

A-Engrossed
House Bill 3694

Ordered by the House February 12
Including House Amendments dated February 12

Sponsored by COMMITTEE ON CONSUMER PROTECTION AND GOVERNMENT ACCOUNTABILITY

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.

Authorizes residential landlord to continue using [*or to revert to*] separately charged pro rata apportionment billing method for certain utilities or services if billing method was used for **all** tenants in [*premises*] **facility** immediately before law change that restricted use of method.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to utility billing by residential landlords; amending ORS 90.532; and declaring an emer-
3 gency.

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

5 **SECTION 1.** ORS 90.532 is amended to read:

6 90.532. (1) Subject to the policies of the utility or service provider, a landlord may, except as
7 provided in subsections (2) and (3) of this section, provide for utilities or services to tenants by one
8 or more of the following billing methods:

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

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

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

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

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

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

17 (C) The landlord:

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

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

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

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

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

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

27 (2) A landlord may not use a separately charged pro rata apportionment **billing method** as de-

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 scribed in subsection (1)(b)(C)(ii) of this section:

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

4 *[(b) For water service, if the rental agreement for the dwelling unit was entered into on or after
5 January 1, 2010.]*

6 *[(c) For sewer service, if sewer service is measured by consumption of water and the rental agree-
7 ment for the dwelling unit was entered into on or after January 1, 2010.]*

8 *[(3) A landlord and tenant may not amend a rental agreement to convert water or sewer utility and
9 service billing from a method described in subsection (1)(b)(C)(i) of this section to a method described
10 in subsection (1)(b)(C)(ii) of this section.]*

11 **(b) For water service, if the rental agreement for the dwelling unit was entered into on
12 or after January 1, 2010, unless the landlord was using a separately charged pro rata appor-
13 tionment billing method for all tenants in the facility immediately before January 1, 2010.**

14 **(c) For sewer service, if sewer service is measured by consumption of water and the
15 rental agreement for the dwelling unit was entered into on or after January 1, 2010, unless
16 the landlord was using a separately charged pro rata apportionment billing method for all
17 tenants in the facility immediately before January 1, 2010.**

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

21 (4) To assess a tenant for a utility or service charge for any billing period, the landlord shall
22 give the tenant a written notice stating the amount of the utility or service charge that the tenant
23 is to pay the landlord and the due date for making the payment. The due date may not be less than
24 14 days from the date of service of the notice.

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

28 (6) The landlord is responsible for maintaining the utility or service system, including any sub-
29 meter, consistent with ORS 90.730. After any installation or maintenance of the system on a tenant's
30 space, the landlord shall restore the space to a condition that is the same as or better than the
31 condition of the space before the installation or maintenance.

32 (7) A landlord may not assess a utility or service charge for water unless the water is provided
33 to the landlord by a:

34 (a) Public utility as defined in ORS 757.005;

35 (b) Municipal utility operating under ORS chapter 225;

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

37 (d) Cooperative organized under ORS chapter 62;

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

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

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

42 (9) The authority granted in this section for a utility or service provider to apply policy re-
43 garding the billing methods described in subsection (1) of this section does not authorize the utility
44 or service provider to dictate either the amount billed to tenants or the rate at which tenants are
45 billed under ORS 90.534 or 90.536.

1 **SECTION 2.** ORS 90.532, as amended by section 6a, chapter 816, Oregon Laws 2009, is amended
2 to read:

3 90.532. (1) Subject to the policies of the utility or service provider, a landlord may, except as
4 provided in subsections (2), (3) and (4) of this section, provide for utilities or services to tenants by
5 one or more of the following billing methods:

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

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

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

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

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

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

14 (C) The landlord:

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

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

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

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

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

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

24 (2) A landlord may not use a separately charged pro rata apportionment **billing method** as de-
25 scribed in subsection (1)(b)(C)(ii) of this section:

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

28 *[(b) For water service, if the rental agreement for the dwelling unit was entered into on or after
29 January 1, 2010.]*

30 *[(c) For sewer service, if sewer service is measured by consumption of water and the rental agree-
31 ment for the dwelling unit was entered into on or after January 1, 2010.]*

32 *[(3) A landlord and tenant may not amend a rental agreement to convert water or sewer utility and
33 service billing from a method described in subsection (1)(b)(C)(i) of this section to a method described
34 in subsection (1)(b)(C)(ii) of this section.]*

35 **(b) For water service, if the rental agreement for the dwelling unit was entered into on
36 or after January 1, 2010, unless the landlord was using a separately charged pro rata appor-
37 tionment billing method for all tenants in the facility immediately before January 1, 2010.**

38 **(c) For sewer service, if sewer service is measured by consumption of water and the
39 rental agreement for the dwelling unit was entered into on or after January 1, 2010, unless
40 the landlord was using a separately charged pro rata apportionment billing method for all
41 tenants in the facility immediately before January 1, 2010.**

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

45 (4) A landlord for a manufactured dwelling park containing 200 or more spaces in the facility

1 may not assess a tenant a utility or service charge for water by using the billing method described
2 in subsection (1)(b) of this section.

3 (5) To assess a tenant for a utility or service charge for any billing period, the landlord shall
4 give the tenant a written notice stating the amount of the utility or service charge that the tenant
5 is to pay the landlord and the due date for making the payment. The due date may not be less than
6 14 days from the date of service of the notice.

7 (6) A utility or service charge is not rent or a fee. Nonpayment of a utility or service charge
8 is not grounds for termination of a rental agreement for nonpayment of rent under ORS 90.394, but
9 is grounds for termination of a rental agreement for cause under ORS 90.630.

10 (7) The landlord is responsible for maintaining the utility or service system, including any sub-
11 meter, consistent with ORS 90.730. After any installation or maintenance of the system on a tenant's
12 space, the landlord shall restore the space to a condition that is the same as or better than the
13 condition of the space before the installation or maintenance.

14 (8) A landlord may not assess a utility or service charge for water unless the water is provided
15 to the landlord by a:

- 16 (a) Public utility as defined in ORS 757.005;
- 17 (b) Municipal utility operating under ORS chapter 225;
- 18 (c) People's utility district organized under ORS chapter 261;
- 19 (d) Cooperative organized under ORS chapter 62;
- 20 (e) Domestic water supply district organized under ORS chapter 264; or
- 21 (f) Water improvement district organized under ORS chapter 552.

22 (9) A landlord that provides utilities or services only to tenants of the landlord in compliance
23 with this section and ORS 90.534 and 90.536 is not a public utility for purposes of ORS chapter 757.

24 (10) The authority granted in this section for a utility or service provider to apply policy re-
25 garding the billing methods described in subsection (1) of this section does not authorize the utility
26 or service provider to dictate either the amount billed to tenants or the rate at which tenants are
27 billed under ORS 90.534 or 90.536.

28 **SECTION 3. This 2010 Act being necessary for the immediate preservation of the public**
29 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**
30 **on its passage.**

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