

## SENATE AMENDMENTS TO SENATE BILL 772

By COMMITTEE ON CONSUMER PROTECTION AND PUBLIC AFFAIRS

April 23

1 On page 1 of the printed bill, line 2, after “90.100,” insert “90.315,”.

2 On page 2, line 14, after “Internet” delete the rest of the line and delete line 15 and insert  
3 “access or usage;”.

4 In line 21, after “Internet” delete the rest of the line and insert “access or usage;”.

5 In line 29, after “Internet” delete the rest of the line and delete line 30 and insert “access or  
6 usage as provided under subsection (1) of this section.”.

7 In line 35, before the first “tenant” insert “landlord and”.

8 Delete lines 38 and 39 and insert “recover from the landlord an amount equal to one month’s  
9 periodic rent or twice the amount wrongfully charged to the tenant, whichever is greater.”.

10 After line 39, insert:

11 “**SECTION 4a.** ORS 90.315 is amended to read:

12 “90.315. (1) As used in this section, ‘utility or service’ includes but is not limited to electricity,  
13 natural or liquid propane gas, oil, water, hot water, heat, air conditioning, cable television, direct  
14 satellite or other video subscription [*service*] **services**, Internet access or usage, sewer service and  
15 garbage collection and disposal.

16 “(2) The landlord shall disclose to the tenant in writing at or before the commencement of the  
17 tenancy any utility or service that the tenant pays directly to a utility or service provider that  
18 benefits, directly, the landlord or other tenants. A tenant’s payment for a given utility or service  
19 benefits the landlord or other tenants if the utility or service is delivered to any area other than  
20 the tenant’s dwelling unit.

21 “(3) If the landlord knowingly fails to disclose those matters required under subsection (2) of this  
22 section, the tenant may recover twice the actual damages sustained or one month’s rent, whichever  
23 is greater.

24 “(4)(a) Except for tenancies covered by ORS 90.505 to 90.840, if a written rental agreement so  
25 provides, a landlord may require a tenant to pay to the landlord a utility or service charge that has  
26 been billed by a utility or service provider to the landlord for utility or service provided directly to  
27 the tenant’s dwelling unit or to a common area available to the tenant as part of the tenancy. A  
28 utility or service charge that shall be assessed to a tenant for a common area must be described in  
29 the written rental agreement separately and distinctly from such a charge for the tenant’s dwelling  
30 unit. Unless the method of allocating the charges to the tenant is described in the tenant’s written  
31 rental agreement, the tenant may require that the landlord give the tenant a copy of the provider’s  
32 bill as a condition of paying the charges.

33 “[*(b) A utility or service charge shall include only the value or cost of the utility or service as*  
34 *billed to the landlord by the provider as described in this subsection, except that a landlord may add*  
35 *an additional amount to that value or cost if:]*”

1       “(A) *The utility or service charge to which the additional amount is added is for cable television,*  
2 *direct satellite or other video subscription service or for Internet access or usage;*]

3       “(B) *The additional amount added to the utility or service charge of each tenant is not more than*  
4 *10 percent of the charge to that tenant for cable television, direct satellite or other video subscription*  
5 *service or Internet access or usage;*]

6       “(C) *The total of the utility or service charge plus the additional amount is less than the typical*  
7 *periodic cost that the tenant would incur if the tenant contracted for the cable television, direct satellite*  
8 *or other video subscription service or the Internet access or usage directly with the provider; and]*

9       “(D) *The written rental agreement providing for the utility or service charge describes the addi-*  
10 *tional amount separately and distinctly from the charge itself and any bill or notice from the landlord*  
11 *to the tenant regarding the charge lists the additional amount separately and distinctly from the utility*  
12 *or service charge.]*

13       “(c) *A landlord may not require an existing tenant to modify a rental agreement, or terminate the*  
14 *tenancy of the tenant for refusing to modify a rental agreement, to obligate the tenant to pay an addi-*  
15 *tional amount for cable television, direct satellite or other video subscription service or Internet access*  
16 *or usage as provided in paragraph (b) of this subsection.]*

17       **“(b) Except as provided in this paragraph, a utility or service charge may only include**  
18 **the cost of the utility or service as billed to the landlord by the provider. A landlord may add**  
19 **an additional amount to a utility or service charge billed to the tenant if:**

20       **“(A) The utility or service charge to which the additional amount is added is for cable**  
21 **television, direct satellite or other video subscription services or for Internet access or us-**  
22 **age;**

23       **“(B) The additional amount is not more than 10 percent of the utility or service charge**  
24 **billed to the tenant;**

25       **“(C) The total of the utility or service charge and the additional amount is less than the**  
26 **typical periodic cost the tenant would incur if the tenant contracted directly with the pro-**  
27 **vider for the cable television, direct satellite or other video subscription services or for**  
28 **Internet access or usage;**

29       **“(D) The written rental agreement providing for the utility or service charge describes**  
30 **the additional amount separately and distinctly from the utility or service charge; and**

31       **“(E) Any billing or notice from the landlord regarding the utility or service charge lists**  
32 **the additional amount separately and distinctly from the utility or service charge.**

33       **“(c) A landlord may not require a tenant to agree to the amendment of an existing rental**  
34 **agreement, and may not terminate a tenant for refusing to agree to the amendment of a**  
35 **rental agreement, if the amendment would obligate the tenant to pay an additional amount**  
36 **for cable television, direct satellite or other video subscription services or for Internet access**  
37 **or usage as provided under paragraph (b) of this subsection.**

38       “(d) A utility or service charge, including any additional amount added pursuant to paragraph  
39 (b) of this subsection, is not rent or a fee. Nonpayment of a utility or service charge is not grounds  
40 for termination of a rental agreement for nonpayment of rent under ORS 90.394 but is grounds for  
41 termination of a rental agreement for cause under ORS 90.392.

42       “(e) If a landlord fails to comply with paragraph (a), (b) or (c) of this subsection, the tenant may  
43 recover from the landlord an amount equal to one month’s periodic rent or twice the amount  
44 wrongfully charged to the tenant, whichever is greater.

45       “(5)(a) If a tenant, under the rental agreement, is responsible for a utility or service and is un-

1 able to obtain the service prior to moving into the premises due to a nonpayment of an outstanding  
2 amount due by a previous tenant or the owner, the tenant may either:

3 “(A) Pay the outstanding amount and deduct the amount from the rent;

4 “(B) Enter into a mutual agreement with the landlord to resolve the lack of service; or

5 “(C) Immediately terminate the rental agreement by giving the landlord actual notice and the  
6 reason for the termination.

7 “(b) If the tenancy terminates, the landlord shall return all moneys paid by the tenant as de-  
8 posits, rent or fees within four days after termination.

9 “(6) If a tenant, under the rental agreement, is responsible for a utility or service and is unable  
10 to obtain the service after moving into the premises due to a nonpayment of an outstanding amount  
11 due by a previous tenant or the owner, the tenant may either:

12 “(a) Pay the outstanding amount and deduct the amount from the rent; or

13 “(b) Terminate the rental agreement by giving the landlord actual notice 72 hours prior to the  
14 date of termination and the reason for the termination. The tenancy does not terminate if the land-  
15 lord restores service or the availability of service during the 72 hours. If the tenancy terminates,  
16 the tenant may recover actual damages from the landlord resulting from the shutoff and the landlord  
17 shall return:

18 “(A) Within four days after termination, all rent and fees; and

19 “(B) All of the security deposit owed to the tenant under ORS 90.300.

20 “(7) If a landlord, under the rental agreement, is responsible for a utility or service and the  
21 utility or service is shut off due to a nonpayment of an outstanding amount, the tenant may either:

22 “(a) Pay the outstanding balance and deduct the amount from the rent; or

23 “(b) Terminate the rental agreement by giving the landlord actual notice 72 hours prior to the  
24 date of termination and the reason for the termination. The tenancy does not terminate if the land-  
25 lord restores service during the 72 hours. If the tenancy terminates, the tenant may recover actual  
26 damages from the landlord resulting from the shutoff and the landlord shall return:

27 “(A) Within four days after termination, all rent prepaid for the month in which the termination  
28 occurs prorated from the date of termination or the date the tenant vacates the premises, whichever  
29 is later, and any other prepaid rent; and

30 “(B) All of the security deposit owed to the tenant under ORS 90.300.

31 “(8) If a landlord fails to return to the tenant the moneys owed as provided in subsection (5), (6)  
32 or (7) of this section, the tenant shall be entitled to twice the amount wrongfully withheld.

33 “(9) This section does not preclude the tenant from pursuing any other remedies under this  
34 chapter.”.

35 On page 5, line 14, delete the boldfaced material.

36 In line 15, delete the boldfaced material and after “may” insert “, except as provided in sub-  
37 sections (2) and (3) of this section,”.

38 In line 44, after “convert” insert “water or sewer”.

39 On page 6, line 29, after “not” insert “unilaterally”.

40 On page 8, line 1, after “committee” insert “to advise the department in drafting the rules re-  
41 quired by subsection (1) of this section and”.

42 On page 9, line 15, before “representing” insert “in Oregon”.

43 On page 10, line 2, delete “30” and insert “90”.

44 In line 14, delete “OCCUPANT” and insert “OCCUPANCY”.

45 Delete lines 18 through 45.

1 On page 11, delete lines 1 through 11 and insert:

2 **“SECTION 15. (1) As provided under this section, a landlord may allow an individual to**  
3 **become a temporary occupant of the tenant’s dwelling unit as a guest of the tenant. To**  
4 **create a temporary occupancy, the landlord, tenant and proposed temporary occupant must**  
5 **enter into a written temporary occupancy agreement that describes the temporary occu-**  
6 **pancy relationship.**

7 **“(2) The temporary occupant:**

8 **“(a) Is not a tenant entitled to occupy the dwelling unit to the exclusion of others; and**

9 **“(b) Does not have the rights of a tenant.**

10 **“(3) The temporary occupancy agreement may be terminated by:**

11 **“(a) The tenant without cause at any time; and**

12 **“(b) The landlord only for cause that is a material violation of the temporary occupancy**  
13 **agreement.**

14 **“(4) The temporary occupant does not have a right to cure a violation that causes a**  
15 **landlord to terminate the temporary occupancy agreement.**

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

19 **“(6) A temporary occupancy agreement:**

20 **“(a) Shall expressly include the requirements of subsections (2) to (4) of this section;**

21 **“(b) May provide that the temporary occupant is required to comply with any applicable**  
22 **rules for the premises; and**

23 **“(c) May have a specific ending date.**

24 **“(7) The landlord, tenant and temporary occupant may extend or renew a temporary oc-**  
25 **cupancy agreement or may enter into a new temporary occupancy agreement.**

26 **“(8) A landlord or tenant is not required to give the temporary occupant written notice**  
27 **of the termination of a temporary occupancy agreement.**

28 **“(9) The temporary occupant shall promptly vacate the dwelling unit if a landlord termi-**  
29 **nates a temporary occupancy agreement for material violation of the temporary occupancy**  
30 **agreement or if the temporary occupancy agreement ends by its terms. Except as provided**  
31 **in ORS 90.449, the landlord may terminate the tenancy of the tenant as provided under ORS**  
32 **90.392 or 90.630 if the temporary occupant fails to promptly vacate the dwelling unit or if the**  
33 **tenant materially violates the temporary occupancy agreement.**

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

37 **“(11)(a) A landlord may not enter into a temporary occupancy agreement for the purpose**  
38 **of evading landlord responsibilities under this chapter or to diminish the rights of an appli-**  
39 **cant or tenant under this chapter.**

40 **“(b) A tenant may not become a temporary occupant in the tenant’s own dwelling unit.**

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