

# Senate Bill 636

Sponsored by COMMITTEE ON RULES (at the request of Oregon Lodging Association)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Revises definitions applicable to residential landlord-tenant laws.

## A BILL FOR AN ACT

Relating to landlord-tenant law definitions; creating new provisions; and amending ORS 90.100.

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

**SECTION 1.** ORS 90.100 is amended to read:

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

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

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

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

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

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

(4) "Building and housing codes" includes any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any premises or dwelling unit.

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

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

(7) "Domestic violence" has the meaning given that term in ORS 135.230.

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

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

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

19 *[(c)] (b)* 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:

26 (a) A person who is the subject of domestic violence, sexual assault or stalking. “Victim” *in-*  
27 *cludes*; **or**

28 (b) A parent or guardian of a minor who is the subject of domestic violence, sexual assault or  
29 stalking.

30 (46) “Week-to-week tenancy” means a tenancy that has *[all of]* the following characteristics:

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

33 (b) There is a written rental agreement that defines the landlord’s and the tenant’s rights and  
34 responsibilities under this chapter; and

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

37 **SECTION 2. The amendments to ORS 90.100 by section 1 of this 2007 Act apply to periods**  
38 **of occupancy that begin on or after the effective date of this 2007 Act.**