

OREGON LAW CENTER

921 SW Washington, Suite 516
Portland, Or. 97205
(503) 936-8959

**Testimony in Support of SB 91A
Residential Landlord-Tenant Coalition Bill
May 6th, 2013
Submitted by: Sybil Hebb**

Chair Tomei, Vice-Chairs Olson and Gomberg, and members of the committee:

On behalf of the Oregon Law Center, I submit this testimony in support of SB 91A.

The bill with its amendments addresses 4 primary issues:

- 1) Renters insurance:
 - a. Allows landlords to require tenants to have renters' liability insurance;
 - b. Allows landlords to demand proof of liability insurance;
 - c. Renters' insurance provisions are subject to certain parameters.
- 2) Fees:
 - a. Allows landlords to charge 2 new types of fees for non-compliance;
 - b. Allows landlords to escalate fees for repeat non-compliance;
 - c. Provides protections about how fees are assessed.
- 3) Prior History: Provides clarity and protections for tenants about how they are screened for prior history:
 - a. Prior evictions that are older than 5 years may not be considered;
 - b. Arrest history may be considered only if associated with pending charges or convictions;
 - c. Landlords may consider convictions (whether by guilty plea or non-contest) for person crimes, sex crimes, drug crimes, financial fraud and similar crimes, or *any other* crime that would adversely impact the tenants' or landlord's health, safety, or right to quiet enjoyment of the premises.
- 4) Tenant termination of lease if rental goes into foreclosure:
 - a. Gives a tenant the right to give 60 days' notice of termination of a fixed term lease if the rental property has gone into foreclosure.
 - b. If landlord does not provide evidence that the property is not in foreclosure within 30 days of receipt of notice, the lease is terminated.

Further background on issue #3 (section 3 of the bill):

Tenants with prior eviction history or criminal history often encounter insurmountable barriers when seeking safe housing. Even if years have passed since the eviction, arrest, or crime, the tenant often cannot overcome this barrier. This history can shut the door to housing for years to come. These barriers to housing impact the tenant, the tenant's family, and our communities.

OREGON LAW CENTER

921 SW Washington, Suite 516
Portland, Or. 97205
(503) 936-8959

The bill provides that negative eviction history that is 5 or more years old may not be considered when evaluating an applicant. This allows applicants an opportunity to re-establish a good rental history and move forward in a way that will not impact their housing stability, while still allowing landlords the ability to screen for recent negative eviction history. The bill would not impact a landlord's current right to request a specified length of good rental history, conduct credit checks, or evaluate references. Tenants looking for safe housing for themselves and their families deserve a chance at success when sufficient time has passed without further incident since the FED.

The bill also provides guidelines around how landlords may consider and assess an applicant's prior arrest, charging, or conviction history. The principle behind these provisions is to ensure that applicants receive an individualized assessment based on an evaluation of whether charges or convictions are relevant to an applicant's ability to be a good tenant. The bill provides that arrest history, that did not result in charges or convictions, cannot be considered. The impact of prior history is heightened on communities of color. Racial disparities persist throughout the criminal justice system due to disparities in arrest rates, conviction rates and sentencing terms. The U.S. Equal Employment Opportunity Commission (EEOC) has issued employment guidance that recognizes racial disparities in the criminal justice system. Because criminal background reviews have a disparate impact on people of color, Title VII regulates employer decisions based on a criminal record. According to the EEOC, employer decisions based on arrests alone routinely violate Title VII and employer decisions based on convictions must be "job-related", taking into account the age and severity of the offense and evidence of rehabilitation.

The goal of SB 91A is to ensure that tenants are considered according to an individualized analysis, and not barred automatically from housing by a past history when it does not relate to their tenancy, nor pose a threat to public safety.

- Arrests, without charges or convictions, are not reliable evidence.
- Landlords would still be able to ask about applicants' criminal history. A landlord is specifically authorized to reject an applicant based on financial crimes, sex crimes and other person crimes, and drug crimes. If a landlord finds that any other conviction on an applicant's record poses a threat to the tenancy, security, or the safety of others, s/he would have the discretion to deny housing on that basis. Housing providers would consider applicants on a case-by-case basis.
- Landlords can still check and screen for credit history and check references.
- Nothing in the bill prevents a landlord from evicting a tenant for current criminal conduct.

The bill language is an alternative to a laundry list of allowed or disallowed crimes, which both sides feel would be too long or obtuse to be helpful. The bill's language is easy to understand for all parties. The Coalition reviewed this with the largest screening company in Oregon, and the two largest landlord groups support this proposal and view it as helpful.

The bill provides a balanced approach – modeled after the EEOC approach. Landlords deserve to be able to screen their tenants and consider information that is relevant to their tenancy. Tenants looking for safe housing for themselves and their families deserve an individualized analysis. SB 91A strikes the right balance. For these reasons, we respectfully urge your support.