

Enrolled
Senate Bill 929

Sponsored by Senator BONAMICI; Senator MORRISETTE, Representatives C EDWARDS, HARKER

CHAPTER

AN ACT

Relating to the billing of tenants for water; creating new provisions; and amending ORS 90.532.

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

SECTION 1. (1) As used in this section, “landlord,” “manufactured dwelling park” and “tenant” have the meanings given those terms in ORS 90.100.

(2) A landlord that assesses the tenants of a manufactured dwelling park containing 200 or more spaces in the facility a utility or service charge for water by the billing method described in ORS 90.532 (1)(b) shall convert the method of assessing the utility or service charge to a billing method described in ORS 90.532 (1)(a) or (1)(c). The landlord shall complete the conversion no later than December 31, 2012. A conversion under this section to a billing method described in ORS 90.532 (1)(c) is subject to ORS 90.537.

SECTION 2. ORS 90.532 is amended to read:

90.532. (1) Subject to the policies of the utility or service provider, **except as provided in subsection (2) 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 includes the cost of the utility or service in the tenant’s rent or bills the tenant for a utility or service charge separately from the rent in an amount determined by apportioning 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 for a manufactured dwelling park containing 200 or more spaces in the facility may not assess a tenant a utility or service charge for water by using the billing method described in subsection (1)(b) of this section.

[(2)] (3) 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)] (4) 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)] (5) 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)] (6) 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)] (7) 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 3. The amendments to ORS 90.532 by section 2 of this 2009 Act become operative December 31, 2012.

Passed by Senate April 29, 2009

Received by Governor:

Repassed by Senate June 5, 2009

.....M.,....., 2009

Approved:

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Secretary of Senate

.....M.,....., 2009

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President of Senate

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Governor

Passed by House June 3, 2009

Filed in Office of Secretary of State:

.....M.,....., 2009

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Speaker of House

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Secretary of State