105.105 to 105.168.

(h) If the court determines that the plaintiff is entitled to possession of the dwelling unit that is the subject of the complaint, the court shall enter an order directing the defendant to return possession of the dwelling unit to the plaintiff. The court may provide that the defendant have a period of time to deliver possession of the dwelling unit to the plaintiff.

(i) Subject to the provisions of ORCP 68, a prevailing party who has been represented by counsel may recover attorney fees as provided by ORS 90.255.

Passed by Senate May 9, 2007

Received by Governor:

Repassed by Senate June 14, 2007

.....M.,....., 2007

Approved:

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Secretary of Senate

.....M.,....., 2007

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President of Senate

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Governor

Passed by House June 8, 2007

Filed in Office of Secretary of State:

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Speaker of House

.....M.,....., 2007

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Secretary of State