

Senate Bill 126

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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**.

Imposes smoke alarm location requirements for transferred property having dwelling unit or lodging house. Eliminates option of installing smoke detectors in transferred dwelling unit or lodging house. Places age limit on smoke alarms in dwelling unit or lodging house being transferred.

Imposes smoke alarm locations for dwelling unit or lodging house made available as rental property or temporary housing. Eliminates option of installing smoke detectors in dwelling unit or lodging house used as rental property or temporary housing. Places age limit on smoke alarms in dwelling unit or lodging house made available as rental property or temporary housing.

Requires smoke alarms or smoke detectors in transferred manufactured dwelling in accordance with federal requirements and state building code. Places age limit on smoke alarms and smoke detectors in manufactured dwelling being transferred. Requires that replacement smoke detectors have certain features.

Requires certain features for sold or installed smoke alarm. Removes exemption of used manufactured dwelling from alarm feature requirement.

A BILL FOR AN ACT

1
2 Relating to smoke alerting devices; creating new provisions; amending ORS 90.680, 90.740, 479.265,
3 479.270, 479.297 and 479.990; and repealing ORS 479.260 and 479.275.

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

5 **SECTION 1. Sections 2 to 5 of this 2013 Act are added to and made a part of ORS 479.250**
6 **to 479.305.**

7 **SECTION 2. (1) A person may not convey fee title to any real property that includes a**
8 **dwelling unit or lodging house or transfer possession of any dwelling unit or lodging house**
9 **pursuant to a land sale contract unless the dwelling unit or lodging house has a smoke**
10 **alarm:**

11 (a) **In each sleeping room;**

12 (b) **At a point outside of and near the entrance to each sleeping room; and**

13 (c) **In at least one location not described in paragraph (a) or (b) of this subsection on**
14 **each level of the dwelling unit or lodging house.**

15 (2) **Except as provided in this subsection, a smoke alarm required under this section may**
16 **not be located within 10 feet of a kitchen or other space used for cooking. A smoke alarm**
17 **may be located within 10 feet of a kitchen or other space used for cooking if no other lo-**
18 **cation is available that will allow placement of the smoke alarm to be in compliance with**
19 **subsection (1) of this section.**

20 (3) **A smoke alarm required under this section must bear an age date code and be less**
21 **than 10 years old on the date that the person conveys title to the property or transfers**
22 **possession of the dwelling unit or lodging house.**

23 **SECTION 3. (1) A person may not make a dwelling unit or lodging house available as a**
24 **rental property or temporary housing unless the dwelling unit or lodging house has a smoke**

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 **alarm:**

2 (a) **In each sleeping room;**

3 (b) **At a point outside of and near the entrance to each sleeping room; and**

4 (c) **In at least one location not described in paragraph (a) or (b) of this subsection on**
5 **each level of the dwelling unit or lodging house.**

6 (2) **Except as provided in this subsection, a smoke alarm required under this section may**
7 **not be located within 10 feet of a kitchen or other space used for cooking. A smoke alarm**
8 **may be located within 10 feet of a kitchen or other space used for cooking if no other lo-**
9 **cation is available that will allow placement of the smoke alarm to be in compliance with**
10 **subsection (1) of this section.**

11 (3) **A smoke alarm required under this section must bear an age date code and be less**
12 **than 10 years old at all times during which the dwelling unit or lodging house is made**
13 **available as a rental property or temporary housing.**

14 **SECTION 4.** (1) **As used in this section, “manufactured dwelling” has the meaning given**
15 **that term in ORS 446.003.**

16 (2) **A person may not convey ownership of a manufactured dwelling or transfer pos-**
17 **session of a manufactured dwelling under a land sale contract unless the manufactured**
18 **dwelling has the required number of approved smoke alarms or smoke detectors, installed**
19 **in accordance with the state building code or with the federal manufactured dwelling con-**
20 **struction and safety standards adopted under ORS 446.155.**

21 (3) **A smoke alarm or smoke detector required under this section must bear an age date**
22 **code and be less than 10 years old on the date that the person conveys ownership or trans-**
23 **fers possession of the manufactured dwelling. A smoke alarm installed in a manufactured**
24 **dwelling that is resold by a person other than the manufacturer or authorized dealer must**
25 **meet the requirements of ORS 479.297.**

26 **SECTION 5.** (1) **The tenant of a rental dwelling unit shall perform tests on the smoke**
27 **alarms or smoke detectors located in the part of the dwelling unit that the tenant is entitled**
28 **to occupy to the exclusion of others. The tenant shall perform the tests as recommended in**
29 **the manufacturer’s instructions. Testing intervals may not exceed six months.**

30 (2) **Except when a smoke alarm with dead batteries is subject to replacement under sec-**
31 **tion 3 (3) of this 2013 Act, during the tenancy the tenant shall replace as needed any dead**
32 **smoke alarm or smoke detector batteries. The tenant shall immediately notify the dwelling**
33 **unit owner or the authorized agent of the owner, in writing, of any deficiencies in a smoke**
34 **alarm or smoke detector other than dead batteries replaceable by the tenant.**

35 **SECTION 6.** ORS 90.680 is amended to read:

36 90.680. (1) **A landlord may not deny any manufactured dwelling or floating home space tenant**
37 **the right to sell a manufactured dwelling or floating home on a rented space or require the tenant**
38 **to remove the dwelling or home from the space solely on the basis of the sale.**

39 (2) **The landlord may not exact a commission or fee for the sale of a manufactured dwelling or**
40 **floating home on a rented space unless the landlord has acted as agent for the seller pursuant to**
41 **written contract.**

42 (3) **The landlord may not deny the tenant the right to place a “for sale” sign on or in a manu-**
43 **factured dwelling or floating home owned by the tenant. The size, placement and character of such**
44 **signs shall be subject to reasonable rules of the landlord.**

45 (4) **If the prospective purchaser of a manufactured dwelling or floating home desires to leave the**

1 dwelling or home on the rented space and become a tenant, the landlord may require in the rental
2 agreement:

3 (a) Except when a termination or abandonment occurs, that a tenant give not more than 10 days'
4 notice in writing prior to the sale of the dwelling or home on a rented space;

5 (b) That prior to the sale, the prospective purchaser submit to the landlord a complete and ac-
6 curate written application for occupancy of the dwelling or home as a tenant after the sale is fi-
7 nalized and that a prospective purchaser may not occupy the dwelling or home until after the
8 prospective purchaser is accepted by the landlord as a tenant;

9 (c) That a tenant give notice to any lienholder, prospective purchaser or person licensed to sell
10 dwellings or homes of the requirements of paragraphs (b) and (d) of this subsection, the location of
11 all properly functioning smoke alarms **or smoke detectors** and any other rules and regulations of
12 the facility such as those described in ORS 90.510 (5)(b), (f), (h) and (i); and

13 (d) If the sale is not by a lienholder, that the prospective purchaser pay in full all rents, fees,
14 deposits or charges owed by the tenant as authorized under ORS 90.140 and the rental agreement,
15 prior to the landlord's acceptance of the prospective purchaser as a tenant.

16 (5) If a landlord requires a prospective purchaser to submit an application for occupancy as a
17 tenant under subsection (4) of this section, at the time that the landlord gives the prospective pur-
18 chaser an application the landlord shall also give the prospective purchaser copies of the statement
19 of policy, the rental agreement and the facility rules and regulations, including any conditions im-
20 posed on a subsequent sale, all as provided by ORS 90.510. The terms of the statement, rental
21 agreement and rules and regulations need not be the same as those in the selling tenant's statement,
22 rental agreement and rules and regulations.

23 (6) The following apply if a landlord receives an application for tenancy from a prospective
24 purchaser under subsection (4) of this section:

25 (a) The landlord shall accept or reject the prospective purchaser's application within seven days
26 following the day the landlord receives a complete and accurate written application. An application
27 is not complete until the prospective purchaser pays any required applicant screening charge and
28 provides the landlord with all information and documentation, including any financial data and ref-
29 erences, required by the landlord pursuant to ORS 90.510 (5)(h). The landlord and the prospective
30 purchaser may agree to a longer time period for the landlord to evaluate the prospective purchaser's
31 application or to allow the prospective purchaser to address any failure to meet the landlord's
32 screening or admission criteria. If a tenant has not previously given the landlord the 10 days' notice
33 required under subsection (4)(a) of this section, the period provided for the landlord to accept or
34 reject a complete and accurate written application is extended to 10 days.

35 (b) The landlord may not unreasonably reject a prospective purchaser as a tenant. Reasonable
36 cause for rejection includes, but is not limited to, failure of the prospective purchaser to meet the
37 landlord's conditions for approval as provided in ORS 90.510 (5)(h) or failure of the prospective
38 purchaser's references to respond to the landlord's timely request for verification within the time
39 allowed for acceptance or rejection under paragraph (a) of this subsection. Except as provided in
40 paragraph (c) of this subsection, the landlord shall furnish to the seller and purchaser a written
41 statement of the reasons for the rejection.

42 (c) If a rejection under paragraph (b) of this subsection is based upon a consumer report, as
43 defined in 15 U.S.C. 1681a for purposes of the federal Fair Credit Reporting Act, the landlord may
44 not disclose the contents of the report to anyone other than the purchaser. The landlord shall dis-
45 close to the seller in writing that the rejection is based upon information contained within a con-

1 sumer report and that the landlord may not disclose the information within the report.

2 (7) The following apply if a landlord does not require a prospective purchaser to submit an ap-
3 plication for occupancy as a tenant under subsection (4) of this section or if the landlord does not
4 accept or reject the prospective purchaser as a tenant within the time required under subsection (6)
5 of this section:

6 (a) The landlord waives any right to bring an action against the tenant under the rental agree-
7 ment for breach of the landlord's right to establish conditions upon and approve a prospective pur-
8 chaser of the tenant's dwelling or home;

9 (b) The prospective purchaser, upon completion of the sale, may occupy the dwelling or home
10 as a tenant under the same conditions and terms as the tenant who sold the dwelling or home; and

11 (c) If the prospective purchaser becomes a new tenant, the landlord may impose conditions or
12 terms on the tenancy that are inconsistent with the terms and conditions of the seller's rental
13 agreement only if the new tenant agrees in writing.

14 (8) A landlord may not, because of the age, size, style or original construction material of the
15 dwelling or home or because the dwelling or home was built prior to adoption of the National
16 Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403), in compli-
17 ance with the standards of that Act in effect at that time or in compliance with the state building
18 code as defined in ORS 455.010:

19 (a) Reject an application for tenancy from a prospective purchaser of an existing dwelling or
20 home on a rented space within a facility; or

21 (b) Require a prospective purchaser of an existing dwelling or home on a rented space within
22 a facility to remove the dwelling or home from the rented space.

23 (9) A tenant who has received a notice pursuant to ORS 90.632 may sell the tenant's dwelling
24 or home in compliance with this section during the notice period. The tenant shall provide a pro-
25 spective purchaser with a copy of any outstanding notice given pursuant to ORS 90.632 prior to a
26 sale. The landlord may also give any prospective purchaser a copy of any such notice. The landlord
27 may require as a condition of tenancy that a prospective purchaser who desires to leave the dwell-
28 ing or home on the rented space and become a tenant must comply with the notice within the notice
29 period consistent with ORS 90.632. If the tenancy has been terminated pursuant to ORS 90.632, or
30 the notice period provided in ORS 90.632 has expired without a correction of cause or extension of
31 time to correct, a prospective purchaser does not have a right to leave the dwelling or home on the
32 rented space and become a tenant.

33 (10) Except as provided by subsection (9) of this section, after a tenancy has ended and during
34 the period provided by ORS 90.675 (6) and (8), a former tenant retains the right to sell the tenant's
35 dwelling or home to a purchaser who wishes to leave the dwelling or home on the rented space and
36 become a tenant as provided by this section, if the former tenant makes timely periodic payment of
37 all storage charges as provided by ORS 90.675 (7)(b), maintains the dwelling or home and the rented
38 space on which it is stored and enters the premises only with the written permission of the landlord.
39 Payment of the storage charges or maintenance of the dwelling or home and the space does not
40 create or reinstate a tenancy or create a waiver pursuant to ORS 90.412 or 90.417. A former tenant
41 may not enter the premises without the written permission of the landlord, including entry to
42 maintain the dwelling or home or the space or to facilitate a sale.

43 **SECTION 7.** ORS 90.740 is amended to read:

44 90.740. A tenant shall:

45 (1) Install the tenant's manufactured dwelling or floating home and any accessory building or

1 structure on a rented space in compliance with applicable laws and the rental agreement.

2 (2) Except as provided by the rental agreement, dispose from the dwelling or home and the
 3 rented space all ashes, garbage, rubbish and other waste in a clean, safe and legal manner. With
 4 regard to needles, syringes and other infectious waste, as defined in ORS 459.386, the tenant may
 5 not dispose of these items by placing them in garbage receptacles or in any other place or manner
 6 except as authorized by state and local governmental agencies.

7 (3) Behave, and require persons on the premises with the consent of the tenant to behave, in
 8 compliance with the rental agreement and with any laws or ordinances that relate to the tenant's
 9 behavior as a tenant.

10 (4) Except as provided by the rental agreement:

11 (a) Use the rented space and the facility common areas in a reasonable manner considering the
 12 purposes for which they were designed and intended;

13 (b) Keep the rented space in every part free from all accumulations of debris, filth, rubbish,
 14 garbage, rodents and vermin as the condition of the rented space permits and to the extent that the
 15 tenant is responsible for causing the problem. The tenant shall cooperate to a reasonable extent in
 16 assisting the landlord in any reasonable effort to remedy the problem;

17 (c) Keep the dwelling or home, and the rented space, safe from the hazards of fire;

18 (d) *[Install and Maintain in the dwelling or home a smoke alarm approved under applicable*
 19 *law;]* **Ensure that the dwelling or home has smoke alarms or smoke detectors conforming**
 20 **with applicable laws and properly maintain the smoke alarms or smoke detectors;**

21 (e) Install and maintain storm water drains on the roof of the dwelling or home and connect the
 22 drains to the drainage system, if any;

23 (f) Use electrical, water, storm water drainage and sewage disposal systems in a reasonable
 24 manner and maintain the connections to those systems;

25 (g) Refrain from deliberately or negligently destroying, defacing, damaging, impairing or remov-
 26 ing any part of the facility, other than the tenant's own dwelling or home, or knowingly permitting
 27 any person to do so;

28 (h) Maintain, water and mow or prune any trees, shrubbery or grass on the rented space; and

29 (i) Behave, and require persons on the premises with the consent of the tenant to behave, in a
 30 manner that does not disturb the peaceful enjoyment of the premises by neighbors.

31 **SECTION 8.** ORS 479.265 is amended to read:

32 479.265. Any purchaser or transferee of a dwelling unit who is aggrieved by a violation of [*ORS*
 33 *479.260*] **section 2 of this 2013 Act** may bring an individual action in an appropriate court to re-
 34 cover actual damages or \$50, whichever is greater. In any action brought by a [*person*] **purchaser**
 35 **or transferee** under this section, the court may award to the prevailing party, in addition to the
 36 relief provided in this section, reasonable attorney fees at trial and on appeal and costs. Actions
 37 brought under this section must be commenced within one year of the date of sale or transfer.
 38 Notwithstanding the provisions of this section, violation of [*ORS 479.260*] **section 2 of this 2013**
 39 **Act** does not affect the transfer of the title, ownership or possession of the dwelling unit.

40 **SECTION 9.** ORS 479.270 is amended to read:

41 479.270. (1) The owner of any rental dwelling unit or the owner's authorized agent shall be re-
 42 sponsible for supplying, installing and maintaining the required smoke alarms or smoke detectors
 43 and shall provide a written notice containing instructions for testing of the devices. The notice shall
 44 be given to the tenant at the time the tenant first takes possession of the premises.

45 (2) The duty of the owner or authorized agent of the owner to maintain the required smoke

1 alarms or smoke detectors, including providing working batteries, arises only:

2 (a) Prior to the beginning of every new tenancy when the tenant first takes possession of the
3 premises; *[and]*

4 (b) During the tenancy upon written notice from the tenant of any deficiency, not including re-
5 placing dead batteries, as provided in *[ORS 479.275.]* **section 5 of this 2013 Act; and**

6 (c) **When the installation of a replacement smoke alarm is required under section 3 (3)**
7 **of this 2013 Act.**

8 (3) Supplying and maintaining a smoke alarm or smoke detector under ORS 479.250 to 479.305
9 shall be considered a habitable condition under ORS 90.320.

10 **SECTION 10.** ORS 479.297 is amended to read:

11 479.297. (1) All *[ionization]* smoke alarms sold **or installed** in this state that are solely battery-
12 operated shall be packaged with a *[10-year battery]* **tamper-proof battery having a life expectancy**
13 **of at least 10 years.**

14 (2) All *[ionization]* smoke alarms sold **or installed** in this state shall include a “hush” mech-
15 anism that allows a person to temporarily disengage the alarm for a period of not more than 15
16 minutes.

17 (3) The provisions of this section do not apply to:

18 (a) Smoke alarms specifically designed for persons who are hard of hearing;

19 (b) Smoke alarms sold in this state for shipment out of state; or

20 (c) Smoke alarms sold for installation in, **or installed in,** recreational vehicles, commercial ve-
21 hicles, railroad equipment, aircraft, marine vessels or **new** manufactured dwellings.

22 (4) The sale of a recreational vehicle, commercial vehicle, railroad equipment, aircraft, marine
23 vessel or new manufactured dwelling containing a smoke alarm does not constitute sale of a smoke
24 alarm.

25 **SECTION 11.** ORS 479.990 is amended to read:

26 479.990. (1) Any owner or occupant of any building or premises who fails to comply with any
27 order provided for in ORS 479.170 and not appealed from, or with any such order of the State Fire
28 Marshal upon appeal to the State Fire Marshal, shall be punished by a civil penalty of not more
29 than \$500 for each violation. All penalties, fees or forfeitures collected under the provisions of this
30 subsection shall be paid into the State Treasury.

31 (2) Violation of ORS 479.255, *[479.260,]* 479.270, 479.280, 479.297 or 479.300 **or section 2, 3 or 4**
32 **of this 2013 Act,** or rules adopted under ORS 479.255, *[479.260,]* 479.270, 479.280, 479.297 or 479.300,
33 is punishable by a civil penalty imposed by the State Fire Marshal in an amount not to exceed \$250.

34 (3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

35 **SECTION 12.** **ORS 479.260 and 479.275 are repealed.**

36 **SECTION 13.** **Notwithstanding sections 2 and 3 of this 2013 Act and ORS 479.270, a**
37 **dwelling unit or lodging house described in section 2 or 3 of this 2013 Act that is equipped**
38 **with smoke detectors that were installed in compliance with ORS 479.260 prior to the effec-**
39 **tive date of this 2013 Act is not required to replace or supplement the smoke detectors in-**
40 **stalled prior to the effective date of this 2013 Act with smoke alarms meeting the**
41 **requirements established in sections 2 and 3 of this 2013 Act until one or more of the smoke**
42 **detectors installed prior to the effective date of this 2013 Act is at least 10 years old.**

43 **SECTION 14.** **Section 2 of this 2013 Act applies to:**

44 (1) **Conveyances of title filed with a county clerk on or after the effective date of this 2013**
45 **Act; and**

1 **(2) Transfers of possession pursuant to land sale contracts recorded by a county clerk**
2 **on or after the effective date of this 2013 Act.**

3 **SECTION 15. Section 3 of this 2013 Act applies to dwelling units and lodging houses oc-**
4 **cupied as rental property or temporary housing on or after the effective date of this 2013**
5 **Act, regardless of the date on which the occupancy began.**

6 **SECTION 16. Section 4 of this 2013 Act applies to manufactured dwellings:**

7 **(1) Classified as personal property for which transfer of the ownership document is filed**
8 **with the Department of Consumer and Business Services on or after the effective date of this**
9 **2013 Act; or**

10 **(2) Classified as real property for which conveyance of title is filed with a county clerk**
11 **on or after the effective date of this 2013 Act.**

12 **SECTION 17. (1) The amendments to ORS 479.265 by section 8 of this 2013 Act and the**
13 **repeal of ORS 479.260 by section 12 of this 2013 Act do not affect any right of action that was**
14 **available under ORS 479.265 prior to the effective date of this 2013 Act arising from a vio-**
15 **lation of ORS 479.260. An action arising from a violation of ORS 479.260 that occurred prior**
16 **to the effective date of this 2013 Act may be commenced or maintained as described in ORS**
17 **479.265 as set forth in the 2011 Edition of Oregon Revised Statutes.**

18 **(2) The amendments to ORS 479.990 by section 11 of this 2013 Act and the repeal of ORS**
19 **479.260 by section 12 of this 2013 Act do not affect the authority of the State Fire Marshal**
20 **to impose a civil penalty on a person who violated ORS 479.260 prior to the effective date of**
21 **this 2013 Act. The State Fire Marshal may impose the civil penalty as described in ORS**
22 **479.990 as set forth in the 2011 Edition of Oregon Revised Statutes.**

23 **SECTION 18. The amendments to ORS 479.297 by section 10 of this 2013 Act apply to**
24 **smoke alarms sold or installed on or after the effective date of this 2013 Act.**

25