

**A-Engrossed**  
**Senate Bill 561**

Ordered by the Senate May 1  
Including Senate Amendments dated May 1

Sponsored by COMMITTEE ON COMMERCE (at the request of Landlord Tenant Coalition)

**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.

Allows tenant to cause repair of minor defect in dwelling unit if landlord fails to timely repair defect after tenant gives proper notice.

Eliminates option to provide tenant Social Security number on residential eviction complaint.

Provides that defendant in action for possession of rental dwelling unit may not be awarded attorney fees for legal services provided after notice of voluntary dismissal.

**Allows landlord to terminate rental agreement and evict perpetrator of criminal act of physical violence related to domestic violence, sexual assault or stalking against household member of tenant. Prohibits landlord from terminating or failing to renew rental agreement of tenant because tenant is or has been victim of domestic violence, sexual assault or stalking, and from treating tenant who is or has been victim differently. Prescribes form for third party verification of tenant's claim of being victim in request for release from rental agreement.**

**A BILL FOR AN ACT**

1  
2 Relating to landlord-tenant law; creating new provisions; and amending ORS 90.100, 90.365, 90.453,  
3 90.456, 90.459, 105.123, 105.124, 105.137, 105.138, 105.146 and 105.148.

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

5 **SECTION 1. Sections 2 to 4 of this 2007 Act are added to and made a part of ORS 90.100**  
6 **to 90.459.**

7 **SECTION 2. (1) As used in this section, "minor habitability defect":**

8 (a) **Means a defect that may reasonably be repaired for not more than \$300, such as the**  
9 **repair of leaky plumbing, stopped up toilets or faulty light switches.**

10 (b) **Does not mean the presence of mold, radon, asbestos or lead-based paint.**

11 (2) **If, contrary to ORS 90.320, the landlord fails to repair a minor habitability defect, the**  
12 **tenant may cause the repair of the defect and deduct from the tenant's subsequent rent**  
13 **obligation the actual and reasonable cost of the repair work, not to exceed \$300.**

14 (3)(a) **Prior to causing a repair under subsection (2) of this section, the tenant shall give**  
15 **the landlord written notice:**

16 (A) **Describing the minor habitability defect; and**

17 (B) **Stating the tenant's intention to cause the repair of the defect and deduct the cost**  
18 **of the repair from a subsequent rent obligation if the landlord fails to make the repair by a**  
19 **specified date.**

20 (b) **The specified date for repair contained in a written notice given to a landlord under**  
21 **this subsection must be at least seven days after the date the notice is given to the landlord.**

22 (c) **If the landlord fails to make the repair by the specified date, the tenant may use the**

**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 remedy provided by subsection (2) of this section.

2 (d) Service or delivery of the required written notice shall be made as provided under  
3 ORS 90.155.

4 (4)(a) Any repair work performed under this section must be performed in a workmanlike  
5 manner and be in compliance with state statutes, local ordinances and the state building  
6 code.

7 (b) The landlord may specify the people to perform the repair work if the landlord's  
8 specifications are reasonable and do not diminish the tenant's rights under this section.

9 (c) The tenant may not perform work to repair the defect.

10 (d) To deduct the repair cost from the rent, the tenant must provide to the landlord a  
11 written statement, prepared by the person who made the repair, showing the actual cost of  
12 the repair.

13 (5) A tenant may not cause the repair of a defect under this section if:

14 (a) Within the time specified in the notice, the landlord substantially repairs the defect;

15 (b) After the time specified in the notice, but before the tenant causes the repair to be  
16 made, the landlord substantially repairs the defect;

17 (c) The tenant has prevented the landlord from making the repair;

18 (d) The defect was caused by a deliberate or negligent act or omission of the tenant or  
19 of a person on the premises with the tenant's consent;

20 (e) The tenant knew of the defect for more than six months before giving notice under  
21 this section; or

22 (f) The tenant has previously used the remedy provided by this section for the same oc-  
23 currence of the defect.

24 (6) If the tenant proceeds under this section, the tenant may not proceed under ORS  
25 90.360 (1) as to that breach, but may use any other available remedy in addition to the rem-  
26 edy provided by this section.

27 **SECTION 3.** (1) If a tenant perpetrates a criminal act of physical violence related to do-  
28 mestic violence, sexual assault or stalking against a household member who is a tenant, after  
29 delivery of at least 24 hours' written notice specifying the act or omission constituting the  
30 cause and specifying the date and time of the termination, the landlord may:

31 (a) Terminate the rental agreement of the perpetrating tenant, but may not terminate  
32 the rental agreement of the other tenants; and

33 (b) If the perpetrator of the criminal act of physical violence related to domestic violence,  
34 sexual assault or stalking continues to occupy the premises after the termination date and  
35 time specified in the notice, seek a court order under section 6 of this 2007 Act to remove  
36 the perpetrator from the premises and terminate the perpetrator's tenancy without seeking  
37 a return of possession from the remaining tenants.

38 (2) A landlord that terminates the tenancy of a perpetrator under this section may not  
39 require the remaining tenants to pay additional rent or an additional deposit or fee due to  
40 exclusion of the perpetrator.

41 (3) The perpetrator is jointly liable with any other tenants of the dwelling unit for rent  
42 or damages to the premises incurred prior to the later of the date the perpetrator vacates  
43 the premises or the termination date specified in the notice.

44 (4) The landlord's burden of proof in a removal action sought under this section is by a  
45 preponderance of the evidence.

1       **SECTION 4.** (1) A landlord may not terminate or fail to renew a tenancy or refuse to  
2 enter into a rental agreement:

3       (a) Because a tenant or applicant is, or has been, a victim of domestic violence, sexual  
4 assault or stalking.

5       (b) Because of a violation of the rental agreement or a provision of this chapter, if the  
6 violation consists of an incident of domestic violence, sexual assault or stalking committed  
7 against the tenant or applicant.

8       (c) Because of criminal activity relating to domestic violence, sexual assault or stalking  
9 in which the tenant or applicant is the victim, or of any police or emergency response related  
10 to domestic violence, sexual assault or stalking in which the tenant or applicant is the vic-  
11 tim.

12       (2) A landlord may not impose different rules, conditions or standards or selectively en-  
13 force rules, conditions or standards against a tenant or applicant on the basis that the ten-  
14 ant or applicant is or has been a victim of domestic violence, sexual assault or stalking.

15       (3) Notwithstanding subsections (1) and (2) of this section, a landlord may terminate the  
16 tenancy of a victim of domestic violence, sexual assault or stalking if the landlord has pre-  
17 viously given the tenant a written warning regarding the conduct of the perpetrator relating  
18 to domestic violence, sexual assault or stalking and:

19       (a) The tenant permits or consents to the perpetrator's presence on the premises and the  
20 perpetrator is an actual and imminent threat to the safety of persons on the premises other  
21 than the victim; or

22       (b) The perpetrator is an unauthorized occupant and the tenant permits or consents to  
23 the perpetrator living in the dwelling unit without the permission of the landlord.

24       (4) If a landlord violates this section:

25       (a) A tenant or applicant may recover up to two months' periodic rent or twice the actual  
26 damages sustained by the tenant or applicant, whichever is greater;

27       (b) The tenant has a defense to an action for possession by the landlord; and

28       (c) The applicant may obtain injunctive relief to gain possession of the dwelling unit.

29       (5) Notwithstanding ORS 105.137 (4), if a tenant asserts a successful defense under sub-  
30 section (4) of this section to an action for possession, the tenant is not entitled to prevailing  
31 party fees, attorney fees or costs and disbursements if the landlord:

32       (a) Did not know, and did not have reasonable cause to know, at the time of commencing  
33 the action that a violation or incident on which the action was based was related to domestic  
34 violence, sexual assault or stalking; and

35       (b) Promptly dismissed tenants other than the perpetrator from the action upon becom-  
36 ing aware that the violation or incident on which the action was based was related to do-  
37 mestic violence, sexual assault or stalking.

38       **SECTION 5.** Section 6 of this 2007 Act is added to and made a part of ORS 105.105 to  
39 105.168.

40       **SECTION 6.** In an action for possession of a dwelling unit to which ORS chapter 90 ap-  
41 plies:

42       (1) If the defendant raises a defense under section 4 of this 2007 Act based upon the de-  
43 fendant's status as a victim of domestic violence, sexual assault or stalking and the  
44 perpetrator is a tenant of the dwelling unit, the court may issue an order terminating the  
45 tenancy of the perpetrator and ordering the perpetrator to vacate the dwelling unit without

1 terminating the tenancy of the other tenants and without awarding possession to the  
2 plaintiff.

3 (2) If the action is based upon a notice terminating the tenancy of a perpetrator under  
4 section 3 of this 2007 Act, the court may issue an order upholding the termination of the  
5 perpetrator's tenancy and ordering the perpetrator to vacate the dwelling unit without the  
6 tenancy of the other tenants being terminated and without awarding possession to the  
7 plaintiff.

8 (3) If a court issues an order described in subsection (1) or (2) of this section, the court  
9 may enter judgment in favor of the plaintiff against the perpetrator. The plaintiff may en-  
10 force the judgment against the perpetrator as provided in ORS 105.151, but may not enforce  
11 the judgment against any other tenant of the dwelling unit. The sheriff shall remove only the  
12 perpetrator from the dwelling unit. The sheriff may not return possession of the dwelling  
13 unit to the plaintiff.

14 **SECTION 7.** ORS 90.100 is amended to read:

15 90.100. As used in this chapter, unless the context otherwise requires:

16 (1) "Accessory building or structure" means any portable, demountable or permanent structure,  
17 including but not limited to cabanas, ramadas, storage sheds, garages, awnings, carports, decks,  
18 steps, ramps, piers and pilings, that is:

19 (a) Owned and used solely by a tenant of a manufactured dwelling or floating home; or

20 (b) Provided pursuant to a written rental agreement for the sole use of and maintenance by a  
21 tenant of a manufactured dwelling or floating home.

22 (2) "Action" includes recoupment, counterclaim, setoff, suit in equity and any other proceeding  
23 in which rights are determined, including an action for possession.

24 (3) "Applicant screening charge" means any payment of money required by a landlord of an  
25 applicant prior to entering into a rental agreement with that applicant for a residential dwelling  
26 unit, the purpose of which is to pay the cost of processing an application for a rental agreement for  
27 a residential dwelling unit.

28 (4) "Building and housing codes" includes any law, ordinance or governmental regulation con-  
29 cerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or ap-  
30 pearance of any premises or dwelling unit.

31 (5) "Conduct" means the commission of an act or the failure to act.

32 (6) "Dealer" means any person in the business of selling, leasing or distributing new or used  
33 manufactured dwellings or floating homes to persons who purchase or lease a manufactured dwelling  
34 or floating home for use as a residence.

35 (7) "Domestic violence" *[has the meaning given that term in ORS 135.230.]* **means:**

36 (a) **Abuse between family or household members, as those terms are defined in ORS**  
37 **107.705; or**

38 (b) **Abuse, as defined in ORS 107.705, between partners in a dating relationship.**

39 (8) "Drug and alcohol free housing" means a dwelling unit described in ORS 90.243.

40 (9) "Dwelling unit" means a structure or the part of a structure that is used as a home, resi-  
41 dence or sleeping place by one person who maintains a household or by two or more persons who  
42 maintain a common household. "Dwelling unit" regarding a person who rents a space for a manu-  
43 factured dwelling or recreational vehicle or regarding a person who rents moorage space for a  
44 floating home as defined in ORS 830.700, but does not rent the home, means the space rented and  
45 not the manufactured dwelling, recreational vehicle or floating home itself.

1 (10) "Essential service" means:

2 (a) For a tenancy not consisting of rental space for a manufactured dwelling, floating home or  
3 recreational vehicle owned by the tenant and not otherwise subject to ORS 90.505 to 90.840:

4 (A) Heat, plumbing, hot and cold running water, gas, electricity, light fixtures, locks for exterior  
5 doors, latches for windows and any cooking appliance or refrigerator supplied or required to be  
6 supplied by the landlord; and

7 (B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.320,  
8 the lack or violation of which creates a serious threat to the tenant's health, safety or property or  
9 makes the dwelling unit unfit for occupancy.

10 (b) For a tenancy consisting of rental space for a manufactured dwelling, floating home or rec-  
11 reational vehicle owned by the tenant or that is otherwise subject to ORS 90.505 to 90.840:

12 (A) Sewage disposal, water supply, electrical supply and, if required by applicable law, any  
13 drainage system; and

14 (B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.730,  
15 the lack or violation of which creates a serious threat to the tenant's health, safety or property or  
16 makes the rented space unfit for occupancy.

17 (11) "Facility" means:

18 (a) A place where four or more manufactured dwellings are located, the primary purpose of  
19 which is to rent space or keep space for rent to any person for a fee; or

20 (b) A moorage of contiguous dwelling units that may be legally transferred as a single unit and  
21 are owned by one person where four or more floating homes are secured, the primary purpose of  
22 which is to rent space or keep space for rent to any person for a fee.

23 (12) "Facility purchase association" means a group of three or more tenants who reside in a  
24 facility and have organized for the purpose of eventual purchase of the facility.

25 (13) "Fee" means a nonrefundable payment of money.

26 (14) "First class mail" does not include certified or registered mail, or any other form of mail  
27 that may delay or hinder actual delivery of mail to the recipient.

28 (15) "Fixed term tenancy" means a tenancy that has a fixed term of existence, continuing to a  
29 specific ending date and terminating on that date without requiring further notice to effect the ter-  
30 mination.

31 (16) "Floating home" has the meaning given that term in ORS 830.700. "Floating home" includes  
32 an accessory building or structure.

33 (17) "Good faith" means honesty in fact in the conduct of the transaction concerned.

34 (18) "Hotel or motel" means "hotel" as that term is defined in ORS 699.005.

35 (19) "Informal dispute resolution" means, but is not limited to, consultation between the landlord  
36 or landlord's agent and one or more tenants, or mediation utilizing the services of a third party.

37 (20) "Landlord" means the owner, lessor or sublessor of the dwelling unit or the building or  
38 premises of which it is a part. "Landlord" includes a person who is authorized by the owner, lessor  
39 or sublessor to manage the premises or to enter into a rental agreement.

40 (21) "Landlord's agent" means a person who has oral or written authority, either express or  
41 implied, to act for or on behalf of a landlord.

42 (22) "Last month's rent deposit" means a type of security deposit, however designated, the pri-  
43 mary function of which is to secure the payment of rent for the last month of the tenancy.

44 (23) "Manufactured dwelling" means a residential trailer, a mobile home or a manufactured  
45 home as those terms are defined in ORS 446.003. "Manufactured dwelling" includes an accessory

1 building or structure. “Manufactured dwelling” does not include a recreational vehicle.

2 (24) “Month-to-month tenancy” means a tenancy that automatically renews and continues for  
3 successive monthly periods on the same terms and conditions originally agreed to, or as revised by  
4 the parties, until terminated by one or both of the parties.

5 (25) “Organization” includes a corporation, government, governmental subdivision or agency,  
6 business trust, estate, trust, partnership or association, two or more persons having a joint or com-  
7 mon interest, and any other legal or commercial entity.

8 (26) “Owner” includes a mortgagee in possession and means one or more persons, jointly or se-  
9 verally, in whom is vested:

10 (a) All or part of the legal title to property; or

11 (b) All or part of the beneficial ownership and a right to present use and enjoyment of the  
12 premises.

13 (27) “Person” includes an individual or organization.

14 (28) “Premises” means:

15 (a) A dwelling unit and the structure of which it is a part and facilities and appurtenances  
16 therein;

17 (b) Grounds, areas and facilities held out for the use of tenants generally or the use of which  
18 is promised to the tenant; and

19 (c) A facility for manufactured dwellings or floating homes.

20 (29) “Prepaid rent” means any payment of money to the landlord for a rent obligation not yet  
21 due. In addition, “prepaid rent” means rent paid for a period extending beyond a termination date.

22 (30) “Recreational vehicle” has the meaning given that term in ORS 446.003.

23 (31) “Rent” means any payment to be made to the landlord under the rental agreement, periodic  
24 or otherwise, in exchange for the right of a tenant and any permitted pet to occupy a dwelling unit  
25 to the exclusion of others. “Rent” does not include security deposits, fees or utility or service  
26 charges as described in ORS 90.315 (4) and 90.532.

27 (32) “Rental agreement” means all agreements, written or oral, and valid rules and regulations  
28 adopted under ORS 90.262 or 90.510 (6) embodying the terms and conditions concerning the use and  
29 occupancy of a dwelling unit and premises. “Rental agreement” includes a lease. A rental agreement  
30 shall be either a week-to-week tenancy, month-to-month tenancy or fixed term tenancy.

31 (33) “Roomer” means a person occupying a dwelling unit that does not include a toilet and ei-  
32 ther a bathtub or a shower and a refrigerator, stove and kitchen, all provided by the landlord, and  
33 where one or more of these facilities are used in common by occupants in the structure.

34 (34) “Screening or admission criteria” means a written statement of any factors a landlord  
35 considers in deciding whether to accept or reject an applicant and any qualifications required for  
36 acceptance. “Screening or admission criteria” includes, but is not limited to, the rental history,  
37 character references, public records, criminal records, credit reports, credit references and incomes  
38 or resources of the applicant.

39 (35) “Security deposit” means a refundable payment or deposit of money, however designated,  
40 the primary function of which is to secure the performance of a rental agreement or any part of a  
41 rental agreement. “Security deposit” does not include a fee.

42 (36) “Sexual assault” has the meaning given that term in ORS 147.450.

43 (37) “Squatter” means a person occupying a dwelling unit who is not so entitled under a rental  
44 agreement or who is not authorized by the tenant to occupy that dwelling unit. “Squatter” does  
45 not include a tenant who holds over as described in ORS 90.427 (4).

1 (38) "Stalking" means the behavior described in ORS 163.732.

2 (39) "Statement of policy" means the summary explanation of information and facility policies  
3 to be provided to prospective and existing tenants under ORS 90.510.

4 (40) "Surrender" means an agreement, express or implied, as described in ORS 90.148 between  
5 a landlord and tenant to terminate a rental agreement that gave the tenant the right to occupy a  
6 dwelling unit.

7 (41) "Tenant" means a person, including a roomer, entitled under a rental agreement to occupy  
8 a dwelling unit to the exclusion of others, including a dwelling unit owned, operated or controlled  
9 by a public housing authority. "Tenant" also includes a minor, as defined and provided for in ORS  
10 109.697. As used in ORS 90.505 to 90.840, "tenant" includes only a person who owns and occupies  
11 as a residence a manufactured dwelling or a floating home in a facility and persons residing with  
12 that tenant under the terms of the rental agreement.

13 (42) "Transient lodging" means a room or a suite of rooms.

14 (43) "Transient occupancy" means occupancy in transient lodging that has all of the following  
15 characteristics:

16 (a) Occupancy is charged on a daily basis and is not collected more than six days in advance;

17 (b) The lodging operator provides maid and linen service daily or every two days as part of the  
18 regularly charged cost of occupancy; and

19 (c) The period of occupancy does not exceed 30 days.

20 (44) "Vacation occupancy" means occupancy in a dwelling unit, not including transient occu-  
21 pancy in a hotel or motel, that has all of the following characteristics:

22 (a) The occupant rents the unit for vacation purposes only, not as a principal residence;

23 (b) The occupant has a principal residence other than at the unit; and

24 (c) The period of authorized occupancy does not exceed 45 days.

25 (45) "Victim" means: [*a person who is the subject of domestic violence, sexual assault or*  
26 *stalking.*]

27 **(a) The person against whom an incident related to domestic violence, sexual assault or**  
28 **stalking is perpetrated; or**

29 **(b) [*"Victim" includes a*] The parent or guardian of a minor [*who is the subject of domestic vi-***  
30 ***olence, sexual assault or stalking*] household member against whom an incident related to do-**  
31 **estic violence, sexual assault or stalking is perpetrated, unless the parent or guardian is**  
32 **the perpetrator.**

33 (46) "Week-to-week tenancy" means a tenancy that has all of the following characteristics:

34 (a) Occupancy is charged on a weekly basis and is payable no less frequently than every seven  
35 days;

36 (b) There is a written rental agreement that defines the landlord's and the tenant's rights and  
37 responsibilities under this chapter; and

38 (c) There are no fees or security deposits, although the landlord may require the payment of an  
39 applicant screening charge, as provided in ORS 90.295.

40 **SECTION 8.** ORS 90.365 is amended to read:

41 90.365. (1) If contrary to the rental agreement or ORS 90.320 or 90.730 the landlord intentionally  
42 or negligently fails to supply any essential service, the tenant may give written notice to the land-  
43 lord specifying the breach and that the tenant may seek substitute services, diminution in rent  
44 damages or substitute housing. After allowing the landlord a reasonable time and reasonable access  
45 under the circumstances to supply the essential service, the tenant may:

1 (a) Procure reasonable amounts of the essential service during the period of the landlord's  
2 noncompliance and deduct their actual and reasonable cost from the rent;

3 (b) Recover damages based upon the diminution in the fair rental value of the dwelling unit; or

4 (c) If the failure to supply an essential service makes the dwelling unit unsafe or unfit to occupy,  
5 procure substitute housing during the period of the landlord's noncompliance, in which case the  
6 tenant is excused from paying rent for the period of the landlord's noncompliance. In addition, the  
7 tenant may recover as damages from the landlord the actual and reasonable cost or fair and rea-  
8 sonable value of comparable substitute housing in excess of the rent for the dwelling unit. For pur-  
9 poses of this paragraph, substitute housing is comparable if it is of a quality that is similar to or less  
10 than the quality of the dwelling unit with regard to basic elements including cooking and refriger-  
11 ation services and, if warranted, upon consideration of factors such as location in the same area as  
12 the dwelling unit, the availability of substitute housing in the area and the expense relative to the  
13 range of choices for substitute housing in the area. A tenant may choose substitute housing of rel-  
14 atively greater quality, but the tenant's damages shall be limited to the cost or value of comparable  
15 substitute housing.

16 (2) If contrary to the rental agreement or ORS 90.320 or 90.730 the landlord fails to supply any  
17 essential service, the lack of which poses an imminent and serious threat to the tenant's health,  
18 safety or property, the tenant may give written notice to the landlord specifying the breach and that  
19 the rental agreement shall terminate in not less than 48 hours unless the breach is remedied within  
20 that period. If the landlord adequately remedies the breach before the end of the notice period, the  
21 rental agreement shall not terminate by reason of the breach. As used in this subsection [*and sub-*  
22 *section (3) of this section*], "imminent and serious threat to the tenant's health, safety or property"  
23 shall not include the presence of radon, asbestos or lead-based paint or the future risk of flooding  
24 or seismic hazard, as defined by ORS 455.447.

25 [(3)(a) *If contrary to the rental agreement or ORS 90.320 or 90.730 the landlord intentionally or*  
26 *negligently fails to supply any essential service, the tenant may give notice to the landlord as provided*  
27 *in paragraph (b) of this subsection and may cause to be done in a workmanlike manner the work*  
28 *necessary to provide the essential service and, after submitting to the landlord receipts or an agreed*  
29 *upon itemized statement, deduct from the rent the actual and reasonable cost or the fair and reasonable*  
30 *value of the work not exceeding:]*

31 [(A) *\$1,000, if the lack of the essential service poses an imminent and serious threat to the tenant's*  
32 *health, safety or property and the work is performed by a licensed or registered professional; or]*

33 [(B) *\$500, if the lack of the essential service is significant but does not pose an imminent and se-*  
34 *rious threat to the tenant's health, safety or property or if work is not performed by a licensed or reg-*  
35 *istered professional.]*

36 [(b) *The notice required by this subsection shall specify the breach and that the tenant may use the*  
37 *remedy specified in paragraph (a) of this subsection if the landlord fails to supply the essential service*  
38 *within the following periods:]*

39 [(A) *If the lack of the essential service poses an imminent and serious threat to the tenant's health,*  
40 *safety or property, the notice shall be written or actual and shall be given to the landlord at least 48*  
41 *hours before the tenant causes the necessary work to be done to supply the essential service. If the*  
42 *notice is actual, the tenant shall also give the landlord written notice as promptly after the actual notice*  
43 *as conditions permit.]*

44 [(B) *In all other cases, the notice shall be written and given to the landlord at least:]*

45 [(i) *Seventy-two hours before the tenant causes the necessary work to be done to correct a sub-*



1 *stantial lack of a cooking or refrigeration service; or]*

2 *[(ii) Seven days before the tenant causes the necessary work to be done to correct a substantial lack*  
3 *of any other essential service.]*

4 *[(c) A tenant who conducts repairs pursuant to this subsection shall not be considered to be an*  
5 *employee of the landlord.]*

6 *[(d) The landlord and tenant may agree, at any time, to allow the tenant to exceed the monetary*  
7 *limits of this subsection when making reasonable repairs. The landlord may specify people to do all*  
8 *work under this section if the tenant's rights under this section are not diminished.]*

9 **[(4) (3) For purposes of [subsections (1) and (3)] subsection (1) of this section, a landlord shall**  
10 **not be considered to be intentionally or negligently failing to supply an essential service if:**

11 **(a) The landlord substantially supplies the essential service; or**

12 **(b) The landlord is making a reasonable and good faith effort to supply the essential service and**  
13 **the failure is due to conditions beyond the landlord's control.**

14 **[(5) (4) This section [shall not be construed to] does not** require a landlord to supply a cooking  
15 appliance or a refrigerator if the landlord did not supply or agree to supply a cooking appliance or  
16 refrigerator to the tenant.

17 **[(6) (5) If the tenant proceeds under this section, the tenant may not proceed under ORS 90.360**  
18 **(1) as to that breach.**

19 **[(7) (6) Rights of the tenant under this section do not arise if the condition was caused by the**  
20 **deliberate or negligent act or omission of the tenant or a person on the premises with the tenant's**  
21 **consent.**

22 **[(8) (7) Service or delivery of actual or written notice shall be as provided by ORS 90.150 and**  
23 **90.155, including the addition of three days to the notice period if written notice is delivered by first**  
24 **class mail.**

25 **[(9) (8) Any provisions of this section that reasonably apply only to a structure that is used as**  
26 **a home, residence or sleeping place [shall] does not apply to a manufactured dwelling, recreational**  
27 **vehicle or floating home if the tenant owns the manufactured dwelling, recreational vehicle or**  
28 **floating home and rents the space.**

29 **SECTION 9.** ORS 90.453 is amended to read:

30 90.453. (1) As used in this section[,]:

31 **(a) "Qualified third party" means a person that has had individual contact with the ten-**  
32 **ant and is a law enforcement officer, attorney or licensed health professional or is a victim's**  
33 **advocate at a victim services provider.**

34 **(b) "Verification" means:**

35 **[(a) (A) A copy of a valid order of protection issued by a court pursuant to ORS 30.866, 107.095**  
36 **(1)(c), 107.716, 107.718[, 124.015, 124.020] or 163.738 or any other federal, state, local or tribal court**  
37 **order that restrains a person from contact with the tenant;**

38 **[(b) (B) A copy of a federal agency or state, local or tribal police report regarding an act**  
39 **of domestic violence, sexual assault or stalking against the tenant [or a minor member of the tenant's**  
40 **household]; [or]**

41 **[(c) A statement by a law enforcement officer that the tenant has reported to the officer that the**  
42 **tenant or a minor member of the tenant's household is a victim of domestic violence, sexual assault or**  
43 **stalking.]**

44 **(C) A copy of a conviction of any person for an act of domestic violence, sexual assault**  
45 **or stalking against the tenant; or**

1 (D) A statement substantially in the form set forth in subsection (3) of this section.

2 (c) "Victim services provider" means:

3 (A) A nonprofit agency or program receiving moneys administered by the Department  
4 of Human Services or the Department of Justice that offers safety planning, counseling,  
5 support or advocacy to victims of domestic violence, sexual assault or stalking; or

6 (B) A prosecution-based victim assistance program or unit.

7 (2)(a) If a tenant gives a landlord at least 14 days' written notice, [*with verification that the*  
8 *tenant has been the victim of domestic violence, sexual assault or stalking within the 90 days preceding*  
9 *the date of the notice,*] and the notice so requests, the landlord shall release the tenant from the  
10 rental agreement.

11 (b) The notice given by the tenant must specify the release date.

12 (c) The notice must be accompanied by verification that the tenant:

13 (A) Is protected by a valid order of protection; or

14 (B) Has been the victim of domestic violence, sexual assault or stalking within the 90  
15 days preceding the date of the notice. For purposes of this subparagraph, any time the  
16 perpetrator was incarcerated or residing more than 100 miles from the victim's home does  
17 not count as part of the 90-day period.

18 (3) A verification statement must be signed by the tenant and the qualified third party  
19 and be in substantially the following form:

20 \_\_\_\_\_

21  
22 **QUALIFIED THIRD PARTY**  
23 **VERIFICATION**

24  
25 \_\_\_\_\_

26 Name of qualified third party

27  
28 \_\_\_\_\_

29 Name of tenant

30  
31 **PART 1. STATEMENT BY TENANT**

32  
33 I, \_\_\_\_\_ (Name of tenant), do hereby state as follows:

34  
35 (A) I or a minor member of my household have been a victim of domestic violence, sexual  
36 assault or stalking, as those terms are defined in ORS 90.100.

37  
38 (B) The most recent incident(s) that I rely on in support of this statement occurred on  
39 the following date(s): \_\_\_\_\_.

40  
41 \_\_\_\_ The time since the most recent incident took place is less than 90 days; or

42  
43 \_\_\_\_ The time since the most recent incident took place is less than 90 days if periods when  
44 the perpetrator was incarcerated or was living more than 100 miles from my home are not  
45 counted. The perpetrator was incarcerated from \_\_\_\_\_ to

1 \_\_\_\_\_ . The perpetrator lived more than 100 miles from my home  
2 from \_\_\_\_\_ to \_\_\_\_\_ .  
3

4 (C) I hereby declare that the above statement is true to the best of my knowledge and  
5 belief, and that I understand it is made for use as evidence in court and is subject to penalty  
6 for perjury.  
7

8 \_\_\_\_\_  
9 (Signature of tenant)

10 Date: \_\_\_\_\_  
11

12 **PART 2. STATEMENT BY QUALIFIED THIRD PARTY**  
13

14 I, \_\_\_\_\_ (Name of qualified third party), do hereby verify as follows:  
15

16 (A) I am a law enforcement officer, attorney or licensed health professional or a victim's  
17 advocate with a victims services provider, as defined in ORS 90.453.  
18

19 (B) My name, business address and business telephone are as follows:  
20

21 \_\_\_\_\_  
22 \_\_\_\_\_  
23

24 (C) The person who signed the statement above has informed me that the person or a  
25 minor member of the person's household is a victim of domestic violence, sexual assault or  
26 stalking, based on incidents that occurred on the dates listed above.  
27

28 (D) I reasonably believe the statement of the person above that the person or a minor  
29 member of the person's household is a victim of domestic violence, sexual assault or stalk-  
30 ing, as those terms are defined in ORS 90.100. I understand that the person who made the  
31 statement may use this document as a basis for gaining a release from the rental agreement  
32 with the person's landlord.  
33

34 I hereby declare that the above statement is true to the best of my knowledge and belief,  
35 and that I understand it is made for use as evidence in court and is subject to penalty for  
36 perjury.  
37

38 \_\_\_\_\_  
39 (Signature of qualified third party

40 making this statement)

41 Date: \_\_\_\_\_  
42 \_\_\_\_\_  
43

44 [(3)] (4) A tenant who is released from a rental agreement pursuant to subsection (2) of this  
45 section:

1 (a) Is not liable for rent or damages to the dwelling unit incurred after the release date; and

2 (b) Is not subject to any fee solely because of termination of the rental agreement.

3 [(4)] (5) Notwithstanding the release from a rental agreement of a tenant who is a victim of  
4 **domestic violence, sexual assault or stalking**, any other tenant remains subject to the rental  
5 agreement.

6 [(5) A verification statement by a law enforcement officer must be in substantially the following  
7 form: ]

8 \_\_\_\_\_  
9  
10 [LAW ENFORCEMENT OFFICER  
11 VERIFICATION

12  
13 \_\_\_\_\_  
14 *Name of law enforcement officer*

15  
16 \_\_\_\_\_  
17 *Name of tenant*

18  
19 **PART 1. STATEMENT BY TENANT**

20  
21 I, \_\_\_\_\_ (*Name of tenant*), do hereby state as follows:

22  
23 (A) I or a minor member of my household have been abused, sexually assaulted or stalked as de-  
24 scribed or defined by ORS 124.005, 135.230, 147.450 or 163.732.

25  
26 (B) The most recent incident(s) that I rely on in support of this statement occurred on the following  
27 date(s): \_\_\_\_\_

28  
29 I make this statement in support of my request to be released from my rental agreement.

30  
31 \_\_\_\_\_  
32 (*Signature of tenant*)

33 *Date:* \_\_\_\_\_

34  
35 **PART 2. STATEMENT BY LAW ENFORCEMENT OFFICER**

36  
37 I, \_\_\_\_\_ (*Name of law enforcement officer*), do hereby verify as follows:

38  
39 (A) I am a law enforcement officer.

40  
41 (B) My name, business address and business telephone are as follows:

42 \_\_\_\_\_  
43 \_\_\_\_\_  
44 \_\_\_\_\_

1 I am employed by \_\_\_\_\_  
2 (Name and address of law enforcement agency)

3  
4 (C) I verify that the person who signed the statement above has informed me that the person or a  
5 minor member of the person's household is a victim of domestic violence, sexual assault or stalking,  
6 based on incidents that occurred on the dates listed above.

7  
8 (D) I reasonably believe the statement of the person above that the person or a minor member of  
9 the person's household is a victim of domestic violence, sexual assault or stalking. I understand that  
10 the person who made the statement may use this document as a basis for gaining a release from the  
11 rental agreement with the person's landlord.

12  
13 \_\_\_\_\_  
14 (Signature of law enforcement officer  
15 making this statement)  
16 Date: \_\_\_\_\_]

17 \_\_\_\_\_  
18  
19 **(6) A landlord may not disclose any information provided by a tenant under this section  
20 to a third party unless the disclosure is:**

- 21 **(a) Consented to in writing by the tenant;**
- 22 **(b) Required for use in an eviction proceeding;**
- 23 **(c) Made to a qualified third party; or**
- 24 **(d) Required by law.**

25 **(7) The provision of a verification statement under subsection (2) of this section does not  
26 waive the confidential or privileged nature of a communication between the victim of do-  
27 mestic violence, sexual assault or stalking and a qualified third party.**

28 **SECTION 10.** ORS 90.456 is amended to read:

29 90.456. Notwithstanding the release of a victim **of domestic violence, sexual assault or**  
30 **stalking** from a rental agreement under ORS 90.453 or the exclusion of a perpetrator of domestic  
31 violence, sexual assault or stalking as provided in ORS 90.459 **or section 6 of this 2007 Act**, if there  
32 are any remaining tenants of the dwelling unit, the tenancy shall continue for those tenants. Any  
33 fee, security deposit or prepaid rent paid by the victim, perpetrator or other tenants shall be applied,  
34 accounted for or refunded by the landlord following termination of the tenancy and delivery of  
35 possession by the remaining tenants as provided in ORS 90.300 and 90.302.

36 **SECTION 11.** ORS 90.459 is amended to read:

37 90.459. (1) A tenant may give actual notice to the landlord that the tenant is a victim of do-  
38 mestic violence, sexual assault or stalking and may request that the locks to the dwelling unit be  
39 changed. A tenant is not required to provide verification of the domestic violence, sexual assault  
40 or stalking to initiate the changing of the locks.

41 (2) A landlord who receives a request under subsection (1) of this section shall promptly change  
42 the locks to the tenant's dwelling unit at the tenant's expense or shall give the tenant permission  
43 to change the locks. If a landlord fails to promptly act, the tenant may change the locks without the  
44 landlord's permission. If the tenant changes the locks, the tenant shall give a key to the new locks  
45 to the landlord.

1 (3) If the perpetrator of the domestic violence, sexual assault or stalking is a tenant in the same  
2 dwelling unit as the victim:

3 (a) Before the landlord or tenant changes the locks under this section, the tenant must provide  
4 the landlord with a copy of an order issued by a court pursuant to ORS 107.716[,] or 107.718[,  
5 124.015 or 124.020] or any other federal, state, local or tribal court that orders the perpetrator  
6 to move out of the dwelling unit.

7 (b) The landlord has no duty under the rental agreement or by law to allow the perpetrator  
8 access to the dwelling unit or provide keys to the perpetrator, during the term of the court order  
9 or after expiration of the court order, or to provide the perpetrator access to the perpetrator's  
10 personal property within the dwelling unit. Notwithstanding ORS 90.425, 90.435 or 90.675, if a land-  
11 lord complies completely and in good faith with this section, the landlord is not liable to a  
12 perpetrator excluded from the dwelling unit.

13 (c) The perpetrator is jointly liable with any other tenant of the dwelling unit for rent or dam-  
14 ages to the dwelling unit incurred prior to the date the perpetrator was excluded from the dwelling  
15 unit.

16 (d) Except as provided in subsection (2) of this section, the landlord may not require the tenant  
17 to pay additional rent or an additional deposit or fee because of the exclusion of the perpetrator.

18 (e) **The perpetrator's tenancy terminates by operation of law upon an order described in**  
19 **paragraph (a) of this subsection becoming a final order.**

20 **SECTION 12.** ORS 105.123 is amended to read:

21 105.123. [(1)] In an action pursuant to ORS 105.110, it is sufficient to state in the complaint:

22 [(a)] (1) A description of the premises with convenient certainty;

23 [(b)] (2) That the defendant is in possession of the premises;

24 [(c)] (3) That, in the case of a dwelling unit to which ORS chapter 90 does not apply, the de-  
25 fendant entered upon the premises with force or unlawfully holds the premises with force; and

26 [(d)] (4) That the plaintiff is entitled to the possession of the premises.

27 [(2) *The plaintiff may include, at the plaintiff's option, the defendant's Social Security number in*  
28 *the complaint for the purpose of accuracy in tenant screening information. This subsection does not*  
29 *require a tenant to have a Social Security number in order to enter into a rental agreement.*]

30 **SECTION 13.** ORS 105.124 is amended to read:

31 105.124. For a complaint described in ORS 105.123, if ORS chapter 90 applies to the dwelling  
32 unit:

33 (1) The complaint must be in substantially the following form and be available from the clerk  
34 of the court:

35 \_\_\_\_\_  
36  
37 IN THE CIRCUIT COURT  
38 FOR THE COUNTY OF

39 \_\_\_\_\_  
40 No. \_\_\_\_\_

41  
42 RESIDENTIAL EVICTION COMPLAINT

43  
44 PLAINTIFF (Landlord or agent):  
45

1 \_\_\_\_\_  
2  
3 \_\_\_\_\_  
4

5 Address: \_\_\_\_\_

6  
7 City: \_\_\_\_\_

8  
9 State: \_\_\_\_\_ Zip: \_\_\_\_\_

10  
11 Telephone: \_\_\_\_\_

12  
13 vs.

14  
15 DEFENDANT (Tenants/Occupants):

16  
17 \_\_\_\_\_  
18  
19 \_\_\_\_\_

20  
21 MAILING ADDRESS: \_\_\_\_\_

22  
23 City: \_\_\_\_\_

24  
25 State: \_\_\_\_\_ Zip: \_\_\_\_\_

26  
27 Telephone: \_\_\_\_\_

28  
29 [Defendant's Social Security number \_\_\_\_\_ (Optional information for purposes of  
30 identification.)]

31  
32 1.  
33 Tenants are in possession of the dwelling unit, premises or rental property described above or  
34 located at:

35  
36 \_\_\_\_\_

37  
38 2.  
39 Landlord is entitled to possession of the property because of:

40  
41 \_\_\_\_\_ 24-hour notice for personal  
42 injury, substantial damage, extremely  
43 outrageous act or unlawful occupant.

44 ORS 90.396 or 90.403.  
45 \_\_\_\_\_ 24-hour or 48-hour notice for

- 1 violation of a drug or alcohol
- 2 program. ORS 90.398.
- 3 **\_\_\_\_\_ 24-hour notice for perpetrating**
- 4 **domestic violence, sexual assault or**
- 5 **stalking. Section 3 of this 2007 Act.**
- 6 **\_\_\_\_\_ 72-hour or 144-hour notice for**
- 7 **nonpayment of rent. ORS 90.394.**
- 8 **\_\_\_\_\_ 7-day notice with stated cause in**
- 9 **a week-to-week tenancy. ORS 90.392 (6).**
- 10 **\_\_\_\_\_ 10-day notice for a pet violation,**
- 11 **a repeat violation in a month-to-month**
- 12 **tenancy or without stated cause in a**
- 13 **week-to-week tenancy. ORS 90.392 (5),**
- 14 **90.405 or 90.427 (1).**
- 15 **\_\_\_\_\_ 20-day notice for a repeat violation.**
- 16 **ORS 90.630 (4).**
- 17 **\_\_\_\_\_ 30-day or 180-day notice without**
- 18 **stated cause in a month-to-month**
- 19 **tenancy. ORS 90.427 (2) or 90.429.**
- 20 **\_\_\_\_\_ 30-day notice with stated cause.**
- 21 **ORS 90.392, 90.630 or 90.632.**
- 22 **\_\_\_\_\_ Other notice \_\_\_\_\_**
- 23 **\_\_\_\_\_ No notice (explain) \_\_\_\_\_**

24

25 A COPY OF THE NOTICE RELIED UPON, IF ANY, IS ATTACHED

26

27 3.

28 If the landlord uses an attorney, the case goes to trial and the landlord wins in court, the

29 landlord can collect attorney fees from the defendant pursuant to ORS 90.255 and 105.137 (3).

30 Landlord requests judgment for possession of the premises, court costs, disbursements and at-

31 torney fees.

32 I certify that the allegations and factual assertions in this complaint are true to the best of my

33 knowledge.

34 \_\_\_\_\_

35 \_\_\_\_\_

36 Signature of landlord or agent.

37 \_\_\_\_\_

38

39 (2) The complaint must be signed by the plaintiff or an attorney representing the plaintiff as

40 provided by ORCP 17, or verified by an agent or employee of the plaintiff or an agent or employee

41 of an agent of the plaintiff.

42 (3) A copy of the notice relied upon, if any, must be attached to the complaint.

43 **SECTION 14.** ORS 105.137 is amended to read:

44 105.137. In the case of a dwelling unit to which ORS chapter 90 applies:

45 (1) If the plaintiff appears and the defendant fails to appear at the first appearance, a default



1 judgment shall be entered in favor of the plaintiff for possession of the premises and costs and dis-  
2 bursements.

3 (2) If the defendant appears and the plaintiff fails to appear at the first appearance, a default  
4 judgment shall be entered in favor of the defendant dismissing the plaintiff's complaint and awarding  
5 costs and disbursements.

6 (3) An attorney at law shall be entitled to appear on behalf of any party, but [no] attorney fees  
7 may **not** be awarded **to the plaintiff** if the defendant does not contest the action.

8 **(4) If the plaintiff dismisses the action before the first appearance, a judgment of dis-**  
9 **missal shall be entered in favor of the defendant dismissing the plaintiff's complaint and**  
10 **awarding costs and disbursements. The defendant may not recover attorney fees for pre-**  
11 **judgment legal services provided after the delivery of written notice of the dismissal by the**  
12 **plaintiff to the defendant, or to an attorney for the defendant, in the manner provided under**  
13 **ORS 90.155.**

14 [(4)] (5) The plaintiff or an agent of the plaintiff may obtain a continuance of the action for as  
15 long as the plaintiff or the agent of the plaintiff deems necessary to obtain the services of an at-  
16 torney at law.

17 [(5)] (6) If both parties appear in court on the date contained in the summons, the court shall  
18 set the matter for trial as soon as practicable, unless the court is advised by the parties that the  
19 matter has been settled. The trial shall be scheduled no later than 15 days from the date of such  
20 appearance. If the matter is not tried within the 15-day period, and the delay in trial is not attrib-  
21 utable to the landlord, the court shall order the defendant to pay rent that is accruing into court,  
22 provided the court finds after hearing that entry of such an order is just and equitable.

23 [(6)(a)] (7)(a) The court shall permit an unrepresented defendant to proceed to trial by directing  
24 the defendant to file an answer in writing on a form which shall be available from the court clerk,  
25 and to serve a copy upon the plaintiff on the same day as first appearance.

26 (b) The answer shall be in substantially the following form:  
27 \_\_\_\_\_

28  
29 IN THE \_\_\_\_\_ COURT FOR  
30 THE COUNTY OF \_\_\_\_\_

31  
32 (Landlord), )  
33 )  
34 Plaintiff(s), )  
35 )  
36 vs. ) No. \_\_\_\_\_  
37 )  
38 (Tenant), )  
39 )  
40 Defendant(s). )

41  
42 ANSWER

43 I (we) deny that the plaintiff(s) is (are) entitled to possession because:  
44 \_\_\_\_\_ The landlord did not make repairs.

45 List any repair problems: \_\_\_\_\_

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 — The landlord is attempting to evict me (us) because of my (our) complaints (or the eviction is  
 4 otherwise retaliatory).  
 5 — **The landlord is attempting to evict me because of my status as a victim of domestic vi-**  
 6 **olence, sexual assault or stalking.**  
 7 — The eviction notice is wrong.  
 8 — List any other defenses: \_\_\_\_\_  
 9 \_\_\_\_\_  
 10 \_\_\_\_\_  
 11 \_\_\_\_\_  
 12 \_\_\_\_\_

13 I (we) may be entitled as the prevailing party to recover attorney fees from plaintiff(s) if I (we)  
14 obtain legal services to defend this action pursuant to ORS 90.255.

15 I (we) ask that the plaintiff(s) not be awarded possession of the premises and that I (we) be  
16 awarded my (our) costs and disbursements and attorney fees, if applicable, or a prevailing party fee.

17 \_\_\_\_\_  
 18 \_\_\_\_\_  
 19 Date Signature of defendant(s)

20 \_\_\_\_\_  
 21  
 22 [(7)] (8) If an unrepresented defendant files an answer as provided in subsection [(6)] (7) of this  
 23 section, the answer may not limit the defenses available to the defendant at trial under ORS chapter  
 24 90. If such a defendant seeks to assert at trial a defense not fairly raised by the answer, the plaintiff  
 25 shall be entitled to a reasonable continuance for the purposes of preparing to meet the defense.

26 **SECTION 15.** ORS 105.138 is amended to read:

27 105.138. (1) Notwithstanding ORS 105.137 [(5)] (6), if a party to an action to which ORS 90.505  
 28 to 90.840 apply moves for an order compelling arbitration and abating the proceedings, the court  
 29 shall summarily determine whether the controversy between the parties is subject to an arbitration  
 30 agreement enforceable under ORS 90.610 (2) and, if so, shall issue an order compelling the parties  
 31 to submit to arbitration in accordance with the agreement and abating the action for not more than  
 32 30 days, unless the parties agree to an order of abatement for a longer period acceptable to the  
 33 court.

34 (2) If the court issues an order compelling arbitration under subsection (1) of this section, the  
 35 court may not order the payment of rent into court pending the arbitration unless the court finds  
 36 such an order is necessary to protect the rights of the parties.

37 **SECTION 16.** ORS 105.146 is amended to read:

38 105.146. (1) In an action to recover possession of the premises, if the court has entered an order  
 39 by stipulation that provides for the defendant to retain possession of the premises contingent upon  
 40 the defendant’s performance or payment of moneys by a certain date as provided under ORS 105.145  
 41 (2), and the defendant fails to comply with the order, the plaintiff may obtain and enforce a judgment  
 42 of restitution of the premises pursuant to this section and ORS 105.148 and 105.149.

43 (2) A plaintiff may obtain and enforce a judgment of restitution based upon an order entered as  
 44 provided under ORS 105.145 (2), provided the order includes only:

45 (a) Future performance or conduct as described in the order for a period of not more than six

1 months following entry of the order;

2 (b) Payment of past due rent and other past due amounts pursuant to a schedule provided in the  
3 order for a period of not more than six months following entry of the order;

4 (c) Payment of rent due for future rental periods that follow entry of the order pursuant to a  
5 schedule provided in the order for not more than the first three monthly rental periods following  
6 entry of the order; and

7 (d) Payment of any costs, disbursements or attorney fees pursuant to a schedule provided in the  
8 order.

9 (3) The order shall contain a statement providing that 12 months following the entry of the or-  
10 der, the court shall automatically dismiss the order without further notice to either the plaintiff or  
11 the defendant.

12 (4) If the defendant fails to comply with the order, the plaintiff may file with the clerk of the  
13 court an affidavit **or declaration** of noncompliance describing how the defendant has failed to  
14 comply. The plaintiff shall attach a copy of the order to the affidavit **or declaration**. The affidavit  
15 **or declaration**, or the order, must include the terms of the underlying settlement agreement or  
16 stipulation or have a copy of the agreement attached.

17 (5) Upon receipt of a plaintiff's affidavit **or declaration**:

18 (a) The court shall enter a judgment of restitution; and

19 (b) The clerk shall issue a notice of restitution as provided by ORS 105.151 and attach to the  
20 notice a copy of the plaintiff's affidavit **or declaration** of noncompliance and any attachments for  
21 service.

22 (6) The court shall establish a procedure that allows the defendant to request a hearing on the  
23 plaintiff's affidavit **or declaration** of noncompliance and delay expiration of the notice of restitution  
24 period or execution upon a judgment of restitution pending the hearing.

25 (7) The court shall enter a judgment dismissing the plaintiff's action in favor of the defendant  
26 without assessment of costs, disbursements, prevailing party fee or attorney fees against either party  
27 except as provided in the order and without further notice to either party:

28 (a) Upon receipt of a writing signed by the plaintiff showing compliance with or satisfaction of  
29 the order; or

30 (b) Twelve months following entry of the order, unless the plaintiff has filed an affidavit **or**  
31 **declaration** of noncompliance and the court has found in favor of the plaintiff on the affidavit **or**  
32 **declaration**.

33 **SECTION 17.** ORS 105.148 is amended to read:

34 105.148. (1)(a) To contest a plaintiff's affidavit **or declaration** of noncompliance under ORS  
35 105.146 and delay expiration of the notice of restitution period or execution upon the judgment of  
36 restitution, a defendant shall file a request for hearing with the clerk of the court. The request must  
37 be filed prior to issuance by the clerk of a writ of execution of judgment of restitution and must  
38 include a statement by the defendant describing how the defendant complied with the order or de-  
39 scribing why the defendant should not be required to comply.

40 (b) A court may, as part of the procedure authorized by ORS 105.146 (6), require that a defend-  
41 ant submit a hearing request to the court for ex parte review prior to the defendant's filing the re-  
42 quest with the clerk. If the court provides for ex parte review, the ex parte review must be available  
43 every judicial day for appearance by the defendant before the court within the time period between  
44 service of the notice of restitution and the date of expiration of the notice of restitution. The notice  
45 of restitution must include or have attached to it a description of the requirements for appearing

1 before the court for ex parte review and a copy of the hearing request form. The court may not  
2 require that the defendant notify the plaintiff of the defendant's intention to appear before the court.  
3 If, after hearing the defendant at the ex parte review, the court finds that the reasons given by the  
4 defendant for opposing the plaintiff's affidavit **or declaration** of noncompliance do not relate to the  
5 issues listed in ORS 105.149 (2), the court shall deny the request for a hearing.

6 (2) The clerk shall make available a document providing for a request for hearing by a defend-  
7 ant. The document must be in substantially the following form:

8 \_\_\_\_\_  
9  
10 IN THE CIRCUIT COURT  
11 FOR THE COUNTY OF  
12 \_\_\_\_\_

13  
14 Defendant's Request for Hearing to  
15 Contest an Affidavit **or Declaration** of Noncompliance  
16 Case No. \_\_\_\_\_

17  
18 Landlord or agent (Plaintiff):

19  
20 \_\_\_\_\_

21  
22 vs.

23  
24 Tenant/Occupant (Defendant):

25  
26 \_\_\_\_\_

27  
28 Address of Property:

29  
30 \_\_\_\_\_

31  
32 \_\_\_\_\_

33  
34 1. My landlord has filed a statement with the court saying that I have not complied with a  
35 court-approved agreement and that as a result my landlord is entitled to possession of the property.

36 2. I deny the landlord is entitled to possession of the property because (The reason must be one  
37 of the following. You must check one or more of these responses and you must explain in section  
38 3.):

39 \_\_\_\_\_ a. The landlord is wrong. As explained below, I did comply with the agreement.

40 \_\_\_\_\_ b. Before I could comply with the agreement, the landlord was supposed to do what is  
41 explained below, which the landlord did not do.

42 \_\_\_\_\_ c. The landlord and I changed the agreement and I complied with the agreement as  
43 changed. The change we agreed to is explained below.

44 \_\_\_\_\_ d. The landlord prevented me from keeping the agreement. The way the landlord did  
45 that is explained below.

1 \_\_\_\_\_ e. The agreement was not made in good faith as required by ORS 90.130. The lack of  
2 good faith is explained below.

3 \_\_\_\_\_ f. The portion of the agreement described below was unconscionable as described in  
4 ORS 90.135.

5 \_\_\_\_\_ g. The landlord is required by law or contract to have good cause to force me to move  
6 out and my alleged conduct or performance does not meet the standard of good cause, as explained  
7 below.

8 \_\_\_\_\_ h. The landlord is claiming I did not pay rent for a period of time following the date  
9 of the agreement. I did not pay that rent because I have claims for money against the landlord to  
10 offset the rent. Those claims arise from the landlord's violation of the Residential Landlord and  
11 Tenant Act or the rental agreement since the date of the court order and are explained below.

12 3. Here is my explanation for the reason or reasons checked above:

13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_

19 4. I understand that if I lose in court, I may be responsible for the landlord's costs, disburse-  
20 ments, any attorney fees and a prevailing party fee.

21 *[I swear the above statements are true.] I hereby declare that the above statement is true to*  
22 **the best of my knowledge and belief, and that I understand it is made for use as evidence in**  
23 **court and is subject to penalty for perjury.**

24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 (Signature of tenant)

27 **Date:** \_\_\_\_\_

28  
29 *[Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.*

30  
31 *Trial court administrator / clerk / notary*

32  
33 \_\_\_\_\_]  
34 \_\_\_\_\_

35  
36 **(3) As an alternative to the document described in subsection (2) of this section, a de-**  
37 **fendant may request a hearing by use of a notarized affidavit.**

38 **SECTION 18. Notwithstanding the amendments to ORS 105.124 by section 13 of this 2007**  
39 **Act, prior to January 1, 2009, a clerk of the court may use either the complaint form set**  
40 **forth in ORS 105.124 as published in the 2005 Edition of Oregon Revised Statutes or the form**  
41 **set forth in ORS 105.124 as amended and in effect on the effective date of this 2007 Act.**