Senate Bill 772

Sponsored by Senator BONAMICI (at the request of Manufactured Housing 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 **as introduced.**

Establishes authorizations, prohibitions, conditions and limits for methods used by manufactured dwelling park or marina landlord to bill tenant for certain utility or service charges. Authorizes park or marina tenant to examine records for utility or service charges billed to tenant. Allows tenant to recover damages if landlord improperly converts method of billing for utility or service charges.

Excludes marinas from temporary laws imposing landlord registration requirement and facility owner or manager continuing education requirement. Requires that registration of manufactured dwelling park landlord under temporary law be annual. Requires Housing and Community Services Department to adopt rules and appoint advisory committee regarding registration and continuing education requirements. Changes notice provisions regarding requirements. Changes department approval requirement for continuing education classes. Imposes registration fee. Appropriates registration fee moneys to Mobile Home Parks Account. Increases maximum civil penalty for violation of registration or continuing education requirements to $1,000.

Allows landlords, tenants and guests of tenant to enter into agreement for guest to become temporary occupant of premises. Specifies agreement contents and rights of parties.

Expands right of manufactured dwelling park or marina tenant to place political sign. Eliminates landlord ability to control character of sign. Allows landlord to enforce reasonable rules regarding length of time sign is displayed.

A BILL FOR AN ACT

Relating to landlord-tenant law; creating new provisions; amending ORS 90.100, 90.510, 90.532, 90.534, 90.537 and 90.755 and sections 2, 3, 4 and 26, chapter 619, Oregon Laws 2005; and appropriating money.

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

SUBMETERING

SECTION 1. Sections 2 to 4 of this 2009 Act are added to and made a part of ORS 90.531 to 90.539.

SECTION 2. (1) A landlord may unilaterally amend a rental agreement to convert the method of billing a tenant for garbage collection and disposal from a method described in ORS 90.532 (1)(b) to a method in which the service provider:

(a) Supplies garbage receptacles;

(b) Collects and disposes of garbage; and

(c)(A) Bills the tenant directly; or

(B) Bills the landlord, who then bills the tenant based upon the number and size of the receptacles used by the tenant.

(2) A landlord shall give a tenant not less than 180 days' written notice before converting a billing method under subsection (1) of this section.

(3) If the cost of garbage service was included in the rent before the conversion of a billing method under subsection (1) of this section, the landlord shall reduce the tenant's

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.

rent upon the first billing of the tenant under the new billing method. The rent reduction may not be less than an amount reasonably comparable to the amount of rent previously allocated for garbage collection and disposal costs averaged over at least the preceding year. Before the conversion occurs, the landlord shall provide the tenant with written documentation from the service provider showing the landlord's cost for the garbage collection and disposal service provided to the facility during at least the preceding year.

(4) A landlord may not convert a billing method under subsection (1) of this section less than one year after giving notice of a rent increase, unless the rent increase is an automatic increase provided for in a fixed term rental agreement entered into one year or more before the conversion.

SECTION 3. (1) Notwithstanding ORS 90.534 (4) or 90.536 (3), a landlord may add an additional amount to a utility or service charge billed to the tenant if:

(a) The utility or service charge to which the additional amount is added is for cable television, direct satellite or other video subscription services or for Internet usage or service;

(b) The additional amount is not more than 10 percent of the utility or service charge billed to the tenant;

(c) The total of the utility or service charge and the additional amount is less than the typical periodic cost the tenant would incur if the tenant contracted directly with the provider for the cable television, direct satellite or other video subscription services or for Internet usage or service;

(d) The written rental agreement providing for the utility or service charge describes the additional amount separately and distinctly from the utility or service charge; and

(e) Any billing or notice from the landlord regarding the utility or service charge lists the additional amount separately and distinctly from the utility or service charge.

(2) A landlord may not require a tenant to agree to the amendment of an existing rental agreement, and may not terminate a tenant for refusing to agree to the amendment of a rental agreement, if the amendment would obligate the tenant to pay an additional amount for cable television, direct satellite or other video subscription services or for Internet usage or service as provided under subsection (1) of this section.

SECTION 4. (1) A landlord shall, upon written request by the tenant, make available for inspection by the tenant all utility billing records relating to a utility or service charge billed to the tenant during the preceding year. The landlord shall make the records available to the tenant during normal business hours at an on-site manager's office or at a location agreed to by the tenant. A tenant may not abuse the right to inspect utility or service charge records or use the right to harass the landlord.

(2) If a landlord fails to comply with a provision of ORS 90.531 to 90.539, the tenant may recover from the landlord an amount equal to the greater of one month's periodic rent or twice the amount wrongfully charged to the tenant.

SECTION 5. ORS 90.510 is amended to read:

90.510. (1) Every landlord who rents a space for a manufactured dwelling or floating home shall provide a written statement of policy to prospective and existing tenants. The purpose of the statement of policy is to provide disclosure of the landlord's policies to prospective tenants and to existing tenants who have not previously received a statement of policy. The statement of policy is not a part of the rental agreement. The statement of policy shall provide all of the following infor-

mation in summary form:

(a) The location and approximate size of the space to be rented.

(b) The federal fair-housing age classification and present zoning that affect the use of the rented space.

(c) The facility policy regarding rent adjustment and a rent history for the space to be rented. The rent history must, at a minimum, show the rent amounts on January 1 of each of the five preceding calendar years or during the length of the landlord's ownership, leasing or subleasing of the facility, whichever period is shorter.

(d) The personal property, services and facilities that are provided by the landlord.

(e) The installation charges that are imposed by the landlord and the installation fees that are imposed by government agencies.

(f) The facility policy regarding rental agreement termination including, but not limited to, closure of the facility.

(g) The facility policy regarding facility sale.

(h) The facility policy regarding informal dispute resolution.

(i) The utilities and services that are available, the name of the person furnishing them and the name of the person responsible for payment.

(j) If a tenants' association exists for the facility, a one-page summary about the tenants' association. The tenants' association shall provide the summary to the landlord.

(k) Any facility policy regarding the removal of a manufactured dwelling, including a statement that removal requirements may impact the market value of a dwelling.

(2) The rental agreement and the facility rules and regulations shall be attached as an exhibit to the statement of policy. If the recipient of the statement of policy is a tenant, the rental agreement attached to the statement of policy must be a copy of the agreement entered by the landlord and tenant.

(3) The landlord shall give:

(a) Prospective tenants a copy of the statement of policy before the prospective tenants sign rental agreements;

(b) Existing tenants who have not previously received a copy of the statement of policy and who are on month-to-month rental agreements a copy of the statement of policy at the time a 90-day notice of a rent increase is issued; and

(c) All other existing tenants who have not previously received a copy of the statement of policy a copy of the statement of policy upon the expiration of their rental agreements and before the tenants sign new agreements.

(4) Every landlord who rents a space for a manufactured dwelling or floating home shall provide a written rental agreement, except as provided by ORS 90.710 (2)(d). The agreement must be signed by the landlord and tenant and may not be unilaterally amended by one of the parties to the contract except by:

(a) Mutual agreement of the parties;

(b) Actions **taken** pursuant to ORS 90.530, 90.537 or 90.600 **or section 2 of this 2009 Act**; or

(c) Those provisions required by changes in statute or ordinance.

(5) The agreement required by subsection (4) of this section must specify:

(a) The location and approximate size of the rented space;

(b) The federal fair-housing age classification;

(c) The rent per month;

(d) All personal property, services and facilities to be provided by the landlord;

(e) All security deposits, fees and installation charges imposed by the landlord;

(f) Improvements that the tenant may or must make to the rental space, including plant materials and landscaping;

(g) Provisions for dealing with improvements to the rental space at the termination of the tenancy;

(h) Any conditions the landlord applies in approving a purchaser of a manufactured dwelling or floating home as a tenant in the event the tenant elects to sell the home. Those conditions must be in conformance with state and federal law and may include, but are not limited to, conditions as to pets, number of occupants and screening or admission criteria;

(i) That the tenant may not sell the tenant's manufactured dwelling or floating home to a person who intends to leave the manufactured dwelling or floating home on the rental space until the landlord has accepted the person as a tenant;

(j) The term of the tenancy;

(k) The process by which the rental agreement or rules and regulations may be changed, which shall identify that the rules and regulations may be changed with 60 days' notice unless tenants of at least 51 percent of the eligible spaces file an objection within 30 days; and

(L) The process by which the landlord or tenant shall give notices.

(6) Every landlord who rents a space for a manufactured dwelling or floating home shall provide rules and regulations concerning the tenant's use and occupancy of the premises. A violation of the rules and regulations may be cause for termination of a rental agreement. However, this subsection does not create a presumption that all rules and regulations are identical for all tenants at all times. A rule or regulation shall be enforceable against the tenant only if:

(a) The rule or regulation:

(A) Promotes the convenience, safety or welfare of the tenants;

(B) Preserves the landlord's property from abusive use; or

(C) Makes a fair distribution of services and facilities held out for the general use of the tenants.

(b) The rule or regulation:

(A) Is reasonably related to the purpose for which it is adopted and is reasonably applied;

(B) Is sufficiently explicit in its prohibition, direction or limitation of the tenant's conduct to fairly inform the tenant of what the tenant shall do or may not do to comply; and

(C) Is not for the purpose of evading the obligations of the landlord.

(7)(a) A landlord who rents a space for a manufactured dwelling or floating home may adopt a rule or regulation regarding occupancy guidelines. If adopted, an occupancy guideline in a facility must be based on reasonable factors and not be more restrictive than limiting occupancy to two people per bedroom.

(b) As used in this subsection:

(A) Reasonable factors may include but are not limited to:

(i) The size of the dwelling.

(ii) The size of the rented space.

(iii) Any discriminatory impact for reasons identified in ORS 659A.421.

(iv) Limitations placed on utility services governed by a permit for water or sewage disposal.

(B) "Bedroom" means a room that is intended to be used primarily for sleeping purposes and does not include bathrooms, toilet compartments, closets, halls, storage or utility space and similar

areas.

(8) Intentional and deliberate failure of the landlord to comply with subsections (1) to (3) of this section is cause for suit or action to remedy the violation or to recover actual damages. The prevailing party is entitled to reasonable attorney fees and court costs.

(9) A receipt signed by the potential tenant or tenants for documents required to be delivered by the landlord pursuant to subsections (1) to (3) of this section is a defense for the landlord in an action against the landlord for nondelivery of the documents.

(10) A suit or action arising under subsection (8) of this section must be commenced within one year after the discovery or identification of the alleged violation.

(11) Every landlord who publishes a directory of tenants and tenant services must include a one-page summary regarding any tenants' association. The tenants' association shall provide the summary to the landlord.

SECTION 6. ORS 90.532 is amended to read:

90.532. (1) Subject to the policies of the utility or service provider, **except as provided in subsections (2) and (3) of this section,** a landlord may provide for utilities or services to tenants by one or more of the following billing methods:

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

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

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

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

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

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

(C) The landlord**:**

(i) Includes the cost of the utility or service in the tenant's rent**;** or

(ii) Bills the tenant for a utility or service charge separately from the rent in an amount determined by apportioning **on a pro rata basis** the provider's charge to the landlord as measured by a master meter.

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

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

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

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

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

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

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

(c) For sewer service, if sewer service is measured by consumption of water and the rental agreement for the dwelling unit was entered into on or after the effective date of this 2009 Act.

(3) A landlord and tenant may not amend a rental agreement to convert utility and service billing from a method described in subsection (1)(b)(C)(i) of this section to a method

described in subsection (1)(b)(C)(ii) of this section.

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

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

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

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

(a) Public utility as defined in ORS 757.005;

(b) Municipal utility operating under ORS chapter 225;

(c) People's utility district organized under ORS chapter 261;

(d) Cooperative organized under ORS chapter 62;

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

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

[*(6)*] **(8)** A landlord who provides utilities or services only to tenants of the landlord in compliance with this section and ORS 90.534 and 90.536 is not a public utility for purposes of ORS chapter 757.

SECTION 7. ORS 90.534 is amended to read:

90.534. (1) If a written rental agreement so provides, a landlord using the **pro rata** billing method described in ORS 90.532 (1)(b)**(C)(ii)** may require a tenant to pay to the landlord a utility or service charge that has been billed by a utility or service provider to the landlord for a utility or service provided directly to the tenant's space or to a common area available to the tenant as part of the tenancy. **A landlord may not amend a rental agreement to convert utility and service billing from a method described in ORS 90.532 (1)(b)(C)(i) to a method described in ORS 90.532 (1)(b)(C)(ii).**

(2)**(a) As used in this subsection, "occupied" means that a tenant resides in the dwelling or home during each month for which the utility or service is billed.**

(b) A utility or service charge that is assessed **on a pro rata basis** to tenants for the tenants' spaces under this section must be allocated among the tenants by a method that reasonably apportions the cost among the affected tenants and that is described in the rental agreement.

(c) Methods that reasonably apportion the cost among the tenants include, but are not limited to, methods that divide the cost based on**:**

(A) The number of occupied spaces in the facility**;** [*or on*]

(B) The number of tenants or occupants in the dwelling or home compared with the number of tenants or occupants in the facility, if there is a correlation with consumption of the utility or service; or

(C) The square footage in each dwelling, home or space **compared with the total square footage of occupied dwellings or homes in the facility, if there is a correlation with consumption of the utility or service**.

(3) A utility or service charge to be assessed to a tenant for a common area must be described in the written rental agreement separately and distinctly from the utility or service charge for the tenant's space.

(4) A landlord may not increase the utility or service charge to the tenant by adding any costs of the landlord, such as a handling or administrative charge, other than those costs billed to the landlord by the provider for utilities or services.

SECTION 8. ORS 90.537 is amended to read:

90.537. (1) A landlord may unilaterally amend a rental agreement to convert a tenant's existing utility or service billing method from a method described in ORS 90.532 (1)(b) to a submeter billing method described in ORS 90.532 (1)(c). The landlord must give the tenant not less than 180 days' written notice before converting to a submeter billing method.

(2) A landlord must give notice as provided in ORS 90.725 before entering a tenant's space to install or maintain a utility or service line or a submeter that measures the amount of a provided utility or service.

(3) If the cost of the tenant's utility or service was included in the rent before the conversion to submeters, the landlord shall reduce the tenant's rent upon the landlord's first billing of the tenant using the submeter method. The rent reduction may not be less than an amount reasonably comparable to the amount of the rent previously allocated to the utility or service cost averaged over at least the preceding six months. **A landlord may not convert billing to a submeter method less than one year after giving notice of a rent increase, unless the rent increase is an automatic increase provided for in a fixed term rental agreement entered into one year or more before the conversion.** Before the landlord first bills the tenant using the submeter method, the landlord shall provide the tenant with written documentation from the utility or service provider showing the landlord's cost for the utility or service provided to the facility during at least the six preceding months.

(4) During the six months following a conversion to submeters, the landlord may not raise the rent to recover the costs of installing, maintaining or operating the utility or service system or of new lines or submeters. Except as part of the rent, a landlord may not charge the tenant for the cost of installation or for any capital expenses related to the conversion to submeters or for the cost of maintenance or operation of the utility or service system. As used in this subsection, "operation" includes, but is not limited to, reading the submeter.

(5) A rental agreement amended under this section shall include language that fairly describes the provisions of this section.

(6) If a landlord installs a submeter on an existing utility or service line to a space or common area that is already served by that line, unless the installation causes a system upgrade, a local government may not assess a system development charge as defined in ORS 223.299 as a result of the installation.

ENFORCEMENT: REGISTRATION AND EDUCATION

SECTION 9. (1) The Housing and Community Services Department shall adopt rules for the administration and enforcement of sections 2 and 3, chapter 619, Oregon Laws 2005. The rules shall include, but need not be limited to, a rule that establishes a schedule of civil penalties for noncompliance that is consistent with the amount limitation established under section 4, chapter 619, Oregon Laws 2005.

(2) The department shall appoint an advisory committee to assist the department in implementing and administering the duties of the department regarding the registration and continuing education requirements established in sections 2 and 3, chapter 619, Oregon Laws 2005. The advisory committee shall include representatives of interested parties, including but not limited to representatives of manufactured dwelling park landlords and representatives of manufactured dwelling park tenants.

SECTION 10. Section 2, chapter 619, Oregon Laws 2005, as amended by section 38, chapter 906, Oregon Laws 2007, is amended to read:

Sec. 2. (1) Every landlord of a [*facility*] **manufactured dwelling park** shall register **annually** in writing with the Housing and Community Services Department. **The department shall charge the landlord a registration fee of $25. The landlord shall file a registration and pay a registration fee for each park owned or managed by the landlord.** The registration shall consist of the following information:

(a) The name and business mailing address of the landlord and of any person authorized to manage the premises **of the park**.

(b) The name of the [*facility*] **park**.

(c) The physical address of the [*facility*] **park** or, if different from the physical address, the mailing address.

(d) A telephone number of the [*facility*] **park**.

(e) The total number of spaces in the [*facility*] **park**.

(2)[*(a)*] The landlord of a new [*facility*] **manufactured dwelling park** shall register with the department no later than 60 days after the opening of the [*facility*] **park**.

[*(b) A landlord shall notify the department in writing of any change in the required registration information no later than 60 days after the change.*]

(3) **The department shall send a written reminder notice to each landlord that holds a current registration under this section before the due date for the landlord to file a new registration.** The department shall confirm receipt of a registration [*or a change in registration information*].

(4) Notwithstanding subsections (1) to (3) of this section, the department may provide for registration[*, registration changes*] and confirmation of registration to be accomplished by electronic means instead of in writing.

(5) Moneys from registration fees described in subsection (1) of this section shall be deposited in the Mobile Home Parks Account. Notwithstanding ORS 446.533, moneys deposited in the account under this section are continuously appropriated to the department for the purpose of implementing and administering the duties of the department under this section, section 3, chapter 619, Oregon Laws 2005, and section 9 of this 2009 Act.

SECTION 11. Section 3, chapter 619, Oregon Laws 2005, as amended by section 39, chapter 906, Oregon Laws 2007, is amended to read:

Sec. 3. (1) At least one person for each [*facility*] **manufactured dwelling park** who has authority to manage the premises **of the park** shall, every two years, complete six hours of continuing education relating to the management of [*facilities*] **manufactured dwelling parks**. The following apply for a person whose continuing education is required:

(a) If there is any manager or owner who lives in the [*facility*] **park**, the person completing the continuing education must be a manager or owner who lives in the [*facility*] **park**.

(b) If no manager or owner lives in the [*facility*] **park**, the person completing the continuing

education must be a manager who lives outside the [*facility*] **park** or, if there is no manager, an owner of the [*facility*] **park**.

(c) A manager or owner may satisfy the continuing education requirement for more than one [*facility if those facilities do not*] **park that does not** have a manager or owner who lives in the [*facility*] **park**.

(2) If a person becomes the [*facility*] **manufactured dwelling park** manager or owner who is responsible for completing continuing education, and the person does not have a current certificate of completion issued under subsection (3) of this section, the person shall complete the continuing education requirement by taking the next regularly scheduled continuing education class or by taking a continuing education class held within 75 days.

(3) The Housing and Community Services Department shall ensure that continuing education classes:

(a) Are offered at least once every six months;

(b) Are [*taught by persons approved by the department and affiliated with*] **offered by** a statewide nonprofit trade association [*that represents*] **representing** manufactured housing interests **and approved by the department**;

(c) Have at least one-half of the class instruction on one or more provisions of ORS chapter 90, ORS 105.105 to 105.168, fair housing law or other law relating to landlords and tenants;

(d) Provide a certificate of completion to all attendees; and

(e) Provide the department with the following information:

(A) The name of each person who attends a class;

(B) The name of the attendee's [*facility*] **manufactured dwelling park**;

(C) The city or county in which the attendee's [*facility*] **park** is located;

(D) The date of the class; and

(E) The names of the persons who taught the class.

(4) The department, a trade association or instructor is not responsible for the conduct of a landlord, manager, owner or other person attending a continuing education class under this section. This section does not create a cause of action against the department, a trade association or instructor related to the continuing education class.

(5) The owner of a [*facility*] **manufactured dwelling park** is responsible for ensuring compliance with the continuing education requirements in this section.

(6) The department shall annually send a written reminder notice regarding continuing education requirements under this section to each manufactured dwelling park at the address shown in the park registration filed under section 2, chapter 619, Oregon Laws 2005.

SECTION 12. Section 4, chapter 619, Oregon Laws 2005, is amended to read:

Sec. 4. (1) The Housing and Community Services Department may assess a civil penalty against a landlord **or owner** if the department finds that the landlord **or owner** has not [*made a good faith effort to comply*] **complied** with section 2 or 3 [*of this 2005 Act*]**, chapter 619, Oregon Laws 2005**. The civil penalty may not exceed [*$500*] **$1,000**. **The department shall assess the civil penalty according to the schedule of penalties developed by the department under section 9 of this 2009 Act. In assessing a civil penalty under this section, the department shall take into consideration any good faith efforts by the landlord or owner to comply with section 2 or 3, chapter 619, Oregon Laws 2005.**

(2) A civil penalty assessed under this section shall be deposited [*to*] **in** the Mobile Home Parks Account and continuously appropriated to the department for use in carrying out the policies de-

scribed in ORS 446.515.

(3) If a civil penalty assessed under this section is not paid on or before 30 days after the order assessing the civil penalty becomes final by operation of law, the department may file the order with the county clerk of the county where the manufactured dwelling park of the landlord or owner is located as a lien against the park. In addition to any other available remedy, recording the order in the County Clerk Lien Record has the effect provided for in ORS 205.125 and 205.126 and the order may be enforced as provided in ORS 205.125 and 205.126.

SECTION 13. Section 26, chapter 619, Oregon Laws 2005, is amended to read:

Sec. 26. (1) Sections 2 to 4 [*of this 2005 Act*]**, chapter 619, Oregon Laws 2005,** are repealed January 2, 2012.

(2) Section 9 of this 2009 Act is repealed January 2, 2012.

TEMPORARY OCCUPANT AGREEMENT

SECTION 14. Section 15 of this 2009 Act is added to and made a part of ORS 90.100 to 90.465.

SECTION 15. (1) A landlord may allow the guest of a tenant to become a temporary occupant of the tenant's dwelling unit as provided under this section. To create a temporary occupancy, the landlord, tenant and proposed temporary occupant must enter into a written temporary occupancy agreement that describes the temporary occupancy relationship.

(2) Before entering into a temporary occupancy agreement, a landlord may screen the proposed temporary occupant for issues regarding conduct or for a criminal record. The landlord may not screen the proposed temporary occupant for credit history or income level.

(3) A temporary occupancy agreement shall expressly provide that:

(a) The temporary occupant is not a tenant entitled to occupy the dwelling unit to the exclusion of others;

(b) The temporary occupant does not have the rights of a tenant;

(c) The tenant may terminate the temporary occupancy agreement without cause at any time;

(d) The landlord may terminate the temporary occupancy only for cause that is a material violation of the temporary occupancy agreement; and

(e) The temporary occupant has no right to cure a violation that causes a landlord to terminate the temporary occupancy agreement.

(4) A temporary occupancy agreement may provide that the temporary occupant is required to comply with any applicable rules for the premises.

(5) A temporary occupancy agreement may have a specific ending date. The landlord, tenant and temporary occupant may extend or renew a temporary occupancy agreement or may enter into a new temporary occupancy agreement.

(6) A landlord or tenant is not required to give the temporary occupant written notice of the termination of a temporary occupancy agreement.

(7) The temporary occupant shall promptly vacate the dwelling unit if a landlord terminates a temporary occupancy for material violation of the temporary occupancy agreement or if the temporary occupancy agreement ends by its terms. Except as provided in ORS 90.449, the landlord may terminate the tenancy of the tenant as provided under ORS 90.392

or 90.630 if the temporary occupant fails to promptly vacate the dwelling unit or if the tenant materially violates the temporary occupancy agreement.

(8) A temporary occupant shall be treated as a squatter if the temporary occupant continues to occupy the dwelling unit after a tenancy has ended or after the tenant revokes permission for the occupancy by terminating the temporary occupancy agreement.

(9)(a) A landlord may not enter into a temporary occupancy agreement for the purpose of evading landlord responsibilities under this chapter or to diminish the rights of an applicant or tenant under this chapter.

(b) A tenant may not become a temporary occupant in the tenant's own dwelling unit.

(c) A tenancy may not consist solely of a temporary occupancy. Each tenancy must have at least one tenant.

SECTION 16. 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" means:

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

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

(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.

(10) "Essential service" means:

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

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

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

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

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

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

(11) "Facility" means a manufactured dwelling park or a marina.

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

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

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

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

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

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

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

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

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

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

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

(23) "Manufactured dwelling" means a residential trailer, a mobile home or a manufactured home as those terms are defined in ORS 446.003. "Manufactured dwelling" includes an accessory building or structure. "Manufactured dwelling" does not include a recreational vehicle.

(24) "Manufactured dwelling park" means a place where four or more manufactured dwellings are located, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

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

(26) "Month-to-month tenancy" means a tenancy that automatically renews and continues for

successive monthly periods on the same terms and conditions originally agreed to, or as revised by the parties, until terminated by one or both of the parties.

(27) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

(28) "Owner" includes a mortgagee in possession and means one or more persons, jointly or severally, in whom is vested:

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

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

(29) "Person" includes an individual or organization.

(30) "Premises" means:

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

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

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

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

(32) "Recreational vehicle" has the meaning given that term in ORS 446.003.

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

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

(35) "Roomer" means a person occupying a dwelling unit that does not include a toilet and either a bathtub or a shower and a refrigerator, stove and kitchen, all provided by the landlord, and where one or more of these facilities are used in common by occupants in the structure.

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

(37) "Security deposit" means a refundable payment or deposit of money, however designated, the primary function of which is to secure the performance of a rental agreement or any part of a rental agreement. "Security deposit" does not include a fee.

(38) "Sexual assault" has the meaning given that term in ORS 147.450.

(39) "Squatter" means a person occupying a dwelling unit who is not so entitled under a rental agreement or who is not authorized by the tenant to occupy that dwelling unit. "Squatter" does not include a tenant who holds over as described in ORS 90.427 [*(4)*] **(6)**.

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

(41) "Statement of policy" means the summary explanation of information and facility policies

to be provided to prospective and existing tenants under ORS 90.510.

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

(43) "Tenant"**:**

(a) Except as provided in paragraph (b) of this subsection:

(A) Means a person, including a roomer, entitled under a rental agreement to occupy a dwelling unit to the exclusion of others, including a dwelling unit owned, operated or controlled by a public housing authority. [*"Tenant" also includes*]

(B) Means a minor, as defined and provided for in ORS 109.697. [*As used in ORS 90.505 to 90.840, "tenant" includes*]

(b) For purposes of ORS 90.505 to 90.840, means only a person who owns and occupies as a residence a manufactured dwelling or a floating home in a facility and persons residing with that tenant under the terms of the rental agreement.

(c) Does not mean a guest or temporary occupant.

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

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

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

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

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

(46) "Vacation occupancy" means occupancy in a dwelling unit, not including transient occupancy in a hotel or motel, that has all of the following characteristics:

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

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

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

(47) "Victim" means:

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

(b) The parent or guardian of a minor household member against whom an incident related to domestic violence, sexual assault or stalking is perpetrated, unless the parent or guardian is the perpetrator.

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

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

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

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

POLITICAL SIGNS

SECTION 17. ORS 90.755 is amended to read:

90.755. (1) No provision in any bylaw, rental agreement, regulation or rule [*shall*] **may** infringe

upon the right of a person who rents a space for a manufactured dwelling or floating home to invite public officers, candidates for public office or officers or representatives of a tenant organization to appear and speak upon matters of public interest in the common areas or recreational areas of the facility at reasonable times and in a reasonable manner in an open public meeting. The landlord of a facility, however, may enforce reasonable rules and regulations relating to the time, place and scheduling of the speakers that will protect the interests of the majority of the homeowners.

(2) The landlord shall allow the tenant to place political signs on or in a manufactured dwelling or floating home owned by the tenant **or the space rented by the tenant**. The size[*, placement and character of such signs shall be*] **of the signs and the length of time for which the signs may be displayed are** subject to the reasonable rules of the landlord.

CAPTIONS

SECTION 18. The unit captions used in this 2009 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2009 Act.