

House Bill 3005

Sponsored by Representative KOMP

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**.

Authorizes person with legal estate in real property to evict person in possession of real property under lease or rental agreement for conduct that causes place to be nuisance.

Modifies bases upon which residential landlord may terminate residential rental agreement with 24 hours' notice.

A BILL FOR AN ACT

1
2 Relating to nuisance places; creating new provisions; and amending ORS 90.396.

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

4 **SECTION 1. (1) In addition to any other basis upon which a person with a legal estate in**
5 **real property may have a present right to possession of the real property for purposes of**
6 **ORS 105.005, the person has a present right to possession when:**

7 (a) **The person in actual possession of the real property under a lease or rental agree-**
8 **ment causes or allows activity for which the place may be declared a nuisance under ORS**
9 **105.555; and**

10 (b) **The person with a legal estate has given the person in actual possession at least 24**
11 **hours' written notice of intent to terminate the lease or rental agreement:**

12 (A) **Specifying the acts or omissions that constitute the cause;**

13 (B) **Terminating the lease or rental agreement; and**

14 (C) **Specifying the date and time of the termination.**

15 (2) **When a person with a legal estate in real property has taken the steps required by**
16 **subsection (1) of this section, the person may take possession as provided in ORS 105.105 to**
17 **105.168.**

18 **SECTION 2. ORS 90.396 is amended to read:**

19 90.396. (1) Except as provided in subsection (2) of this section, after at least 24 hours' written
20 notice specifying the acts and omissions constituting the cause and specifying the date and time of
21 the termination, the landlord may terminate the rental agreement and take possession as provided
22 in ORS 105.105 to 105.168, if:

23 (a) The tenant, someone in the tenant's control or the tenant's pet seriously threatens to inflict
24 substantial personal injury, or inflicts any substantial personal injury, upon a person on the prem-
25 ises other than the tenant;

26 (b) The tenant or someone in the tenant's control recklessly endangers a person on the premises
27 other than the tenant by creating a serious risk of substantial personal injury;

28 (c) The tenant, someone in the tenant's control or the tenant's pet inflicts any substantial per-
29 sonal injury upon a neighbor living in the immediate vicinity of the premises;

30 (d) The tenant or someone in the tenant's control intentionally inflicts any substantial damage

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 to the premises or the tenant’s pet inflicts substantial damage to the premises on more than one
 2 occasion;

3 (e)(A) The tenant intentionally provided substantial false information on the application for the
 4 tenancy within the past year;

5 (B) The false information was with regard to a criminal conviction of the tenant that would have
 6 been material to the landlord’s acceptance of the application; and

7 (C) The landlord terminates the rental agreement within 30 days after discovering the falsity
 8 of the information; or

9 (f) The tenant, someone in the tenant’s control or the tenant’s pet commits any act that is out-
 10 rageous in the extreme, on the premises or in the immediate vicinity of the premises. For purposes
 11 of this paragraph, an act is outrageous in the extreme if the act is not described in paragraphs (a)
 12 to (e) of this subsection, but is similar in degree and is one that a reasonable person in that com-
 13 munity would consider to be so offensive as to warrant termination of the tenancy within 24 hours,
 14 considering the seriousness of the act or the risk to others. An act that is outrageous in the extreme
 15 is more extreme or serious than an act that warrants a 30-day termination under ORS 90.392. Acts
 16 that are “outrageous in the extreme” include, but are not limited to, the following acts by a person:

17 (A) Prostitution, patronizing a prostitute or promoting prostitution, as described in ORS 167.007,
 18 167.008 and 167.012[;].

19 (B) Manufacture, delivery or possession of a controlled substance, as described in ORS 475.005,
 20 but not including:

21 (i) The medical use of marijuana in compliance with ORS 475.300 to 475.346;

22 (ii) Possession of, or delivery for no consideration of, less than one avoirdupois ounce of
 23 marijuana as described in ORS 475.860 (3) or 475.864 (3); or

24 (iii) Possession of prescription drugs[;].

25 (C) Intimidation, as described in ORS 166.155 and 166.165[; or].

26 (D) Burglary as described in ORS 164.215 and 164.225.

27 **(E) Operation, for profit, of a lottery or other gambling, as defined in ORS 167.117, in-**
 28 **cluding the keeping or storage of games, devices or other things that are forbidden by or**
 29 **made punishable by ORS 167.108 to 167.164.**

30 (2) If the cause for a termination notice given pursuant to subsection (1) of this section is based
 31 upon the acts of the tenant’s pet, the tenant may cure the cause and avoid termination of the
 32 tenancy by removing the pet from the premises prior to the end of the notice period. The notice
 33 must describe the right of the tenant to cure the cause. If the tenant returns the pet to the premises
 34 at any time after having cured the violation, the landlord, after at least 24 hours’ written notice
 35 specifying the subsequent presence of the offending pet, may terminate the rental agreement and
 36 take possession as provided in ORS 105.105 to 105.168. The tenant does not have a right to cure this
 37 subsequent violation.

38 (3) For purposes of subsection (1) of this section, someone is in the tenant’s control if that per-
 39 son enters or remains on the premises with the tenant’s permission or consent after the tenant
 40 reasonably knows or should know of that person’s act or likelihood to commit any act of the type
 41 described in subsection (1) of this section.

42 (4) An act can be proven to be outrageous in the extreme even if the act is one that does not
 43 violate a criminal statute. Notwithstanding the references to criminal statutes in subsection (1)(f)
 44 of this section, the landlord’s burden of proof in an action for possession under subsection (1) of this
 45 section is the civil standard of proof by a preponderance of the evidence.

1 (5) If a good faith effort by a landlord to terminate the tenancy under subsection (1)(f) of this
2 section and to recover possession of the rental unit under ORS 105.105 to 105.168 fails by decision
3 of the court, the landlord may not be found in violation of any state statute or local ordinance re-
4 quiring the landlord to remove that tenant upon threat of fine, abatement or forfeiture as long as
5 the landlord continues to make a good faith effort to terminate the tenancy.

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