

## HOUSE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED SENATE BILL 772

By JOINT COMMITTEE ON WAYS AND MEANS

June 26

1 On page 1 of the printed A-engrossed bill, line 3, after “2005” insert “, and section 3, chapter  
2 \_\_\_, Oregon Laws 2009 (Enrolled Senate Bill 929); repealing section 2, chapter \_\_\_, Oregon Laws  
3 2009 (Enrolled Senate Bill 929)”.

4 On page 8, after line 40, insert:

5 **“SECTION 6a. If Senate Bill 929 becomes law, section 2, chapter \_\_\_, Oregon Laws 2009**  
6 **(Enrolled Senate Bill 929) (amending ORS 90.532), is repealed and ORS 90.532, as amended by**  
7 **section 6 of this 2009 Act, is amended to read:**

8 “90.532. (1) Subject to the policies of the utility or service provider, a landlord may, except as  
9 provided in subsections (2), [*and*] (3) **and (4)** of this section, provide for utilities or services to ten-  
10 ants by one or more of the following billing methods:

11 “(a) A relationship between the tenant and the utility or service provider in which:

12 “(A) The provider provides the utility or service directly to the tenant’s space, including any  
13 utility or service line, and bills the tenant directly; and

14 “(B) The landlord does not act as a provider.

15 “(b) A relationship between the landlord, tenant and utility or service provider in which:

16 “(A) The provider provides the utility or service to the landlord;

17 “(B) The landlord provides the utility or service directly to the tenant’s space or to a common  
18 area available to the tenant as part of the tenancy; and

19 “(C) The landlord:

20 “(i) Includes the cost of the utility or service in the tenant’s rent; or

21 “(ii) Bills the tenant for a utility or service charge separately from the rent in an amount de-  
22 termined by apportioning on a pro rata basis the provider’s charge to the landlord as measured by  
23 a master meter.

24 “(c) A relationship between the landlord, tenant and utility or service provider in which:

25 “(A) The provider provides the utility or service to the landlord;

26 “(B) The landlord provides the utility or service directly to the tenant’s space; and

27 “(C) The landlord uses a submeter to measure the utility or service actually provided to the  
28 space and bills the tenant for a utility or service charge for the amount provided.

29 “(2) A landlord may not use a separately charged pro rata apportionment as described in sub-  
30 section (1)(b)(C)(ii) of this section:

31 “(a) For garbage collection and disposal, unless the pro rata apportionment is based upon the  
32 number and size of the garbage receptacles used by the tenant.

33 “(b) For water service, if the rental agreement for the dwelling unit was entered into on or after  
34 the effective date of this 2009 Act.

35 “(c) For sewer service, if sewer service is measured by consumption of water and the rental

1 agreement for the dwelling unit was entered into on or after the effective date of this 2009 Act.

2 “(3) A landlord and tenant may not amend a rental agreement to convert water or sewer utility  
3 and service billing from a method described in subsection (1)(b)(C)(i) of this section to a method  
4 described in subsection (1)(b)(C)(ii) of this section.

5 “(4) **A landlord for a manufactured dwelling park containing 200 or more spaces in the  
6 facility may not assess a tenant a utility or service charge for water by using the billing  
7 method described in subsection (1)(b) of this section.**

8 “[4] (5) To assess a tenant for a utility or service charge for any billing period, the landlord  
9 shall give the tenant a written notice stating the amount of the utility or service charge that the  
10 tenant is to pay the landlord and the due date for making the payment. The due date may not be  
11 less than 14 days from the date of service of the notice.

12 “[5] (6) A utility or service charge is not rent or a fee. Nonpayment of a utility or service  
13 charge is not grounds for termination of a rental agreement for nonpayment of rent under ORS  
14 90.394, but is grounds for termination of a rental agreement for cause under ORS 90.630.

15 “[6] (7) The landlord is responsible for maintaining the utility or service system, including any  
16 submeter, consistent with ORS 90.730. After any installation or maintenance of the system on a  
17 tenant’s space, the landlord shall restore the space to a condition that is the same as or better than  
18 the condition of the space before the installation or maintenance.

19 “[7] (8) A landlord may not assess a utility or service charge for water unless the water is  
20 provided to the landlord by a:

21 “(a) Public utility as defined in ORS 757.005;

22 “(b) Municipal utility operating under ORS chapter 225;

23 “(c) People’s utility district organized under ORS chapter 261;

24 “(d) Cooperative organized under ORS chapter 62;

25 “(e) Domestic water supply district organized under ORS chapter 264; or

26 “(f) Water improvement district organized under ORS chapter 552.

27 “[8] (9) A landlord who provides utilities or services only to tenants of the landlord in com-  
28 pliance with this section and ORS 90.534 and 90.536 is not a public utility for purposes of ORS  
29 chapter 757.

30 “**SECTION 6b.** If Senate Bill 929 becomes law, section 3, chapter \_\_\_, Oregon Laws 2009 (En-  
31 rolled Senate Bill 929), is amended to read:

32 “**Sec. 3.** The amendments to ORS 90.532 by [section 2 of this 2009 Act] **section 6a of this 2009**  
33 **Act** become operative December 31, 2012.”.