

A-Engrossed Senate Bill 91

Ordered by the Senate April 17
Including Senate Amendments dated April 17

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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.

Allows landlord to require tenants to maintain renter's liability insurance. Describes circumstances in which landlord may consider whether applicant has been arrested for, charged with or convicted of crime, or involved in action to recover possession of real property. Allows landlord to charge fee described in rental agreement when, contrary to written rules or policies, tenant keeps on premises pet capable of causing damage to persons or property.

A BILL FOR AN ACT

1
2 Relating to landlord-tenant law; creating new provisions; and amending ORS 90.100, 90.160, 90.275,
3 90.295, 90.300, 90.302, 90.320, 90.367, 90.390, 90.425, 90.675 and 105.120.

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

5 **SECTION 1. ORS 90.367 and sections 2 and 3 of this 2013 Act are added to and made a**
6 **part of ORS 90.100 to 90.465.**

7 **SECTION 2. (1) A landlord may require a tenant to obtain and maintain renter's liability**
8 **insurance in a written rental agreement. The amount of coverage may not exceed \$100,000**
9 **per occurrence or the customary amount required by landlords for similar properties with**
10 **similar rents in the same rental market, whichever is greater.**

11 **(2) Before entering a new tenancy, a landlord:**

12 **(a) Shall advise an applicant in writing of a requirement to obtain and maintain renter's**
13 **liability insurance and the amount of insurance required.**

14 **(b) May require an applicant to provide documentation of renter's liability insurance**
15 **coverage before the tenancy begins.**

16 **(3) For an existing month-to-month tenancy, the landlord may amend a written rental**
17 **agreement to require renter's liability insurance after giving the tenant at least 30 days'**
18 **written notice of the requirement. If the tenant does not obtain renter's liability insurance**
19 **within the 30-day period:**

20 **(a) The landlord may terminate the tenancy pursuant to ORS 90.392; and**

21 **(b) The tenant may cure the cause of the termination as provided by ORS 90.392 by ob-**
22 **taining insurance.**

23 **(4) A landlord may require documentation that the tenant maintains the renter's liability**
24 **insurance on a periodic basis related to the coverage period of the renter's liability insurance**
25 **policy or more frequently if the landlord reasonably believes that the insurance policy is no**

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 longer in effect.

2 (5) A landlord may require that a tenant obtain or maintain renter's liability insurance
3 only if the landlord obtains and maintains comparable liability insurance and provides doc-
4 umentation to any tenant who requests the documentation, orally or in writing. The landlord
5 may provide documentation to a tenant in person, by mail or by posting in a common area
6 or office. The documentation may consist of a current certificate of coverage. A written
7 rental agreement that requires a tenant to obtain and maintain renter's liability insurance
8 must include a description of the requirements of this subsection.

9 (6) Neither a landlord nor a tenant shall make unreasonable demands that have the effect
10 of harassing the other with regard to providing documentation of insurance coverage.

11 (7) A landlord may not:

12 (a) Require that a tenant obtain renter's liability insurance from a particular insurer;

13 (b) Require that a tenant name the landlord as an additional insured or as having any
14 other special status on the tenant's renter's liability insurance policy;

15 (c) Require that a tenant waive the insurer's subrogation rights; or

16 (d) Make a claim against the tenant's renter's liability insurance unless:

17 (A) The claim is for damages or costs for which the tenant is legally liable and not for
18 damages or costs that result from ordinary wear and tear, acts of God or the conduct of the
19 landlord;

20 (B) The claim is greater than the security deposit of the tenant, if any; and

21 (C) The landlord provides a copy of the claim to the tenant contemporaneous with filing
22 the claim with the insurer.

23 (8) A landlord may not require a tenant to obtain or maintain renter's liability insurance
24 if the household income of the tenant is equal to or less than 50 percent of the area median
25 income, adjusted for family size as measured up to a five-person family, as determined by the
26 State Housing Council based on information from the United States Department of Housing
27 and Urban Development.

28 (9) A landlord may not require a tenant to obtain or maintain renter's liability insurance
29 if the dwelling unit of the tenant has been subsidized with public funds:

30 (a) Including federal or state tax credits, federal block grants authorized in the HOME
31 Investment Partnerships Act under Title II of the Cranston-Gonzalez National Affordable
32 Housing Act, as amended, or the Community Development Block Grant program authorized
33 in the Housing and Community Development Act of 1974, as amended, and tax-exempt bonds.

34 (b) Not including federal rent subsidy payments under 42 U.S.C. 1437f.

35 (10) Subsection (9) of this section does not apply to a dwelling unit that is not subsidized
36 even if the unit is on premises in which some dwelling units are subsidized.

37 (11) If a landlord files a frivolous claim against the renter's liability insurance of a ten-
38 ant, the tenant may recover from the landlord the actual damages of the tenant plus \$500.

39 (12) This section does not:

40 (a) Affect rights or obligations otherwise provided in this chapter or in the rental
41 agreement.

42 (b) Apply to tenancies governed by ORS 90.505 to 90.840.

43 **SECTION 3.** (1) When evaluating an applicant, a landlord may not consider an action to
44 recover possession pursuant to ORS 105.105 to 105.168 if the action:

45 (a) Was dismissed or resulted in a general judgment for the applicant before the applicant

1 submits the application. This paragraph does not apply if the action has not resulted in a
2 dismissal or general judgment at the time the applicant submits the application.

3 (b) Resulted in a general judgment against the applicant that was entered five or more
4 years before the applicant submits the application.

5 (2) When evaluating the applicant, a landlord may not consider a previous arrest of the
6 applicant if the arrest did not result in a conviction. This subsection does not apply if the
7 arrest has resulted in charges for criminal behavior as described in subsection (3) of this
8 section that have not been dismissed at the time the applicant submits the application.

9 (3) When evaluating the applicant, the landlord may consider criminal conviction and
10 charging history if the conviction or pending charge is for conduct that is:

11 (a) A drug-related crime;

12 (b) A person crime;

13 (c) A sex offense;

14 (d) A crime involving financial fraud, including identity theft and forgery; or

15 (e) Any other crime if the conduct for which the applicant was convicted or charged is
16 of a nature that would adversely affect:

17 (A) Property of the landlord or a tenant; or

18 (B) The health, safety or right to peaceful enjoyment of the premises of residents, the
19 landlord or the landlord's agent.

20 **SECTION 4.** ORS 90.160 is amended to read:

21 90.160. (1) Notwithstanding ORCP 10 and not including the seven-day and four-day waiting pe-
22 riods provided in ORS 90.394, where there are references in this chapter to periods and notices
23 based on a number of days, those days shall be calculated by consecutive calendar days, not in-
24 cluding the initial day of service, but including the last day until [*midnight*] **the end** of that last day
25 **at 12 midnight**. Where there are references in this chapter to periods or notices based on a number
26 of hours, those hours shall be calculated in consecutive clock hours, beginning immediately upon
27 service.

28 (2) Notwithstanding subsection (1) of this section, for 72-hour or 144-hour nonpayment notices
29 under ORS 90.394 that are served pursuant to ORS 90.155 (1)(c), the time period described in sub-
30 section (1) of this section begins at 11:59 p.m. the day the notice is both mailed and attached to the
31 premises. The time period shall end 72 hours or 144 hours, as the case may be, after the time started
32 to run at 11:59 p.m.

33 **SECTION 5.** ORS 90.275 is amended to read:

34 90.275. (1) As provided under this section, a landlord may allow an individual to become a tem-
35 porary occupant of the tenant's dwelling unit [*as a guest of the tenant*]. To create a temporary oc-
36 cupancy, the landlord, tenant and proposed temporary occupant must enter into a written temporary
37 occupancy agreement that describes the temporary occupancy relationship.

38 (2) The temporary occupant:

39 (a) Is not a tenant entitled to occupy the dwelling unit to the exclusion of others; and

40 (b) Does not have the rights of a tenant.

41 (3) The temporary occupancy agreement may be terminated by:

42 (a) The tenant without cause at any time; and

43 (b) The landlord only for cause that is a material violation of the temporary occupancy agree-
44 ment.

45 (4) The temporary occupant does not have a right to cure a violation that causes a landlord to

1 terminate the temporary occupancy agreement.

2 (5) Before entering into a temporary occupancy agreement, a landlord may screen the proposed
3 temporary occupant for issues regarding conduct or for a criminal record. The landlord may not
4 screen the proposed temporary occupant for credit history or income level.

5 (6) A temporary occupancy agreement:

6 (a) Shall expressly include the requirements of subsections (2) to (4) of this section;

7 (b) May provide that the temporary occupant is required to comply with any applicable rules for
8 the premises; and

9 (c) May have a specific ending date.

10 (7) The landlord, tenant and temporary occupant may extend or renew a temporary occupancy
11 agreement or may enter into a new temporary occupancy agreement.

12 (8) A landlord or tenant is not required to give the temporary occupant written notice of the
13 termination of a temporary occupancy agreement.

14 (9) The temporary occupant shall promptly vacate the dwelling unit if a landlord terminates a
15 temporary occupancy agreement for material violation of the temporary occupancy agreement or if
16 the temporary occupancy agreement ends by its terms. Except as provided in ORS 90.449, the land-
17 lord may terminate the tenancy of the tenant as provided under ORS 90.392 or 90.630 if the tempo-
18 rary occupant fails to promptly vacate the dwelling unit or if the tenant materially violates the
19 temporary occupancy agreement.

20 (10) A temporary occupant shall be treated as a squatter if the temporary occupant continues
21 to occupy the dwelling unit after a tenancy has ended or after the tenant revokes permission for the
22 occupancy by terminating the temporary occupancy agreement.

23 (11)(a) A landlord may not enter into a temporary occupancy agreement for the purpose of
24 evading landlord responsibilities under this chapter or to diminish the rights of an applicant or
25 tenant under this chapter.

26 (b) A tenant may not become a temporary occupant in the tenant's own dwelling unit.

27 (c) A tenancy may not consist solely of a temporary occupancy. Each tenancy must have at least
28 one tenant.

29 **SECTION 6.** ORS 90.295 is amended to read:

30 90.295. (1) A landlord may require payment of an applicant screening charge solely to cover the
31 costs of obtaining information about an applicant as the landlord processes the application for a
32 rental agreement. This activity is known as screening, and includes but is not limited to checking
33 references and obtaining a consumer credit report or tenant screening report. The landlord must
34 provide the applicant with a receipt for any applicant screening charge.

35 (2) The amount of any applicant screening charge shall not be greater than the landlord's av-
36 erage actual cost of screening applicants. Actual costs may include the cost of using a tenant
37 screening company or a consumer credit reporting agency, and may include the reasonable value
38 of any time spent by the landlord or the landlord's agents in otherwise obtaining information on
39 applicants. In any case, the applicant screening charge may not be greater than the customary
40 amount charged by tenant screening companies or consumer credit reporting agencies for a compa-
41 rable level of screening.

42 (3) A landlord may not require payment of an applicant screening charge unless prior to ac-
43 cepting the payment the landlord:

44 (a) Adopts written screening or admission criteria;

45 (b) Gives written notice to the applicant of:

1 (A) The amount of the applicant screening charge;

2 (B) The landlord's screening or admission criteria;

3 (C) The process that the landlord typically will follow in screening the applicant, including
4 whether the landlord uses a tenant screening company, credit reports, public records or criminal
5 records or contacts employers, landlords or other references; and

6 (D) The applicant's rights to dispute the accuracy of any information provided to the landlord
7 by a screening company or credit reporting agency;

8 (c) Gives actual notice to the applicant of an estimate, made to the best of the landlord's ability
9 at that time, of the approximate number of rental units of the type, and in the area, sought by the
10 applicant that are, or within a reasonable future time will be, available to rent from that landlord.
11 The estimate shall include the approximate number of applications previously accepted and remain-
12 ing under consideration for those units. A good faith error by a landlord in making an estimate
13 under this paragraph does not provide grounds for a claim under subsection (8) of this section;
14 [and]

15 (d) Gives written notice to the applicant of the amount of rent the landlord will charge and the
16 deposits the landlord will require, subject to change in the rent or deposits by agreement of the
17 landlord and the tenant before entering into a rental agreement; **and**

18 **(e) Gives written notice to the applicant whether the landlord requires tenants to obtain**
19 **and maintain renter's liability insurance and, if so, the amount of insurance required.**

20 (4) Regardless of whether a landlord requires payment of an applicant screening charge, if a
21 landlord denies an application for a rental agreement by an applicant and that denial is based in
22 whole or in part on a tenant screening company or consumer credit reporting agency report on that
23 applicant, the landlord shall give the applicant actual notice of that fact at the same time that the
24 landlord notifies the applicant of the denial. Unless written notice of the name and address of the
25 screening company or credit reporting agency has previously been given, the landlord shall promptly
26 give written notice to the applicant of the name and address of the company or agency that provided
27 the report upon which the denial is based.

28 (5) Except as provided in subsection (4) of this section, a landlord need not disclose the results
29 of an applicant screening or report to an applicant, with respect to information that is not required
30 to be disclosed under the federal Fair Credit Reporting Act. A landlord may give to an applicant a
31 copy of that applicant's consumer report, as defined in the Fair Credit Reporting Act.

32 (6) Unless the applicant agrees otherwise in writing, a landlord may not require payment of an
33 applicant screening charge when the landlord knows or should know that no rental units are avail-
34 able at that time or will be available within a reasonable future time.

35 (7) If a landlord requires payment of an applicant screening charge but fills the vacant rental
36 unit before screening the applicant or does not conduct a screening of the applicant for any reason,
37 the landlord must refund the applicant screening charge to the applicant within a reasonable time.

38 (8) The applicant may recover from the landlord twice the amount of any applicant screening
39 charge paid, plus \$150, if:

40 (a) The landlord fails to comply with this section and does not within a reasonable time accept
41 the applicant's application for a rental agreement; or

42 (b) The landlord does not conduct a screening of the applicant for any reason and fails to refund
43 an applicant screening charge to the applicant within a reasonable time.

44 **SECTION 7. ORS 90.300 is amended to read:**

45 90.300. (1) As used in this section, "security deposit" includes any last month's rent deposit.

1 (2)(a) Except as otherwise provided in this section, a landlord may require a tenant to pay a
2 security deposit. The landlord shall provide the tenant with a receipt for any security deposit the
3 tenant pays. The landlord shall hold a security deposit or prepaid rent for the tenant who is a party
4 to the rental agreement. A tenant's claim to the security deposit or prepaid rent is prior to the claim
5 of a creditor of the landlord, including a trustee in bankruptcy.

6 (b) Except as provided in ORS 86.755 (10), the holder of the landlord's interest in the premises
7 at the time the tenancy terminates is responsible to the tenant for any security deposit or prepaid
8 rent and is bound by this section.

9 (3) A written rental agreement, if any, must list a security deposit paid by a tenant or required
10 by a landlord.

11 (4) A landlord may not charge a tenant a pet security deposit for keeping a service animal or
12 companion animal that a tenant with a disability requires as a reasonable accommodation under fair
13 housing laws.

14 (5)(a) Except as otherwise provided in this subsection, a landlord may not change the rental
15 agreement to require the tenant to pay a new or increased security deposit during the first year
16 after the tenancy has begun. Subject to subsection (4) of this section, the landlord may require an
17 additional deposit if the landlord and tenant agree to modify the terms and conditions of the rental
18 agreement to permit a pet or for other cause and the additional deposit relates to the modification.
19 This paragraph does not prevent a landlord from collecting a security deposit that an initial rental
20 agreement provided for but that remained unpaid at the time the tenancy began.

21 (b) If a landlord requires a new or increased security deposit after the first year of the tenancy,
22 the landlord shall allow the tenant at least three months to pay the new or increased deposit.

23 (6) The landlord may claim all or part of the security deposit only if the landlord required the
24 security deposit for any or all of the purposes specified in subsection (7) of this section.

25 (7)(a) The landlord may claim from the security deposit only the amount reasonably necessary:

26 (A) To remedy the tenant's defaults in the performance of the rental agreement including, but
27 not limited to, unpaid rent; and

28 (B) To repair damages to the premises caused by the tenant, not including ordinary wear and
29 tear.

30 (b) A landlord is not required to repair damage caused by the tenant in order for the landlord
31 to claim against the deposit for the cost to make the repair. Any labor costs the landlord assesses
32 under this subsection for cleaning or repairs must be based on a reasonable hourly rate. The land-
33 lord may charge a reasonable hourly rate for the landlord's own performance of cleaning or repair
34 work.

35 (c) Defaults and damages for which a landlord may recover under this subsection include, but
36 are not limited to:

37 (A) Carpet cleaning, other than the use of a common vacuum cleaner, if:

38 (i) The cleaning is performed by use of a machine specifically designed for cleaning or
39 shampooing carpets;

40 (ii) The carpet was cleaned [*immediately*] **or replaced after the previous tenancy or the most**
41 **recent significant use of the carpet and** before the tenant took possession; and

42 (iii) The written rental agreement provides that the landlord may deduct the cost of carpet
43 cleaning regardless of whether the tenant cleans the carpet before the tenant delivers possession
44 as described in ORS 90.147.

45 (B) Loss of use of the dwelling unit during the performance of necessary cleaning or repairs[,]

1 **for which the tenant is responsible under this subsection** if the cleaning or repairs are per-
2 formed in a timely manner.

3 (8) A landlord may not require a tenant to pay or to forfeit a security deposit or prepaid rent
4 to the landlord for the tenant's failure to maintain a tenancy for a minimum number of months in
5 a month-to-month tenancy.

6 (9) The landlord must apply any last month's rent deposit to the rent due for the last month of
7 the tenancy:

8 (a) When either the landlord or the tenant gives to the other a notice of termination, pursuant
9 to this chapter, other than a notice of termination under ORS 90.394;

10 (b) When the landlord and tenant agree to terminate the tenancy; or

11 (c) When the tenancy terminates in accordance with the provisions of a written rental agree-
12 ment for a term tenancy.

13 (10) A landlord shall account for and refund as provided in subsections (12) to (14) of this section
14 any portion of a last month's rent deposit the landlord does not apply as provided under subsection
15 (9) of this section. Unless the tenant and landlord agree otherwise, the tenant may not require the
16 landlord to apply a last month's rent deposit to rent due for any period other than the last month
17 of the tenancy. A last month's rent deposit does not limit the amount of rent charged unless a
18 written rental agreement provides otherwise.

19 (11) When the tenancy terminates, a landlord shall account for and refund to the tenant, in the
20 same manner this section requires for security deposits, the unused balance of any prepaid rent the
21 landlord has not previously refunded to the tenant under ORS 90.380 and 105.120 (5)(b) or any other
22 provision of this chapter. The landlord may claim from the remaining prepaid rent only the amount
23 reasonably necessary to pay the tenant's unpaid rent.

24 (12) In order to claim all or part of any prepaid rent or security deposit, within 31 days after
25 the tenancy terminates and the tenant delivers possession the landlord shall give to the tenant a
26 written accounting that states specifically the basis or bases of the claim. The landlord shall give
27 a separate accounting for security deposits and for prepaid rent.

28 (13) The landlord shall return to the tenant the security deposit or prepaid rent or the portion
29 of the security deposit or prepaid rent that the landlord does not claim in the manner provided by
30 subsections (11) and (12) of this section not later than 31 days after the tenancy terminates and the
31 tenant delivers possession to the landlord.

32 (14) The landlord shall give the written accounting required under subsection (12) of this section
33 or shall return the security deposit or prepaid rent as required by subsection (13) of this section by
34 personal delivery or by first class mail.

35 (15) If a security deposit or prepaid rent secures a tenancy for a space for a manufactured
36 dwelling or floating home the tenant owns and occupies, whether or not in a facility, and the
37 dwelling or home is abandoned as described in ORS 90.425 (2) or 90.675 (2), the 31-day period de-
38 scribed in subsections (12) and (13) of this section commences on the earliest of:

39 (a) Waiver of the abandoned property process under ORS 90.425 (26) or 90.675 (22);

40 (b) Removal of the manufactured dwelling or floating home from the rented space;

41 (c) Destruction or other disposition of the manufactured dwelling or floating home under ORS
42 90.425 (10)(b) or 90.675 (10)(b); or

43 (d) Sale of the manufactured dwelling or floating home pursuant to ORS 90.425 (10)(a) or 90.675
44 (10)(a).

45 (16) If the landlord fails to comply with subsection (13) of this section or if the landlord in bad

1 faith fails to return all or any portion of any prepaid rent or security deposit due to the tenant
2 under this chapter or the rental agreement, the tenant may recover the money due in an amount
3 equal to twice the amount:

- 4 (a) Withheld without a written accounting under subsection (12) of this section; or
- 5 (b) Withheld in bad faith.

6 (17)(a) A security deposit or prepaid rent in the possession of the landlord is not garnishable
7 property, as provided in ORS 18.618.

8 (b) If a landlord delivers a security deposit or prepaid rent to a garnishor in violation of ORS
9 18.618 (1)(b), the landlord that delivered the security deposit or prepaid rent to the garnishor shall
10 allow the tenant at least 30 days after a copy of the garnishee response required by ORS 18.680 is
11 delivered to the tenant under ORS 18.690 to restore the security deposit or prepaid rent. If the
12 tenant fails to restore a security deposit or prepaid rent under the provisions of this paragraph be-
13 fore the tenancy terminates, and the landlord retains no security deposit or prepaid rent from the
14 tenant after the garnishment, the landlord is not required to refund or account for the security de-
15 posit or prepaid rent under subsection (11) of this section.

16 (18) This section does not preclude the landlord or tenant from recovering other damages under
17 this chapter.

18 **SECTION 8.** ORS 90.302 is amended to read:

19 90.302. (1) A landlord may not charge a fee at the beginning of the tenancy for an anticipated
20 landlord expense and may not require the payment of any fee except as provided in this section.
21 A fee must be described in a written rental agreement.

22 (2) A landlord may charge a tenant a fee for each occurrence of the following:

23 (a) A late rent payment, pursuant to ORS 90.260.

24 (b) A dishonored check, pursuant to ORS 30.701 (5). The amount of the fee may not exceed the
25 amount described in ORS 30.701 (5) plus any amount that a bank has charged the landlord for pro-
26 cessing the dishonored check.

27 (c) Removal or tampering with a properly functioning smoke alarm, smoke detector or carbon
28 monoxide alarm, as provided in ORS 90.325 (2). **The landlord may charge a fee of up to \$250**
29 **unless the State Fire Marshal assesses the tenant a civil penalty for the conduct under ORS**
30 **479.990 or under ORS 105.836 to 105.842 and 476.725.**

31 (d) The violation of a written pet agreement or of a rule relating to pets in a facility, pursuant
32 to ORS 90.530.

33 (e) The abandonment or relinquishment of a dwelling unit during a fixed term tenancy without
34 cause. The fee may not exceed one and one-half times the monthly rent. A landlord may not assess
35 a fee under this paragraph if the abandonment or relinquishment is pursuant to ORS 90.453 (2),
36 90.472 or 90.475. If the landlord assesses a fee under this paragraph:

37 (A) The landlord may not recover unpaid rent for any period of the fixed term tenancy beyond
38 the date that the landlord knew or reasonably should have known of the abandonment or
39 relinquishment;

40 (B) The landlord may not recover damages related to the cost of renting the dwelling unit to a
41 new tenant; and

42 (C) ORS 90.410 (3) does not apply to the abandonment or relinquishment.

43 *[(f) Noncompliance with written rules or policies. The fee may not exceed \$50. A fee may be as-*
44 *essed under this paragraph only for the following types of noncompliance:]*

45 *[(A) The late payment of a utility or service charge that the tenant owes the landlord as described*

1 *in ORS 90.315.]*

2 *[(B) Failure to clean up pet waste from a part of the premises other than the dwelling unit.]*

3 *[(C) Failure to clean up garbage, rubbish and other waste from a part of the premises other than*
4 *the dwelling unit.]*

5 *[(D) Parking violations.]*

6 *[(E) The improper use of vehicles within the premises.]*

7 **(3)(a) A landlord may charge a tenant a fee under this subsection for a second noncom-**
8 **pliance or for a subsequent noncompliance with written rules or policies that describe the**
9 **prohibited conduct and the fee for a second noncompliance, and for any third or subsequent**
10 **noncompliance, that occurs within one year after a written warning notice described in**
11 **subparagraph (A) of this paragraph. The fee may not exceed \$50 for the second noncompli-**
12 **ance within one year after the warning notice for the same or a similar noncompliance or**
13 **\$50 plus five percent of the rent payment for the current rental period for a third or subse-**
14 **quent noncompliance within one year after the warning notice for the same or a similar**
15 **noncompliance. The landlord:**

16 **(A) Shall give a tenant a written warning notice that describes:**

17 **(i) A specific noncompliance before charging a fee for a second or subsequent noncom-**
18 **pliance for the same or similar conduct; and**

19 **(ii) The amount of the fee for a second noncompliance, and for any subsequent noncom-**
20 **pliance, that occurs within one year after the warning notice.**

21 **(B) Shall give a tenant a written notice describing the noncompliance when assessing a**
22 **fee for a second or subsequent noncompliance that occurs within one year after the warning**
23 **notice.**

24 **(C) Shall give a warning notice for a noncompliance or assess a fee for a second or sub-**
25 **sequent noncompliance within 30 days after the act constituting noncompliance.**

26 **(D) May terminate a tenancy for a noncompliance consistent with this chapter instead**
27 **of assessing a fee under this subsection, but may not assess a fee and terminate a tenancy**
28 **for the same noncompliance.**

29 **(E) May not deduct a fee assessed pursuant to this subsection from a rent payment for**
30 **the current or a subsequent rental period.**

31 **(b) A landlord may charge a tenant a fee for occurrences of noncompliance with written**
32 **rules or policies as provided in paragraph (a) of this subsection for the following types of**
33 **noncompliance:**

34 **(A) The late payment of a utility or service charge that the tenant owes the landlord as**
35 **described in ORS 90.315.**

36 **(B) Failure to clean up pet waste from a part of the premises other than the dwelling**
37 **unit.**

38 **(C) Failure to clean up garbage, rubbish and other waste from a part of the premises**
39 **other than the dwelling unit.**

40 **(D) Parking violations.**

41 **(E) The improper use of vehicles within the premises.**

42 **(F) Smoking in a clearly designated nonsmoking unit or area of the premises.**

43 **(G) Keeping on the premises an unauthorized pet capable of causing damage to persons**
44 **or property, as described in ORS 90.405.**

45 *[(3)]* **(4) A landlord may not be required to account for or return to the tenant any fee.**

1 [(4)] (5) Except as provided in subsection (2)(e) of this section, a landlord may not charge a
2 tenant any form of liquidated damages, however designated.

3 [(5)] (6) Nonpayment of a fee is not grounds for termination of a rental agreement for nonpay-
4 ment of rent under ORS 90.394, but is grounds for termination of a rental agreement for cause under
5 ORS 90.392 or 90.630 (1).

6 [(6)] (7) This section does not apply to:

7 (a) Attorney fees awarded pursuant to ORS 90.255;

8 (b) Applicant screening charges paid pursuant to ORS 90.295; [or]

9 (c) Charges for improvements or other actions that are requested by the tenant and are not re-
10 quired of the landlord by the rental agreement or by law[.], **including the cost to replace a key**
11 **lost by a tenant;**

12 **(d) Processing fees charged to the landlord by a credit card company and passed through**
13 **to the tenant for the use of a credit card by the tenant to make a payment when:**

14 **(A) The credit card company allows processing fees to be passed through to the credit**
15 **card holder; and**

16 **(B) The landlord allows the tenant to pay in cash or by check; or**

17 **(e) A requirement by a landlord in a written rental agreement that a tenant obtain and**
18 **maintain renter's liability insurance pursuant to section 2 of this 2013 Act.**

19 **SECTION 9.** ORS 90.320 is amended to read:

20 90.320. (1) A landlord shall at all times during the tenancy maintain the dwelling unit in a
21 habitable condition. For purposes of this section, a dwelling unit shall be considered uninhabitable if
22 it substantially lacks:

23 (a) Effective waterproofing and weather protection of roof and exterior walls, including windows
24 and doors;

25 (b) Plumbing facilities that conform to applicable law in effect at the time of installation, and
26 maintained in good working order;

27 (c) A water supply approved under applicable law that is:

28 (A) Under the control of the tenant or landlord and is capable of producing hot and cold running
29 water;

30 (B) Furnished to appropriate fixtures;

31 (C) Connected to a sewage disposal system approved under applicable law; and

32 (D) Maintained so as to provide safe drinking water and to be in good working order to the
33 extent that the system can be controlled by the landlord;

34 (d) Adequate heating facilities that conform to applicable law at the time of installation and
35 maintained in good working order;

36 (e) Electrical lighting with wiring and electrical equipment that conform to applicable law at the
37 time of installation and maintained in good working order;

38 (f) Buildings, grounds and appurtenances at the time of the commencement of the rental agree-
39 ment in every part safe for normal and reasonably foreseeable uses, clean, sanitary and free from
40 all accumulations of debris, filth, rubbish, garbage, rodents and vermin, and all areas under control
41 of the landlord kept in every part safe for normal and reasonably foreseeable uses, clean, sanitary
42 and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin;

43 (g) Except as otherwise provided by local ordinance or by written agreement between the land-
44 lord and the tenant, an adequate number of appropriate receptacles for garbage and rubbish in clean
45 condition and good repair at the time of the commencement of the rental agreement, and the land-

1 lord shall provide and maintain appropriate serviceable receptacles thereafter and arrange for their
2 removal;

3 (h) Floors, walls, ceilings, stairways and railings maintained in good repair;

4 (i) Ventilating, air conditioning and other facilities and appliances, including elevators, main-
5 tained in good repair if supplied or required to be supplied by the landlord;

6 (j) Safety from fire hazards, including a working smoke alarm or smoke detector, with working
7 batteries if solely battery-operated, provided only at the beginning of any new tenancy when the
8 tenant first takes possession of the premises, as provided in ORS 479.270, but not to include the
9 tenant's testing of the smoke alarm or smoke detector as provided in ORS 90.325 (1);

10 (k) A carbon monoxide alarm, and the dwelling unit [*or the structure in which the dwelling unit*
11 *is a part*]:

12 (A) Contains a carbon monoxide source [*as defined in ORS 105.836*]; or

13 (B) **Is located within a structure that contains a carbon monoxide source and the dwell-**
14 **ing unit is connected to the room in which the carbon monoxide source is located by a door,**
15 **ductwork or a ventilation shaft; or**

16 (L) Working locks for all dwelling entrance doors, and, unless contrary to applicable law,
17 latches for all windows, by which access may be had to that portion of the premises that the tenant
18 is entitled under the rental agreement to occupy to the exclusion of others and keys for those locks
19 that require keys.

20 (2) The landlord and tenant may agree in writing that the tenant is to perform specified repairs,
21 maintenance tasks and minor remodeling only if:

22 (a) The agreement of the parties is entered into in good faith and not for the purpose of evading
23 the obligations of the landlord;

24 (b) The agreement does not diminish the obligations of the landlord to other tenants in the
25 premises; and

26 (c) The terms and conditions of the agreement are clearly and fairly disclosed and adequate
27 consideration for the agreement is specifically stated.

28 (3) Any provisions of this section that reasonably apply only to a structure that is used as a
29 home, residence or sleeping place shall not apply to a manufactured dwelling, recreational vehicle
30 or floating home where the tenant owns the manufactured dwelling, recreational vehicle or floating
31 home, rents the space and, in the case of a dwelling or home, the space is not in a facility. Manu-
32 factured dwelling or floating home tenancies in which the tenant owns the dwelling or home and
33 rents space in a facility shall be governed by ORS 90.730, not by this section.

34 **SECTION 10.** ORS 90.367 is amended to read:

35 90.367. (1) A tenant who receives actual notice that the property that is the subject of the
36 tenant's rental agreement with a landlord is in foreclosure may apply the tenant's security deposit
37 or prepaid rent to the tenant's obligation to the landlord. The tenant must notify the landlord in
38 writing that the tenant intends to do so. The giving of the notice provided by this subsection by the
39 tenant does not constitute a termination of the tenancy.

40 (2) A landlord may not terminate the tenancy of a tenant:

41 (a) Because the tenant has applied the security deposit or prepaid rent as allowed under **sub-**
42 **section (1) of** this section.

43 (b) For nonpayment of rent during the month in which the tenant applies the security deposit
44 or prepaid rent pursuant to **subsection (1) of** this section unless an unpaid balance remains due
45 after applying all payments, including the security deposit or prepaid rent, to the rent.

1 (3) If the tenant has not provided the written notice applying the security deposit or prepaid
2 rent as required under subsection (1) of this section before the landlord gives a termination notice
3 for nonpayment of rent, the tenant must provide the written notice within the notice period provided
4 by ORS 90.392 or 90.394. If the tenant does not provide the written notice, the landlord may termi-
5 nate the tenancy based upon ORS 90.392 or 90.394.

6 (4) Application of the security deposit or prepaid rent **pursuant to subsection (1) of this**
7 **section** to an obligation owed to the landlord does not constitute a partial payment under ORS
8 90.417.

9 (5) If the landlord provides written evidence from a lender or trustee that the property is no
10 longer in foreclosure, the landlord may require the tenant to restore the security deposit or prepaid
11 rent to the amount required prior to the tenant's application of the security deposit or prepaid rent.
12 The landlord shall allow the tenant at least two months to restore the security deposit or prepaid
13 rent.

14 **(6)(a) A tenant with a fixed term tenancy who receives actual notice that the property**
15 **that is the subject of the tenant's rental agreement with a landlord is in foreclosure may**
16 **terminate the tenancy by delivering a written notice to the landlord specifying that the ten-**
17 **ant has received notice that the property is in foreclosure and that the tenancy will termi-**
18 **nate upon a designated date that is not less than 60 days after delivery of the notice unless**
19 **within 30 days the landlord provides the tenant with written evidence from a lender or**
20 **trustee that the property is no longer in foreclosure or with written evidence that a receiver**
21 **has been appointed by a court of competent jurisdiction to oversee the operation of the**
22 **property.**

23 **(b) If the landlord does not provide the tenant with written evidence as described in**
24 **paragraph (a) of this subsection within the 30-day period after delivery of the notice of ter-**
25 **mination, the tenancy terminates as provided in the notice.**

26 **SECTION 11.** ORS 90.390 is amended to read:

27 90.390. (1) A landlord may not discriminate against a tenant in violation of local, state or federal
28 law, including ORS 346.630, 346.660, 346.690, 659A.145 and 659A.421.

29 (2) If the tenant can prove that the landlord violated subsection (1) of this section, the tenant
30 has a defense in any discriminatory action brought by the landlord against the tenant for possession,
31 unless the tenant is in default in rent.

32 (3) A tenant may prove a landlord's discrimination in violation of ORS 659A.145 or 659A.421 by
33 demonstrating that a facially neutral housing policy has a disparate adverse impact, as described in
34 ORS 659A.425, on members of a protected class.

35 *[(4) A landlord may not discriminate against an applicant solely because the applicant was a de-*
36 *fendant in an action for possession pursuant to ORS 105.105 to 105.168 that was dismissed or that*
37 *resulted in general judgment for the defendant prior to the application. This subsection does not apply*
38 *if the prior action has not resulted in a dismissal or general judgment at the time of the application.*
39 *If the landlord knowingly acts in violation of this subsection, the applicant may recover actual damages*
40 *or \$200, whichever is greater.]*

41 **SECTION 12.** ORS 90.425 is amended to read:

42 90.425. (1) As used in this section:

43 (a) "Current market value" means the amount in cash, as determined by the county assessor,
44 that could reasonably be expected to be paid for a manufactured dwelling or floating home by an
45 informed buyer to an informed seller, each acting without compulsion in an arm's-length transaction

1 occurring on the assessment date for the tax year or on the date of a subsequent reappraisal by the
2 county assessor.

3 (b) "Dispose of the personal property" means that, if reasonably appropriate, the landlord may
4 throw away the property or may give it without consideration to a nonprofit organization or to a
5 person unrelated to the landlord. The landlord may not retain the property for personal use or
6 benefit.

7 (c) "Goods" includes those goods left inside a recreational vehicle, manufactured dwelling or
8 floating home or left upon the rental space outside a recreational vehicle, manufactured dwelling
9 or floating home, whether the recreational vehicle, dwelling or home is located inside or outside of
10 a facility.

11 (d) "Lienholder" means any lienholder of an abandoned recreational vehicle, manufactured
12 dwelling or floating home, if the lien is of record or the lienholder is actually known to the landlord.

13 (e) "Of record" means:

14 (A) For a recreational vehicle that is not a manufactured structure as defined in ORS 446.561,
15 that a security interest has been properly recorded with the Department of Transportation pursuant
16 to ORS 802.200 (1)(a)(A) and 803.097.

17 (B) For a manufactured dwelling or recreational vehicle that is a manufactured structure as
18 defined in ORS 446.561, that a security interest has been properly recorded for the manufactured
19 dwelling or recreational vehicle in the records of the Department of Consumer and Business Ser-
20 vices pursuant to ORS 446.611 or on a certificate of title issued by the Department of Transportation
21 prior to May 1, 2005.

22 (C) For a floating home, that a security interest has been properly recorded with the State
23 Marine Board pursuant to ORS 830.740 to 830.755 for a home registered and titled with the board
24 pursuant to ORS 830.715.

25 (f) "Owner" means any owner of an abandoned recreational vehicle, manufactured dwelling or
26 floating home, if different from the tenant and either of record or actually known to the landlord.

27 (g) "Personal property" means goods, vehicles and recreational vehicles and includes manufac-
28 tured dwellings and floating homes not located in a facility. "Personal property" does not include
29 manufactured dwellings and floating homes located in a facility and therefore subject to being
30 stored, sold or disposed of as provided under ORS 90.675.

31 (2) A landlord [*may not*] **is responsible for abandoned personal property and shall** store, sell
32 or dispose of abandoned personal property [*except*] as provided by this section. This section governs
33 the rights and obligations of landlords, tenants and any lienholders or owners in any personal
34 property abandoned or left upon the premises by the tenant or any lienholder or owner in the fol-
35 lowing circumstances:

36 (a) The tenancy has ended by termination or expiration of a rental agreement or by
37 relinquishment or abandonment of the premises and the landlord reasonably believes under all the
38 circumstances that the tenant has left the personal property upon the premises with no intention
39 of asserting any further claim to the premises or to the personal property;

40 (b) The tenant has been absent from the premises continuously for seven days after termination
41 of a tenancy by a court order that has not been executed; or

42 (c) The landlord receives possession of the premises from the sheriff following restitution pur-
43 suant to ORS 105.161.

44 (3) Prior to **storing**, selling or disposing of the tenant's personal property under this section, the
45 landlord must give a written notice to the tenant that must be:

- 1 (a) Personally delivered to the tenant; or
2 (b) Sent by first class mail addressed and mailed to the tenant at:
3 (A) The premises;
4 (B) Any post-office box held by the tenant and actually known to the landlord; and
5 (C) The most recent forwarding address if provided by the tenant or actually known to the
6 landlord.
- 7 (4)(a) In addition to the notice required by subsection (3) of this section, in the case of an
8 abandoned recreational vehicle, manufactured dwelling or floating home, a landlord shall also give
9 a copy of the notice described in subsection (3) of this section to:
10 (A) Any lienholder of the recreational vehicle, manufactured dwelling or floating home;
11 (B) Any owner of the recreational vehicle, manufactured dwelling or floating home;
12 (C) The tax collector of the county where the manufactured dwelling or floating home is located;
13 and
14 (D) The assessor of the county where the manufactured dwelling or floating home is located.
- 15 (b) The landlord shall give the notice copy required by this subsection by personal delivery or
16 first class mail, except that for any lienholder, mail service must be both by first class mail and by
17 certified mail with return receipt requested.
- 18 (c) A notice to lienholders under paragraph (a)(A) of this subsection must be sent to each
19 lienholder at each address:
20 (A) Actually known to the landlord;
21 (B) Of record; and
22 (C) Provided to the landlord by the lienholder in a written notice that identifies the personal
23 property subject to the lien and that was sent to the landlord by certified mail with return receipt
24 requested within the preceding five years. The notice must identify the personal property by de-
25 scribing the physical address of the property.
- 26 (5) The notice required under subsection (3) of this section must state that:
27 (a) The personal property left upon the premises is considered abandoned;
28 (b) The tenant or any lienholder or owner must contact the landlord by a specified date, as
29 provided in subsection (6) of this section, to arrange for the removal of the abandoned personal
30 property;
31 (c) The personal property is stored at a place of safekeeping, except that if the property includes
32 a manufactured dwelling or floating home, the dwelling or home must be stored on the rented space;
33 (d) The tenant or any lienholder or owner, except as provided by subsection (18) of this section,
34 may arrange for removal of the personal property by contacting the landlord at a described tele-
35 phone number or address on or before the specified date;
36 (e) The landlord shall make the personal property available for removal by the tenant or any
37 lienholder or owner, except as provided by subsection (18) of this section, by appointment at rea-
38 sonable times;
39 (f) If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b)
40 of this section, the landlord may require payment of removal and storage charges, as provided by
41 subsection (7)(d) of this section, prior to releasing the personal property to the tenant or any
42 lienholder or owner;
43 (g) If the personal property is considered to be abandoned pursuant to subsection (2)(c) of this
44 section, the landlord may not require payment of storage charges prior to releasing the personal
45 property;

1 (h) If the tenant or any lienholder or owner fails to contact the landlord by the specified date,
2 or after that contact, fails to remove the personal property within 30 days for recreational vehicles,
3 manufactured dwellings and floating homes or 15 days for all other personal property, the landlord
4 may sell or dispose of the personal property. If the landlord reasonably believes that the personal
5 property will be eligible for disposal pursuant to subsection (10)(b) of this section and the landlord
6 intends to dispose of the property if the property is not claimed, the notice shall state that belief
7 and intent; and

8 (i) If the personal property includes a recreational vehicle, manufactured dwelling or floating
9 home and if applicable, there is a lienholder or owner that has a right to claim the recreational
10 vehicle, dwelling or home, except as provided by subsection (18) of this section.

11 (6) For purposes of subsection (5) of this section, the specified date by which a tenant, lienholder
12 or owner must contact a landlord to arrange for the disposition of abandoned personal property is:

13 (a) For abandoned recreational vehicles, manufactured dwellings or floating homes, not less than
14 45 days after personal delivery or mailing of the notice; or

15 (b) For all other abandoned personal property, not less than five days after personal delivery
16 or eight days after mailing of the notice.

17 (7) After notifying the tenant as required by subsection (3) of this section, the landlord:

18 (a) Shall store any abandoned manufactured dwelling or floating home on the rented space and
19 shall exercise reasonable care for the dwelling or home;

20 (b) Shall store all other abandoned personal property of the tenant, including goods left inside
21 a recreational vehicle, manufactured dwelling or floating home or left upon the rented space outside
22 a recreational vehicle, dwelling or home, in a place of safekeeping and shall exercise reasonable
23 care for the personal property, except that the landlord may:

24 (A) Promptly dispose of rotting food; and

25 (B) Allow an animal control agency to remove any abandoned pets or livestock. If an animal
26 control agency will not remove the abandoned pets or livestock, the landlord shall exercise reason-
27 able care for the animals given all the circumstances, including the type and condition of the ani-
28 mals, and may give the animals to an agency that is willing and able to care for the animals, such
29 as a humane society or similar organization;

30 (c) Except for manufactured dwellings and floating homes, may store the abandoned personal
31 property at the dwelling unit, move and store it elsewhere on the premises or move and store it at
32 a commercial storage company or other place of safekeeping; and

33 (d) Is entitled to reasonable or actual storage charges and costs incidental to storage or dis-
34 posal, including any cost of removal to a place of storage. In the case of an abandoned manufactured
35 dwelling or floating home, the storage charge may be no greater than the monthly space rent last
36 payable by the tenant.

37 (8) If a tenant, lienholder or owner, upon the receipt of the notice provided by subsection (3)
38 or (4) of this section or otherwise, responds by actual notice to the landlord on or before the spec-
39 ified date in the landlord's notice that the tenant, lienholder or owner intends to remove the per-
40 sonal property from the premises or from the place of safekeeping, the landlord must make that
41 personal property available for removal by the tenant, lienholder or owner by appointment at rea-
42 sonable times during the 15 days or, in the case of a recreational vehicle, manufactured dwelling
43 or floating home, 30 days following the date of the response, subject to subsection (18) of this sec-
44 tion. If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of
45 this section, but not pursuant to subsection (2)(c) of this section, the landlord may require payment

1 of removal and storage charges, as provided in subsection (7)(d) of this section, prior to allowing the
2 tenant, lienholder or owner to remove the personal property. Acceptance by a landlord of such
3 payment does not operate to create or reinstate a tenancy or create a waiver pursuant to ORS
4 90.412 or 90.417.

5 (9) Except as provided in subsections (18) to (20) of this section, if the tenant, lienholder or
6 owner of a recreational vehicle, manufactured dwelling or floating home does not respond within the
7 time provided by the landlord's notice, or the tenant, lienholder or owner does not remove the per-
8 sonal property within the time required by subsection (8) of this section or by any date agreed to
9 with the landlord, whichever is later, the tenant's, lienholder's or owner's personal property is con-
10 clusively presumed to be abandoned. The tenant and any lienholder or owner that have been given
11 notice pursuant to subsection (3) or (4) of this section shall, except with regard to the distribution
12 of sale proceeds pursuant to subsection (13) of this section, have no further right, title or interest
13 to the personal property and may not claim or sell the property.

14 (10) If the personal property is presumed to be abandoned under subsection (9) of this section,
15 the landlord then may:

16 (a) Sell the personal property at a public or private sale, provided that prior to the sale of a
17 recreational vehicle, manufactured dwelling or floating home:

18 (A) The landlord may seek to transfer ownership of record of the personal property by comply-
19 ing with the requirements of the appropriate state agency; and

20 (B) The landlord shall:

21 (i) Place a notice in a newspaper of general circulation in the county in which the recreational
22 vehicle, manufactured dwelling or floating home is located. The notice shall state:

23 (I) That the recreational vehicle, manufactured dwelling or floating home is abandoned;

24 (II) The tenant's and owner's name, if of record or actually known to the landlord;

25 (III) The address and any space number where the recreational vehicle, manufactured dwelling
26 or floating home is located, and any plate, registration or other identification number for a recre-
27 ational vehicle or floating home noted on the certificate of title, if actually known to the landlord;

28 (IV) Whether the sale is by private bidding or public auction;

29 (V) Whether the landlord is accepting sealed bids and, if so, the last date on which bids will be
30 accepted; and

31 (VI) The name and telephone number of the person to contact to inspect the recreational vehi-
32 cle, manufactured dwelling or floating home;

33 (ii) At a reasonable time prior to the sale, give a copy of the notice required by sub-
34 subparagraph (i) of this subparagraph to the tenant and to any lienholder and owner, by personal
35 delivery or first class mail, except that for any lienholder, mail service must be by first class mail
36 with certificate of mailing;

37 (iii) Obtain an affidavit of publication from the newspaper to show that the notice required un-
38 der sub-subparagraph (i) of this subparagraph ran in the newspaper at least one day in each of two
39 consecutive weeks prior to the date scheduled for the sale or the last date bids will be accepted;
40 and

41 (iv) Obtain written proof from the county that all property taxes and assessments on the manu-
42 factured dwelling or floating home have been paid or, if not paid, that the county has authorized the
43 sale, with the sale proceeds to be distributed pursuant to subsection (13) of this section;

44 (b) Destroy or otherwise dispose of the personal property if the landlord determines that:

45 (A) For a manufactured dwelling or floating home, the current market value of the property is

1 \$8,000 or less as determined by the county assessor; or

2 (B) For all other personal property, the reasonable current fair market value is \$1,000 or less
3 or so low that the cost of storage and conducting a public sale probably exceeds the amount that
4 would be realized from the sale; or

5 (c) Consistent with paragraphs (a) and (b) of this subsection, sell certain items and destroy or
6 otherwise dispose of the remaining personal property.

7 (11)(a) A public or private sale authorized by this section must:

8 (A) For a recreational vehicle, manufactured dwelling or floating home, be conducted consistent
9 with the terms listed in subsection (10)(a)(B)(i) of this section. Every aspect of the sale including the
10 method, manner, time, place and terms must be commercially reasonable; or

11 (B) For all other personal property, be conducted under the provisions of ORS 79.0610.

12 (b) If there is no buyer at a sale of a manufactured dwelling or floating home, the personal
13 property is considered to be worth \$8,000 or less, regardless of current market value, and the land-
14 lord shall destroy or otherwise dispose of the personal property.

15 (12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord intentionally misrepresents the
16 condition of a manufactured dwelling or floating home, the landlord is not liable for the condition
17 of the dwelling or home to:

18 (a) A buyer of the dwelling or home at a sale pursuant to subsection (10)(a) of this section, with
19 or without consideration; or

20 (b) A person or nonprofit organization to whom the landlord gives the dwelling or home pursu-
21 ant to subsection (1)(b), (10)(b) or (11)(b) of this section.

22 (13)(a) The landlord may deduct from the proceeds of the sale:

23 (A) The reasonable or actual cost of notice, storage and sale; and

24 (B) Unpaid rent.

25 (b) If the sale was of a manufactured dwelling or floating home, after deducting the amounts
26 listed in paragraph (a) of this subsection, the landlord shall remit the remaining proceeds, if any, to
27 the county tax collector to the extent of any unpaid property taxes and assessments owed on the
28 dwelling or home.

29 (c) If the sale was of a recreational vehicle, manufactured dwelling or floating home, after de-
30 ducting the amounts listed in paragraphs (a) and (b) of this subsection, if applicable, the landlord
31 shall remit the remaining proceeds, if any, to any lienholder to the extent of any unpaid balance
32 owed on the lien on the recreational vehicle, dwelling or home.

33 (d) After deducting the amounts listed in paragraphs (a), (b) and (c) of this subsection, if appli-
34 cable, the landlord shall remit to the tenant or owner the remaining proceeds, if any, together with
35 an itemized accounting.

36 (e) If the tenant or owner cannot after due diligence be found, the landlord shall deposit the
37 remaining proceeds with the county treasurer of the county in which the sale occurred. If not
38 claimed within three years, the deposited proceeds revert to the general fund of the county and are
39 available for general purposes.

40 (14) The county tax collector shall cancel all unpaid property taxes and assessments owed on
41 a manufactured dwelling or floating home, as provided under ORS 311.790, only under one of the
42 following circumstances:

43 (a) The landlord disposes of the manufactured dwelling or floating home after a determination
44 described in subsection (10)(b) of this section.

45 (b) There is no buyer of the manufactured dwelling or floating home at a sale described under

1 subsection (11) of this section.

2 (c)(A) There is a buyer of the manufactured dwelling or floating home at a sale described under
3 subsection (11) of this section;

4 (B) The current market value of the manufactured dwelling or floating home is \$8,000 or less;
5 and

6 (C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments
7 owed on the dwelling or home after distribution of the proceeds pursuant to subsection (13) of this
8 section.

9 (d)(A) The landlord buys the manufactured dwelling or floating home at a sale described under
10 subsection (11) of this section;

11 (B) The current market value of the manufactured dwelling or floating home is more than \$8,000;

12 (C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments
13 owed on the manufactured dwelling or floating home after distribution of the proceeds pursuant to
14 subsection (13) of this section; and

15 (D) The landlord disposes of the manufactured dwelling or floating home.

16 (15) The landlord is not responsible for any loss to the tenant, lienholder or owner resulting
17 from storage of personal property in compliance with this section unless the loss was caused by the
18 landlord's deliberate or negligent act. In the event of a deliberate and malicious violation, the
19 landlord is liable for twice the actual damages sustained by the tenant, lienholder or owner.

20 (16) Complete compliance in good faith with this section shall constitute a complete defense in
21 any action brought by a tenant, lienholder or owner against a landlord for loss or damage to such
22 personal property disposed of pursuant to this section.

23 (17) If a landlord does not comply with this section:

24 (a) The tenant is relieved of any liability for damage to the premises caused by conduct that
25 was not deliberate, intentional or grossly negligent and for unpaid rent and may recover from the
26 landlord up to twice the actual damages sustained by the tenant;

27 (b) A lienholder or owner aggrieved by the noncompliance may recover from the landlord the
28 actual damages sustained by the lienholder or owner. ORS 90.255 does not authorize an award of
29 attorney fees to the prevailing party in any action arising under this paragraph; and

30 (c) A county tax collector aggrieved by the noncompliance may recover from the landlord the
31 actual damages sustained by the tax collector, if the noncompliance is part of an effort by the
32 landlord to defraud the tax collector. ORS 90.255 does not authorize an award of attorney fees to
33 the prevailing party in any action arising under this paragraph.

34 (18) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home,
35 the provisions of this section regarding the rights and responsibilities of a tenant to the abandoned
36 vehicle, dwelling or home also apply to any lienholder except that the lienholder may not sell or
37 remove the vehicle, dwelling or home unless:

38 (a) The lienholder has foreclosed its lien on the recreational vehicle, manufactured dwelling or
39 floating home;

40 (b) The tenant or a personal representative or designated person described in subsection (20)
41 of this section has waived all rights under this section pursuant to subsection (26) of this section;
42 or

43 (c) The notice and response periods provided by subsections (6) and (8) of this section have ex-
44 pired.

45 (19)(a) In the case of an abandoned manufactured dwelling or floating home but not including

1 a dwelling or home abandoned following a termination pursuant to ORS 90.429 and except as pro-
2 vided by subsection (20)(d) and (e) of this section, if a lienholder makes a timely response to a notice
3 of abandoned personal property pursuant to subsections (6) and (8) of this section and so requests,
4 a landlord shall enter into a written storage agreement with the lienholder providing that the
5 dwelling or home may not be sold or disposed of by the landlord for up to 12 months. A storage
6 agreement entitles the lienholder to store the personal property on the previously rented space
7 during the term of the agreement, but does not entitle anyone to occupy the personal property.

8 (b) The lienholder's right to a storage agreement arises upon the failure of the tenant, owner
9 or, in the case of a deceased tenant, the personal representative, designated person, heir or devisee
10 to remove or sell the dwelling or home within the allotted time.

11 (c) To exercise the right to a storage agreement under this subsection, in addition to contacting
12 the landlord with a timely response as described in paragraph (a) of this subsection, the lienholder
13 must enter into the proposed storage agreement within 60 days after the landlord gives a copy of
14 the agreement to the lienholder. The landlord shall give a copy of the proposed storage agreement
15 to the lienholder in the same manner as provided by subsection (4)(b) of this section. The landlord
16 may include a copy of the proposed storage agreement with the notice of abandoned property re-
17 quired by subsection (4) of this section. A lienholder enters into a storage agreement by signing a
18 copy of the agreement provided by the landlord and personally delivering or mailing the signed copy
19 to the landlord within the 60-day period.

20 (d) The storage agreement may require, in addition to other provisions agreed to by the landlord
21 and the lienholder, that:

22 (A) The lienholder make timely periodic payment of all storage charges, as described in sub-
23 section (7)(d) of this section, accruing from the commencement of the 45-day period described in
24 subsection (6) of this section. A storage charge may include a utility or service charge, as described
25 in ORS 90.532, if limited to charges for electricity, water, sewer service and natural gas and if in-
26 cidental to the storage of personal property. A storage charge may not be due more frequently than
27 monthly;

28 (B) The lienholder pay a late charge or fee for failure to pay a storage charge by the date re-
29 quired in the agreement, if the amount of the late charge is no greater than for late charges de-
30 scribed in the rental agreement between the landlord and the tenant; and

31 (C) The lienholder maintain the personal property and the space on which the personal property
32 is stored in a manner consistent with the rights and obligations described in the rental agreement
33 between the landlord and the tenant.

34 (e) During the term of an agreement described under this subsection, the lienholder has the right
35 to remove or sell the property, subject to the provisions of the lien. Selling the property includes a
36 sale to a purchaser who wishes to leave the dwelling or home on the rented space and become a
37 tenant, subject to any conditions previously agreed to by the landlord and tenant regarding the
38 landlord's approval of a purchaser or, if there was no such agreement, any reasonable conditions
39 by the landlord regarding approval of any purchaser who wishes to leave the dwelling or home on
40 the rented space and become a tenant. The landlord also may condition approval for occupancy of
41 any purchaser of the property upon payment of all unpaid storage charges and maintenance costs.

42 (f)(A) If the lienholder violates the storage agreement, the landlord may terminate the agreement
43 by giving at least 90 days' written notice to the lienholder stating facts sufficient to notify the
44 lienholder of the reason for the termination. Unless the lienholder corrects the violation within the
45 notice period, the agreement terminates as provided and the landlord may sell or dispose of the

1 dwelling or home without further notice to the lienholder.

2 (B) After a landlord gives a termination notice pursuant to subparagraph (A) of this paragraph
3 for failure of the lienholder to pay a storage charge and the lienholder corrects the violation, if the
4 lienholder again violates the storage agreement by failing to pay a subsequent storage charge, the
5 landlord may terminate the agreement by giving at least 30 days' written notice to the lienholder
6 stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder
7 corrects the violation within the notice period, the agreement terminates as provided and the land-
8 lord may sell or dispose of the property without further notice to the lienholder.

9 (C) A lienholder may terminate a storage agreement at any time upon at least 14 days' written
10 notice to the landlord and may remove the property from the rented space if the lienholder has paid
11 all storage charges and other charges as provided in the agreement.

12 (g) Upon the failure of a lienholder to enter into a storage agreement as provided by this sub-
13 section or upon termination of an agreement, unless the parties otherwise agree or the lienholder
14 has sold or removed the manufactured dwelling or floating home, the landlord may sell or dispose
15 of the property pursuant to this section without further notice to the lienholder.

16 (20) If the personal property is a manufactured dwelling or floating home and is considered
17 abandoned as a result of the death of a tenant who was the only tenant and who owned the dwelling
18 or home, this section applies, except as follows:

19 (a) The following persons have the same rights and responsibilities regarding the abandoned
20 dwelling or home as a tenant:

21 (A) Any personal representative named in a will or appointed by a court to act for the deceased
22 tenant.

23 (B) Any person designated in writing by the tenant to be contacted by the landlord in the event
24 of the tenant's death.

25 (b) The notice required by subsection (3) of this section must be:

26 (A) Sent by first class mail to the deceased tenant at the premises; and

27 (B) Personally delivered or sent by first class mail to any personal representative or designated
28 person, if actually known to the landlord.

29 (c) The notice described in subsection (5) of this section must refer to any personal represen-
30 tative or designated person, instead of the deceased tenant, and must incorporate the provisions of
31 this subsection.

32 (d) If a personal representative, designated person or other person entitled to possession of the
33 property, such as an heir or devisee, responds by actual notice to a landlord within the 45-day period
34 provided by subsection (6) of this section and so requests, the landlord shall enter into a written
35 storage agreement with the representative or person providing that the dwelling or home may not
36 be sold or disposed of by the landlord for up to 90 days or until conclusion of any probate pro-
37 ceedings, whichever is later. A storage agreement entitles the representative or person to store the
38 personal property on the previously rented space during the term of the agreement, but does not
39 entitle anyone to occupy the personal property. If such an agreement is entered, the landlord may
40 not enter a similar agreement with a lienholder pursuant to subsection (19) of this section until the
41 agreement with the personal representative or designated person ends.

42 (e) If a personal representative or other person requests that a landlord enter into a storage
43 agreement, subsection (19)(c), (d) and (f)(C) of this section applies, with the representative or person
44 having the rights and responsibilities of a lienholder with regard to the storage agreement.

45 (f) During the term of an agreement described under paragraph (d) of this subsection, the rep-

1 representative or person has the right to remove or sell the dwelling or home, including a sale to a
2 purchaser or a transfer to an heir or devisee where the purchaser, heir or devisee wishes to leave
3 the dwelling or home on the rented space and become a tenant, subject to any conditions previously
4 agreed to by the landlord and tenant regarding the landlord's approval for occupancy of a purchaser,
5 heir or devisee or, if there was no such agreement, any reasonable conditions by the landlord re-
6 garding approval for occupancy of any purchaser, heir or devisee who wishes to leave the dwelling
7 or home on the rented space and become a tenant. The landlord also may condition approval for
8 occupancy of any purchaser, heir or devisee of the dwelling or home upon payment of all unpaid
9 storage charges and maintenance costs.

10 (g) If the representative or person violates the storage agreement, the landlord may terminate
11 the agreement by giving at least 30 days' written notice to the representative or person stating facts
12 sufficient to notify the representative or person of the reason for the termination. Unless the rep-
13 resentative or person corrects the violation within the notice period, the agreement terminates as
14 provided and the landlord may sell or dispose of the dwelling or home without further notice to the
15 representative or person.

16 (h) Upon the failure of a representative or person to enter into a storage agreement as provided
17 by this subsection or upon termination of an agreement, unless the parties otherwise agree or the
18 representative or person has sold or removed the manufactured dwelling or floating home, the
19 landlord may sell or dispose of the property pursuant to this section without further notice to the
20 representative or person.

21 (21) If the personal property is other than a manufactured dwelling or floating home and is
22 considered abandoned as a result of the death of a tenant who was the only tenant and who owned
23 the personal property, this section applies except as follows:

24 (a) The following persons have the same rights and responsibilities regarding the abandoned
25 personal property as a tenant:

26 (A) An heir or devisee.

27 (B) Any personal representative named in a will or appointed by a court to act for the deceased
28 tenant.

29 (C) Any person designated in writing by the tenant to be contacted by the landlord in the event
30 of the tenant's death.

31 (b) The notice required by subsection (3) of this section must be:

32 (A) Sent by first class mail to the deceased tenant at the premises;

33 (B) Personally delivered or sent by first class mail to any heir, devisee, personal representative
34 or designated person, if actually known to the landlord; and

35 (C) Sent by first class mail to the attention of an estate administrator of the Department of State
36 Lands.

37 (c) The notice described in subsection (5) of this section must refer to the heir, devisee, personal
38 representative, designated person or estate administrator of the department, instead of the deceased
39 tenant, and must incorporate the provisions of this subsection.

40 (d) The landlord shall allow a person that is an heir, devisee or personal representative of the
41 tenant, or an estate administrator of the department, to remove the personal property if the person
42 contacts the landlord within the period provided by subsection (6) of this section, complies with the
43 requirements of this section and provides the landlord with reasonable evidence that the person is
44 an heir, devisee or personal representative, or an estate administrator of the department.

45 (e) If neither an heir, devisee nor personal representative of the tenant, nor an estate adminis-

1 trator of the department, contacts the landlord within the time period provided by subsection (6) of
2 this section, the landlord shall allow removal of the personal property by the designated person of
3 the tenant, if the designated person contacts the landlord within that period and complies with the
4 requirements of this section and provides the landlord with reasonable evidence that the person is
5 the designated person.

6 (f) A landlord who allows removal of personal property under this subsection is not liable to
7 another person that has a claim or interest in the personal property.

8 (22) If a governmental agency determines that the condition of a manufactured dwelling, floating
9 home or recreational vehicle abandoned under this section constitutes an extreme health or safety
10 hazard under state or local law and the agency determines that the hazard endangers others in the
11 immediate vicinity and requires quick removal of the property, the landlord may sell or dispose of
12 the property pursuant to this subsection. The landlord shall comply with all provisions of this sec-
13 tion, except as follows:

14 (a) The date provided in subsection (6) of this section by which a tenant, lienholder, owner,
15 personal representative or designated person must contact a landlord to arrange for the disposition
16 of the property must be not less than 15 days after personal delivery or mailing of the notice re-
17 quired by subsection (3) of this section.

18 (b) The date provided in subsections (8) and (9) of this section by which a tenant, lienholder,
19 owner, personal representative or designated person must remove the property must be not less than
20 seven days after the tenant, lienholder, owner, personal representative or designated person contacts
21 the landlord.

22 (c) The notice required by subsection (3) of this section must be as provided in subsection (5)
23 of this section, except that:

24 (A) The dates and deadlines in the notice for contacting the landlord and removing the property
25 must be consistent with this subsection;

26 (B) The notice must state that a governmental agency has determined that the property consti-
27 tutes an extreme health or safety hazard and must be removed quickly; and

28 (C) The landlord shall attach a copy of the agency's determination to the notice.

29 (d) If the tenant, a lienholder, owner, personal representative or designated person does not re-
30 move the property within the time allowed, the landlord or a buyer at a sale by the landlord under
31 subsection (11) of this section shall promptly remove the property from the facility.

32 (e) A landlord is not required to enter into a storage agreement with a lienholder, owner, per-
33 sonal representative or designated person pursuant to subsection (19) of this section.

34 (23)(a) If an official or agency referred to in ORS 453.876 notifies the landlord that the official
35 or agency has determined that all or part of the premises is unfit for use as a result of the presence
36 of an illegal drug manufacturing site involving methamphetamine, and the landlord complies with
37 this subsection, the landlord is not required to comply with subsections (1) to (22) and (24) to (27)
38 of this section with regard to personal property left on the portion of the premises that the official
39 or agency has determined to be unfit for use.

40 (b) Upon receiving notice from an official or agency determining the premises to be unfit for use,
41 the landlord shall promptly give written notice to the tenant as provided in subsection (3) of this
42 section. The landlord shall also attach a copy of the notice in a secure manner to the main entrance
43 of the dwelling unit. The notice to the tenant shall include a copy of the official's or agency's notice
44 and state:

45 (A) That the premises, or a portion of the premises, has been determined by an official or agency

1 to be unfit for use due to contamination from the manufacture of methamphetamine and that as a
2 result subsections (1) to (22) and (24) to (27) of this section do not apply to personal property left
3 on any portion of the premises determined to be unfit for use;

4 (B) That the landlord has hired, or will hire, a contractor to assess the level of contamination
5 of the site and to decontaminate the site;

6 (C) That upon hiring the contractor, the landlord will provide to the tenant the name, address
7 and telephone number of the contractor; and

8 (D) That the tenant may contact the contractor to determine whether any of the tenant's personal
9 property may be removed from the premises or may be decontaminated at the tenant's expense
10 and then removed.

11 (c) To the extent consistent with rules of the Department of Human Services, the contractor
12 may release personal property to the tenant.

13 (d) If the contractor and the department determine that the premises or the tenant's personal
14 property is not unfit for use, upon notification by the department of the determination, the landlord
15 shall comply with subsections (1) to (22) and (24) to (27) of this section for any personal property left
16 on the premises.

17 (e) Except as provided in paragraph (d) of this subsection, the landlord is not responsible for
18 storing or returning any personal property left on the portion of the premises that is unfit for use.

19 (24) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home
20 that is owned by someone other than the tenant, the provisions of this section regarding the rights
21 and responsibilities of a tenant to the abandoned vehicle, dwelling or home also apply to that owner,
22 with regard only to the vehicle, dwelling or home, and not to any goods left inside or outside the
23 vehicle, dwelling or home.

24 (25) In the case of an abandoned motor vehicle, the procedure authorized by ORS 98.830 and
25 98.835 for removal of abandoned motor vehicles from private property may be used by a landlord
26 as an alternative to the procedures required in this section.

27 (26)(a) A landlord may sell or dispose of a tenant's abandoned personal property without com-
28 plying with subsections (1) to (25) and (27) of this section if, after termination of the tenancy or no
29 more than seven days prior to the termination of the tenancy, the following parties so agree in a
30 writing entered into in good faith:

31 (A) The landlord;

32 (B) The tenant, or for an abandonment as the result of the death of a tenant who was the only
33 tenant, the personal representative, designated person or other person entitled to possession of the
34 personal property, such as an heir or devisee, as described in subsection (20) or (21) of this section;
35 and

36 (C) In the case of a manufactured dwelling, floating home or recreational vehicle, any owner and
37 any lienholder.

38 (b) A landlord may not, as part of a rental agreement, require a tenant, a personal represen-
39 tative, a designated person or any lienholder or owner to waive any right provided by this section.

40 (27) Until personal property is conclusively presumed to be abandoned under subsection (9) of
41 this section, a landlord does not have a lien pursuant to ORS 87.152 for storing the personal prop-
42 erty.

43 **SECTION 13.** ORS 90.675 is amended to read:

44 90.675. (1) As used in this section:

45 (a) "Current market value" means the amount in cash, as determined by the county assessor,

1 that could reasonably be expected to be paid for personal property by an informed buyer to an in-
2 formed seller, each acting without compulsion in an arm's-length transaction occurring on the as-
3 sessment date for the tax year or on the date of a subsequent reappraisal by the county assessor.

4 (b) "Dispose of the personal property" means that, if reasonably appropriate, the landlord may
5 throw away the property or may give it without consideration to a nonprofit organization or to a
6 person unrelated to the landlord. The landlord may not retain the property for personal use or
7 benefit.

8 (c) "Lienholder" means any lienholder of abandoned personal property, if the lien is of record
9 or the lienholder is actually known to the landlord.

10 (d) "Of record" means:

11 (A) For a manufactured dwelling, that a security interest has been properly recorded in the re-
12 cords of the Department of Consumer and Business Services pursuant to ORS 446.611 or on a cer-
13 tificate of title issued by the Department of Transportation prior to May 1, 2005.

14 (B) For a floating home, that a security interest has been properly recorded with the State
15 Marine Board pursuant to ORS 830.740 to 830.755 for a home registered and titled with the board
16 pursuant to ORS 830.715.

17 (e) "Personal property" means only a manufactured dwelling or floating home located in a fa-
18 cility and subject to ORS 90.505 to 90.840. "Personal property" does not include goods left inside a
19 manufactured dwelling or floating home or left upon a rented space and subject to disposition under
20 ORS 90.425.

21 (2) A landlord [*may not*] **is responsible for abandoned personal property and shall** store, sell
22 or dispose of abandoned personal property [*except*] as provided by this section. This section governs
23 the rights and obligations of landlords, tenants and any lienholders in any personal property aban-
24 doned or left upon the premises by the tenant or any lienholder in the following circumstances:

25 (a) The tenancy has ended by termination or expiration of a rental agreement or by
26 relinquishment or abandonment of the premises and the landlord reasonably believes under all the
27 circumstances that the tenant has left the personal property upon the premises with no intention
28 of asserting any further claim to the premises or to the personal property;

29 (b) The tenant has been absent from the premises continuously for seven days after termination
30 of a tenancy by a court order that has not been executed; or

31 (c) The landlord receives possession of the premises from the sheriff following restitution pur-
32 suant to ORS 105.161.

33 (3) Prior to **storing**, selling or disposing of the tenant's personal property under this section, the
34 landlord must give a written notice to the tenant that must be:

35 (a) Personally delivered to the tenant; or

36 (b) Sent by first class mail addressed and mailed to the tenant at:

37 (A) The premises;

38 (B) Any post-office box held by the tenant and actually known to the landlord; and

39 (C) The most recent forwarding address if provided by the tenant or actually known to the
40 landlord.

41 (4)(a) A landlord shall also give a copy of the notice described in subsection (3) of this section
42 to:

43 (A) Any lienholder of the personal property;

44 (B) The tax collector of the county where the personal property is located; and

45 (C) The assessor of the county where the personal property is located.

1 (b) The landlord shall give the notice copy required by this subsection by personal delivery or
2 first class mail, except that for any lienholder, mail service must be both by first class mail and by
3 certified mail with return receipt requested.

4 (c) A notice to lienholders under paragraph (a)(A) of this subsection must be sent to each
5 lienholder at each address:

6 (A) Actually known to the landlord;

7 (B) Of record; and

8 (C) Provided to the landlord by the lienholder in a written notice that identifies the personal
9 property subject to the lien and that was sent to the landlord by certified mail with return receipt
10 requested within the preceding five years. The notice must identify the personal property by de-
11 scribing the physical address of the property.

12 (5) The notice required under subsection (3) of this section must state that:

13 (a) The personal property left upon the premises is considered abandoned;

14 (b) The tenant or any lienholder must contact the landlord by a specified date, as provided in
15 subsection (6) of this section, to arrange for the removal of the abandoned personal property;

16 (c) The personal property is stored on the rented space;

17 (d) The tenant or any lienholder, except as provided by subsection (18) of this section, may ar-
18 range for removal of the personal property by contacting the landlord at a described telephone
19 number or address on or before the specified date;

20 (e) The landlord shall make the personal property available for removal by the tenant or any
21 lienholder, except as provided by subsection (18) of this section, by appointment at reasonable times;

22 (f) If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b)
23 of this section, the landlord may require payment of storage charges, as provided by subsection (7)(b)
24 of this section, prior to releasing the personal property to the tenant or any lienholder;

25 (g) If the personal property is considered to be abandoned pursuant to subsection (2)(c) of this
26 section, the landlord may not require payment of storage charges prior to releasing the personal
27 property;

28 (h) If the tenant or any lienholder fails to contact the landlord by the specified date or fails to
29 remove the personal property within 30 days after that contact, the landlord may sell or dispose of
30 the personal property. If the landlord reasonably believes the county assessor will determine that
31 the current market value of the personal property is \$8,000 or less, and the landlord intends to
32 dispose of the property if the property is not claimed, the notice shall state that belief and intent;
33 and

34 (i) If applicable, there is a lienholder that has a right to claim the personal property, except as
35 provided by subsection (18) of this section.

36 (6) For purposes of subsection (5) of this section, the specified date by which a tenant or
37 lienholder must contact a landlord to arrange for the disposition of abandoned personal property
38 must be not less than 45 days after personal delivery or mailing of the notice.

39 (7) After notifying the tenant as required by subsection (3) of this section, the landlord:

40 (a) Shall store the abandoned personal property of the tenant on the rented space and shall ex-
41 ercise reasonable care for the personal property; and

42 (b) Is entitled to reasonable or actual storage charges and costs incidental to storage or dis-
43 posal. The storage charge may be no greater than the monthly space rent last payable by the tenant.

44 (8) If a tenant or lienholder, upon the receipt of the notice provided by subsection (3) or (4) of
45 this section or otherwise, responds by actual notice to the landlord on or before the specified date

1 in the landlord's notice that the tenant or lienholder intends to remove the personal property from
 2 the premises, the landlord must make that personal property available for removal by the tenant or
 3 lienholder by appointment at reasonable times during the 30 days following the date of the response,
 4 subject to subsection (18) of this section. If the personal property is considered to be abandoned
 5 pursuant to subsection (2)(a) or (b) of this section, but not pursuant to subsection (2)(c) of this sec-
 6 tion, the landlord may require payment of storage charges, as provided in subsection (7)(b) of this
 7 section, prior to allowing the tenant or lienholder to remove the personal property. Acceptance by
 8 a landlord of such payment does not operate to create or reinstate a tenancy or create a waiver
 9 pursuant to ORS 90.412 or 90.417.

10 (9) Except as provided in subsections (18) to (20) of this section, if the tenant or lienholder does
 11 not respond within the time provided by the landlord's notice, or the tenant or lienholder does not
 12 remove the personal property within 30 days after responding to the landlord or by any date agreed
 13 to with the landlord, whichever is later, the personal property is conclusively presumed to be
 14 abandoned. The tenant and any lienholder that have been given notice pursuant to subsection (3)
 15 or (4) of this section shall, except with regard to the distribution of sale proceeds pursuant to sub-
 16 section (13) of this section, have no further right, title or interest to the personal property and may
 17 not claim or sell the property.

18 (10) If the personal property is presumed to be abandoned under subsection (9) of this section,
 19 the landlord then may:

20 (a) Sell the personal property at a public or private sale, provided that prior to the sale:

21 (A) The landlord may seek to transfer ownership of record of the personal property by comply-
 22 ing with the requirements of the appropriate state agency; and

23 (B) The landlord shall:

24 (i) Place a notice in a newspaper of general circulation in the county in which the personal
 25 property is located. The notice shall state:

26 (I) That the personal property is abandoned;

27 (II) The tenant's name;

28 (III) The address and any space number where the personal property is located, and any plate,
 29 registration or other identification number for a floating home noted on the title, if actually known
 30 to the landlord;

31 (IV) Whether the sale is by private bidding or public auction;

32 (V) Whether the landlord is accepting sealed bids and, if so, the last date on which bids will be
 33 accepted; and

34 (VI) The name and telephone number of the person to contact to inspect the personal property;

35 (ii) At a reasonable time prior to the sale, give a copy of the notice required by sub-
 36 subparagraph (i) of this subparagraph to the tenant and to any lienholder, by personal delivery or
 37 first class mail, except that for any lienholder, mail service must be by first class mail with certif-
 38 icate of mailing;

39 (iii) Obtain an affidavit of publication from the newspaper to show that the notice required un-
 40 der sub-subparagraph (i) of this subparagraph ran in the newspaper at least one day in each of two
 41 consecutive weeks prior to the date scheduled for the sale or the last date bids will be accepted;
 42 and

43 (iv) Obtain written proof from the county that all property taxes and assessments on the per-
 44 sonal property have been paid or, if not paid, that the county has authorized the sale, with the sale
 45 proceeds to be distributed pursuant to subsection (13) of this section; or

1 (b) Destroy or otherwise dispose of the personal property if the landlord determines from the
2 county assessor that the current market value of the property is \$8,000 or less.

3 (11)(a) A public or private sale authorized by this section must be conducted consistent with the
4 terms listed in subsection (10)(a)(B)(i) of this section. Every aspect of the sale including the method,
5 manner, time, place and terms must be commercially reasonable.

6 (b) If there is no buyer at a sale described under paragraph (a) of this subsection, the personal
7 property is considered to be worth \$8,000 or less, regardless of current market value, and the land-
8 lord shall destroy or otherwise dispose of the personal property.

9 (12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord intentionally misrepresents the
10 condition of personal property, the landlord is not liable for the condition of the personal property
11 to:

12 (a) A buyer of the personal property at a sale pursuant to subsection (10)(a) of this section, with
13 or without consideration; or

14 (b) A person or nonprofit organization to whom the landlord gives the personal property pursu-
15 ant to subsection (1)(b), (10)(b) or (11)(b) of this section.

16 (13)(a) The landlord may deduct from the proceeds of the sale:

17 (A) The reasonable or actual cost of notice, storage and sale; and

18 (B) Unpaid rent.

19 (b) After deducting the amounts listed in paragraph (a) of this subsection, the landlord shall
20 remit the remaining proceeds, if any, to the county tax collector to the extent of any unpaid prop-
21 erty taxes and assessments owed on the dwelling or home.

22 (c) After deducting the amounts listed in paragraphs (a) and (b) of this subsection, if applicable,
23 the landlord shall remit the remaining proceeds, if any, to any lienholder to the extent of any unpaid
24 balance owed on the lien on the personal property.

25 (d) After deducting the amounts listed in paragraphs (a), (b) and (c) of this subsection, if appli-
26 cable, the landlord shall remit to the tenant the remaining proceeds, if any, together with an item-
27 ized accounting.

28 (e) If the tenant cannot after due diligence be found, the landlord shall deposit the remaining
29 proceeds with the county treasurer of the county in which the sale occurred. If not claimed within
30 three years, the deposited proceeds revert to the general fund of the county and are available for
31 general purposes.

32 (14) The county tax collector shall cancel all unpaid property taxes and assessments as provided
33 under ORS 311.790 only under one of the following circumstances:

34 (a) The landlord disposes of the personal property after a determination described in subsection
35 (10)(b) of this section.

36 (b) There is no buyer of the personal property at a sale described under subsection (11) of this
37 section.

38 (c)(A) There is a buyer of the personal property at a sale described under subsection (11) of this
39 section;

40 (B) The current market value of the personal property is \$8,000 or less; and

41 (C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments
42 owed on the personal property after distribution of the proceeds pursuant to subsection (13) of this
43 section.

44 (d)(A) The landlord buys the personal property at a sale described under subsection (11) of this
45 section;

1 (B) The current market value of the personal property is more than \$8,000;

2 (C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments
3 owed on the personal property after distribution of the proceeds pursuant to subsection (13) of this
4 section; and

5 (D) The landlord disposes of the personal property.

6 (15) The landlord is not responsible for any loss to the tenant or lienholder resulting from
7 storage of personal property in compliance with this section unless the loss was caused by the
8 landlord's deliberate or negligent act. In the event of a deliberate and malicious violation, the
9 landlord is liable for twice the actual damages sustained by the tenant or lienholder.

10 (16) Complete compliance in good faith with this section shall constitute a complete defense in
11 any action brought by a tenant or lienholder against a landlord for loss or damage to such personal
12 property disposed of pursuant to this section.

13 (17) If a landlord does not comply with this section:

14 (a) The tenant is relieved of any liability for damage to the premises caused by conduct that
15 was not deliberate, intentional or grossly negligent and for unpaid rent and may recover from the
16 landlord up to twice the actual damages sustained by the tenant;

17 (b) A lienholder aggrieved by the noncompliance may recover from the landlord the actual
18 damages sustained by the lienholder. ORS 90.255 does not authorize an award of attorney fees to
19 the prevailing party in any action arising under this paragraph; and

20 (c) A county tax collector aggrieved by the noncompliance may recover from the landlord the
21 actual damages sustained by the tax collector, if the noncompliance is part of an effort by the
22 landlord to defraud the tax collector. ORS 90.255 does not authorize an award of attorney fees to
23 the prevailing party in any action arising under this paragraph.

24 (18) The provisions of this section regarding the rights and responsibilities of a tenant to the
25 abandoned personal property also apply to any lienholder, except that the lienholder may not sell
26 or remove the dwelling or home unless:

27 (a) The lienholder has foreclosed the lien on the manufactured dwelling or floating home;

28 (b) The tenant or a personal representative or designated person described in subsection (20)
29 of this section has waived all rights under this section pursuant to subsection (22) of this section;
30 or

31 (c) The notice and response periods provided by subsections (6) and (8) of this section have ex-
32 pired.

33 (19)(a) Except as provided by subsection (20)(d) and (e) of this section, if a lienholder makes a
34 timely response to a notice of abandoned personal property pursuant to subsections (6) and (8) of
35 this section and so requests, a landlord shall enter into a written storage agreement with the
36 lienholder providing that the personal property may not be sold or disposed of by the landlord for
37 up to 12 months. A storage agreement entitles the lienholder to store the personal property on the
38 previously rented space during the term of the agreement, but does not entitle anyone to occupy the
39 personal property.

40 (b) The lienholder's right to a storage agreement arises upon the failure of the tenant or, in the
41 case of a deceased tenant, the personal representative, designated person, heir or devisee to remove
42 or sell the dwelling or home within the allotted time.

43 (c) To exercise the right to a storage agreement under this subsection, in addition to contacting
44 the landlord with a timely response as described in paragraph (a) of this subsection, the lienholder
45 must enter into the proposed storage agreement within 60 days after the landlord gives a copy of

1 the agreement to the lienholder. The landlord shall give a copy of the proposed storage agreement
2 to the lienholder in the same manner as provided by subsection (4)(b) of this section. The landlord
3 may include a copy of the proposed storage agreement with the notice of abandoned property re-
4 quired by subsection (4) of this section. A lienholder enters into a storage agreement by signing a
5 copy of the agreement provided by the landlord and personally delivering or mailing the signed copy
6 to the landlord within the 60-day period.

7 (d) The storage agreement may require, in addition to other provisions agreed to by the landlord
8 and the lienholder, that:

9 (A) The lienholder make timely periodic payment of all storage charges, as described in sub-
10 section (7)(b) of this section, accruing from the commencement of the 45-day period described in
11 subsection (6) of this section. A storage charge may include a utility or service charge, as described
12 in ORS 90.532, if limited to charges for electricity, water, sewer service and natural gas and if in-
13 cidental to the storage of personal property. A storage charge may not be due more frequently than
14 monthly;

15 (B) The lienholder pay a late charge or fee for failure to pay a storage charge by the date re-
16 quired in the agreement, if the amount of the late charge is no greater than for late charges imposed
17 on facility tenants;

18 (C) The lienholder maintain the personal property and the space on which the personal property
19 is stored in a manner consistent with the rights and obligations described in the rental agreement
20 that the landlord currently provides to tenants as required by ORS 90.510 (4); and

21 (D) The lienholder repair any defects in the physical condition of the personal property that
22 existed prior to the lienholder entering into the storage agreement, if the defects and necessary re-
23 pairs are reasonably described in the storage agreement and, for homes that were first placed on
24 the space within the previous 24 months, the repairs are reasonably consistent with facility stan-
25 dards in effect at the time of placement. The lienholder shall have 90 days after entering into the
26 storage agreement to make the repairs. Failure to make the repairs within the allotted time consti-
27 tutes a violation of the storage agreement and the landlord may terminate the agreement by giving
28 at least 14 days' written notice to the lienholder stating facts sufficient to notify the lienholder of
29 the reason for termination. Unless the lienholder corrects the violation within the notice period, the
30 agreement terminates as provided and the landlord may sell or dispose of the property without fur-
31 ther notice to the lienholder.

32 (e) Notwithstanding subsection (7)(b) of this section, a landlord may increase the storage charge
33 if the increase is part of a facility-wide rent increase for all facility tenants, the increase is no
34 greater than the increase for other tenants and the landlord gives the lienholder written notice
35 consistent with the requirements of ORS 90.600 (1).

36 (f) During the term of an agreement described under this subsection, the lienholder has the right
37 to remove or sell the property, subject to the provisions of the lien. Selling the property includes a
38 sale to a purchaser who wishes to leave the property on the rented space and become a tenant,
39 subject to the provisions of ORS 90.680. The landlord may condition approval for occupancy of any
40 purchaser of the property upon payment of all unpaid storage charges and maintenance costs.

41 (g)(A) Except as provided in paragraph (d)(D) of this subsection, if the lienholder violates the
42 storage agreement, the landlord may terminate the agreement by giving at least 90 days' written
43 notice to the lienholder stating facts sufficient to notify the lienholder of the reason for the termi-
44 nation. Unless the lienholder corrects the violation within the notice period, the agreement termi-
45 nates as provided and the landlord may sell or dispose of the property without further notice to the

1 lienholder.

2 (B) After a landlord gives a termination notice pursuant to subparagraph (A) of this paragraph
3 for failure of the lienholder to pay a storage charge and the lienholder corrects the violation, if the
4 lienholder again violates the storage agreement by failing to pay a subsequent storage charge, the
5 landlord may terminate the agreement by giving at least 30 days' written notice to the lienholder
6 stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder
7 corrects the violation within the notice period, the agreement terminates as provided and the land-
8 lord may sell or dispose of the property without further notice to the lienholder.

9 (C) A lienholder may terminate a storage agreement at any time upon at least 14 days' written
10 notice to the landlord and may remove the property from the facility if the lienholder has paid all
11 storage charges and other charges as provided in the agreement.

12 (h) Upon the failure of a lienholder to enter into a storage agreement as provided by this sub-
13 section or upon termination of an agreement, unless the parties otherwise agree or the lienholder
14 has sold or removed the property, the landlord may sell or dispose of the property pursuant to this
15 section without further notice to the lienholder.

16 (20) If the personal property is considered abandoned as a result of the death of a tenant who
17 was the only tenant, this section applies, except as follows:

18 (a) The provisions of this section regarding the rights and responsibilities of a tenant to the
19 abandoned personal property shall apply to any personal representative named in a will or appointed
20 by a court to act for the deceased tenant or any person designated in writing by the tenant to be
21 contacted by the landlord in the event of the tenant's death.

22 (b) The notice required by subsection (3) of this section must be:

23 (A) Sent by first class mail to the deceased tenant at the premises; and

24 (B) Personally delivered or sent by first class mail to any personal representative or designated
25 person if actually known to the landlord.

26 (c) The notice described in subsection (5) of this section must refer to any personal represen-
27 tative or designated person, instead of the deceased tenant, and must incorporate the provisions of
28 this subsection.

29 (d) If a personal representative, designated person or other person entitled to possession of the
30 property, such as an heir or devisee, responds by actual notice to a landlord within the 45-day period
31 provided by subsection (6) of this section and so requests, the landlord shall enter into a written
32 storage agreement with the representative or person providing that the personal property may not
33 be sold or disposed of by the landlord for up to 90 days or until conclusion of any probate pro-
34 ceedings, whichever is later. A storage agreement entitles the representative or person to store the
35 personal property on the previously rented space during the term of the agreement, but does not
36 entitle anyone to occupy the personal property. If such an agreement is entered, the landlord may
37 not enter a similar agreement with a lienholder pursuant to subsection (19) of this section until the
38 agreement with the personal representative or designated person ends.

39 (e) If a personal representative or other person requests that a landlord enter into a storage
40 agreement, subsection (19)(c) to (e) and (g)(C) of this section applies, with the representative or
41 person having the rights and responsibilities of a lienholder with regard to the storage agreement.

42 (f) During the term of an agreement described under paragraph (d) of this subsection, the rep-
43 resentative or person has the right to remove or sell the property, including a sale to a purchaser
44 or a transfer to an heir or devisee where the purchaser, heir or devisee wishes to leave the property
45 on the rented space and become a tenant, subject to the provisions of ORS 90.680. The landlord also

1 may condition approval for occupancy of any purchaser, heir or devisee of the property upon pay-
2 ment of all unpaid storage charges and maintenance costs.

3 (g) If the representative or person violates the storage agreement, the landlord may terminate
4 the agreement by giving at least 30 days' written notice to the representative or person stating facts
5 sufficient to notify the representative or person of the reason for the termination. Unless the rep-
6 resentative or person corrects the violation within the notice period, the agreement terminates as
7 provided and the landlord may sell or dispose of the property without further notice to the repre-
8 sentative or person.

9 (h) Upon the failure of a representative or person to enter into a storage agreement as provided
10 by this subsection or upon termination of an agreement, unless the parties otherwise agree or the
11 representative or person has sold or removed the property, the landlord may sell or dispose of the
12 property pursuant to this section without further notice to the representative or person.

13 (21) If a governmental agency determines that the condition of personal property abandoned
14 under this section constitutes an extreme health or safety hazard under state or local law and the
15 agency determines that the hazard endangers others in the facility and requires quick removal of
16 the property, the landlord may sell or dispose of the property pursuant to this subsection. The
17 landlord shall comply with all provisions of this section, except as follows:

18 (a) The date provided in subsection (6) of this section by which a tenant, lienholder, personal
19 representative or designated person must contact a landlord to arrange for the disposition of the
20 property must be not less than 15 days after personal delivery or mailing of the notice required by
21 subsection (3) of this section.

22 (b) The date provided in subsections (8) and (9) of this section by which a tenant, lienholder,
23 personal representative or designated person must remove the property must be not less than seven
24 days after the tenant, lienholder, personal representative or designated person contacts the landlord.

25 (c) The notice required by subsection (3) of this section must be as provided in subsection (5)
26 of this section, except that:

27 (A) The dates and deadlines in the notice for contacting the landlord and removing the property
28 must be consistent with this subsection;

29 (B) The notice must state that a governmental agency has determined that the property consti-
30 tutes an extreme health or safety hazard and must be removed quickly; and

31 (C) The landlord shall attach a copy of the agency's determination to the notice.

32 (d) If the tenant, a lienholder or a personal representative or designated person does not remove
33 the property within the time allowed, the landlord or a buyer at a sale by the landlord under sub-
34 section (11) of this section shall promptly remove the property from the facility.

35 (e) A landlord is not required to enter into a storage agreement with a lienholder, personal
36 representative or designated person pursuant to subsection (19) of this section.

37 (22)(a) A landlord may sell or dispose of a tenant's abandoned personal property without com-
38 plying with the provisions of this section if, after termination of the tenancy or no more than seven
39 days prior to the termination of the tenancy, the following parties so agree in a writing entered into
40 in good faith:

41 (A) The landlord;

42 (B) The tenant, or for an abandonment as the result of the death of a tenant who was the only
43 tenant, the personal representative, designated person or other person entitled to possession of the
44 personal property, such as an heir or devisee, as described in subsection (20) of this section; and

45 (C) Any lienholder.

1 (b) A landlord may not, as part of a rental agreement, as a condition to approving a sale of
2 property on rented space under ORS 90.680 or in any other manner, require a tenant, a personal
3 representative, a designated person or any lienholder to waive any right provided by this section.

4 (23) Until personal property is conclusively presumed to be abandoned under subsection (9) of
5 this section, a landlord does not have a lien pursuant to ORS 87.152 for storing the personal prop-
6 erty.

7 **SECTION 14.** ORS 90.100 is amended to read:

8 90.100. As used in this chapter, unless the context otherwise requires:

9 (1) "Accessory building or structure" means any portable, demountable or permanent structure,
10 including but not limited to cabanas, ramadas, storage sheds, garages, awnings, carports, decks,
11 steps, ramps, piers and pilings, that is:

12 (a) Owned and used solely by a tenant of a manufactured dwelling or floating home; or

13 (b) Provided pursuant to a written rental agreement for the sole use of and maintenance by a
14 tenant of a manufactured dwelling or floating home.

15 (2) "Action" includes recoupment, counterclaim, setoff, suit in equity and any other proceeding
16 in which rights are determined, including an action for possession.

17 (3) "Applicant screening charge" means any payment of money required by a landlord of an
18 applicant prior to entering into a rental agreement with that applicant for a residential dwelling
19 unit, the purpose of which is to pay the cost of processing an application for a rental agreement for
20 a residential dwelling unit.

21 (4) "Building and housing codes" includes any law, ordinance or governmental regulation con-
22 cerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or ap-
23 pearance of any premises or dwelling unit.

24 (5) "Carbon monoxide alarm" has the meaning given that term in ORS 105.836.

25 (6) "Carbon monoxide source" has the meaning given that term in ORS 105.836.

26 (7) "Conduct" means the commission of an act or the failure to act.

27 (8) "Dealer" means any person in the business of selling, leasing or distributing new or used
28 manufactured dwellings or floating homes to persons who purchase or lease a manufactured dwelling
29 or floating home for use as a residence.

30 (9) "Domestic violence" means:

31 (a) Abuse between family or household members, as those terms are defined in ORS 107.705; or

32 (b) Abuse, as defined in ORS 107.705, between partners in a dating relationship.

33 (10) "Drug and alcohol free housing" means a dwelling unit described in ORS 90.243.

34 (11) "Dwelling unit" means a structure or the part of a structure that is used as a home, resi-
35 dence or sleeping place by one person who maintains a household or by two or more persons who
36 maintain a common household. "Dwelling unit" regarding a person who rents a space for a manu-
37 factured dwelling or recreational vehicle or regarding a person who rents moorage space for a
38 floating home as defined in ORS 830.700, but does not rent the home, means the space rented and
39 not the manufactured dwelling, recreational vehicle or floating home itself.

40 (12) "Essential service" means:

41 (a) For a tenancy not consisting of rental space for a manufactured dwelling, floating home or
42 recreational vehicle owned by the tenant and not otherwise subject to ORS 90.505 to 90.840:

43 (A) Heat, plumbing, hot and cold running water, gas, electricity, light fixtures, locks for exterior
44 doors, latches for windows and any cooking appliance or refrigerator supplied or required to be
45 supplied by the landlord; and

1 (B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.320,
2 the lack or violation of which creates a serious threat to the tenant's health, safety or property or
3 makes the dwelling unit unfit for occupancy.

4 (b) For a tenancy consisting of rental space for a manufactured dwelling, floating home or rec-
5 reational vehicle owned by the tenant or that is otherwise subject to ORS 90.505 to 90.840:

6 (A) Sewage disposal, water supply, electrical supply and, if required by applicable law, any
7 drainage system; and

8 (B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.730,
9 the lack or violation of which creates a serious threat to the tenant's health, safety or property or
10 makes the rented space unfit for occupancy.

11 (13) "Facility" means a manufactured dwelling park or a marina.

12 (14) "Facility purchase association" means a group of three or more tenants who reside in a
13 facility and have organized for the purpose of eventual purchase of the facility.

14 (15) "Fee" means a nonrefundable payment of money.

15 (16) "First class mail" does not include certified or registered mail, or any other form of mail
16 that may delay or hinder actual delivery of mail to the recipient.

17 (17) "Fixed term tenancy" means a tenancy that has a fixed term of existence, continuing to a
18 specific ending date and terminating on that date without requiring further notice to effect the ter-
19 mination.

20 (18) "Floating home" has the meaning given that term in ORS 830.700. "Floating home" includes
21 an accessory building or structure.

22 (19) "Good faith" means honesty in fact in the conduct of the transaction concerned.

23 (20) "Hotel or motel" means "hotel" as that term is defined in ORS 699.005.

24 (21) "Informal dispute resolution" means, but is not limited to, consultation between the landlord
25 or landlord's agent and one or more tenants, or mediation utilizing the services of a third party.

26 (22) "Landlord" means the owner, lessor or sublessor of the dwelling unit or the building or
27 premises of which it is a part. "Landlord" includes a person who is authorized by the owner, lessor
28 or sublessor to manage the premises or to enter into a rental agreement.

29 (23) "Landlord's agent" means a person who has oral or written authority, either express or
30 implied, to act for or on behalf of a landlord.

31 (24) "Last month's rent deposit" means a type of security deposit, however designated, the pri-
32 mary function of which is to secure the payment of rent for the last month of the tenancy.

33 (25) "Manufactured dwelling" means a residential trailer, a mobile home or a manufactured
34 home as those terms are defined in ORS 446.003. "Manufactured dwelling" includes an accessory
35 building or structure. "Manufactured dwelling" does not include a recreational vehicle.

36 (26) "Manufactured dwelling park" means a place where four or more manufactured dwellings
37 are located, the primary purpose of which is to rent space or keep space for rent to any person for
38 a charge or fee.

39 (27) "Marina" means a moorage of contiguous dwelling units that may be legally transferred as
40 a single unit and are owned by one person where four or more floating homes are secured, the pri-
41 mary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

42 (28) "Month-to-month tenancy" means a tenancy that automatically renews and continues for
43 successive monthly periods on the same terms and conditions originally agreed to, or as revised by
44 the parties, until terminated by one or both of the parties.

45 (29) "Organization" includes a corporation, government, governmental subdivision or agency,

1 business trust, estate, trust, partnership or association, two or more persons having a joint or com-
2 mon interest, and any other legal or commercial entity.

3 (30) "Owner" includes a mortgagee in possession and means one or more persons, jointly or se-
4 verally, in whom is vested:

5 (a) All or part of the legal title to property; or

6 (b) All or part of the beneficial ownership and a right to present use and enjoyment of the
7 premises.

8 (31) "Person" includes an individual or organization.

9 (32) "Premises" means:

10 (a) A dwelling unit and the structure of which it is a part and facilities and appurtenances
11 therein;

12 (b) Grounds, areas and facilities held out for the use of tenants generally or the use of which
13 is promised to the tenant; and

14 (c) A facility for manufactured dwellings or floating homes.

15 (33) "Prepaid rent" means any payment of money to the landlord for a rent obligation not yet
16 due. In addition, "prepaid rent" means rent paid for a period extending beyond a termination date.

17 (34) "Recreational vehicle" has the meaning given that term in ORS 446.003.

18 (35) "Rent" means any payment to be made to the landlord under the rental agreement, periodic
19 or otherwise, in exchange for the right of a tenant and any permitted pet to occupy a dwelling unit
20 to the exclusion of others **and to use the premises**. "Rent" does not include security deposits, fees
21 or utility or service charges as described in ORS 90.315 (4) and 90.532.

22 (36) "Rental agreement" means all agreements, written or oral, and valid rules and regulations
23 adopted under ORS 90.262 or 90.510 (6) embodying the terms and conditions concerning the use and
24 occupancy of a dwelling unit and premises. "Rental agreement" includes a lease. A rental agreement
25 shall be either a week-to-week tenancy, month-to-month tenancy or fixed term tenancy.

26 (37) "Roomer" means a person occupying a dwelling unit that does not include a toilet and ei-
27 ther a bathtub or a shower and a refrigerator, stove and kitchen, all provided by the landlord, and
28 where one or more of these facilities are used in common by occupants in the structure.

29 (38) "Screening or admission criteria" means a written statement of any factors a landlord
30 considers in deciding whether to accept or reject an applicant and any qualifications required for
31 acceptance. "Screening or admission criteria" includes, but is not limited to, the rental history,
32 character references, public records, criminal records, credit reports, credit references and incomes
33 or resources of the applicant.

34 (39) "Security deposit" means a refundable payment or deposit of money, however designated,
35 the primary function of which is to secure the performance of a rental agreement or any part of a
36 rental agreement. "Security deposit" does not include a fee.

37 (40) "Sexual assault" has the meaning given that term in ORS 147.450.

38 (41) "Squatter" means a person occupying a dwelling unit who is not so entitled under a rental
39 agreement or who is not authorized by the tenant to occupy that dwelling unit. "Squatter" does
40 not include a tenant who holds over as described in ORS 90.427 (7).

41 (42) "Stalking" means the behavior described in ORS 163.732.

42 (43) "Statement of policy" means the summary explanation of information and facility policies
43 to be provided to prospective and existing tenants under ORS 90.510.

44 (44) "Surrender" means an agreement, express or implied, as described in ORS 90.148 between
45 a landlord and tenant to terminate a rental agreement that gave the tenant the right to occupy a

1 dwelling unit.

2 (45) "Tenant":

3 (a) Except as provided in paragraph (b) of this subsection:

4 (A) Means a person, including a roomer, entitled under a rental agreement to occupy a dwelling
5 unit to the exclusion of others, including a dwelling unit owned, operated or controlled by a public
6 housing authority.

7 (B) Means a minor, as defined and provided for in ORS 109.697.

8 (b) For purposes of ORS 90.505 to 90.840, means only a person who owns and occupies as a
9 residence a manufactured dwelling or a floating home in a facility and persons residing with that
10 tenant under the terms of the rental agreement.

11 (c) Does not mean a guest or temporary occupant.

12 (46) "Transient lodging" means a room or a suite of rooms.

13 (47) "Transient occupancy" means occupancy in transient lodging that has all of the following
14 characteristics:

15 (a) Occupancy is charged on a daily basis and is not collected more than six days in advance;

16 (b) The lodging operator provides maid and linen service daily or every two days as part of the
17 regularly charged cost of occupancy; and

18 (c) The period of occupancy does not exceed 30 days.

19 (48) "Vacation occupancy" means occupancy in a dwelling unit, not including transient occu-
20 pancy in a hotel or motel, that has all of the following characteristics:

21 (a) The occupant rents the unit for vacation purposes only, not as a principal residence;

22 (b) The occupant has a principal residence other than at the unit; and

23 (c) The period of authorized occupancy does not exceed 45 days.

24 (49) "Victim" means:

25 (a) The person against whom an incident related to domestic violence, sexual assault or stalking
26 is perpetrated; or

27 (b) The parent or guardian of a minor household member against whom an incident related to
28 domestic violence, sexual assault or stalking is perpetrated, unless the parent or guardian is the
29 perpetrator.

30 (50) "Week-to-week tenancy" means a tenancy that has all of the following characteristics:

31 (a) Occupancy is charged on a weekly basis and is payable no less frequently than every seven
32 days;

33 (b) There is a written rental agreement that defines the landlord's and the tenant's rights and
34 responsibilities under this chapter; and

35 (c) There are no fees or security deposits, although the landlord may require the payment of an
36 applicant screening charge, as provided in ORS 90.295.

37 **SECTION 15.** ORS 105.120 is amended to read:

38 105.120. (1) As used in this section, "rent" does not include funds paid under the United States
39 Housing Act of 1937 (42 U.S.C. 1437f).

40 (2) Except as provided in subsection (3) of this section, an action for the recovery of the pos-
41 session of the premises may be maintained in cases provided in ORS 105.115 (1)(b), when the notice
42 to terminate the tenancy or to quit has been served upon the tenant or person in possession in the
43 manner prescribed by ORS 91.110 and for the period prescribed by ORS 91.060 to 91.080 before the
44 commencement of the action, unless the leasing or occupation is for the purpose of farming or ag-
45 riculture, in which case the notice must be served for a period of 90 days before the commencement

1 of the action. Any person entering into the possession of real estate under written lease as the
2 tenant of another may, by the terms of the lease, waive the giving of any notice required by this
3 subsection.

4 (3) An action for the recovery of the possession of a dwelling unit to which ORS chapter 90
5 applies may be maintained in situations described in ORS 105.115 (2) when the notice to terminate
6 the tenancy or to quit has been served by the tenant upon the landlord or by the landlord upon the
7 tenant or person in possession in the manner prescribed by ORS 90.155.

8 (4) Except when a tenancy involves a dwelling unit subject to ORS chapter 90, the service of a
9 notice to quit upon a tenant or person in possession does not authorize an action to be maintained
10 against the tenant or person in possession for the possession of premises before the expiration of
11 any period for which the tenant or person has paid the rent of the premises in advance.

12 (5) An action to recover possession of a dwelling unit subject to ORS chapter 90 may not be
13 brought or filed against a tenant or person in possession based upon a notice under ORS 90.427 to
14 terminate the tenancy until after the expiration of any period for which the tenant or person has
15 paid the rent of the dwelling unit in advance, unless:

16 (a) The only other money paid by the tenant was collected as a last month's rent deposit as
17 provided under ORS 90.300; or

18 (b) The only unused rent was paid by the tenant for a rental period extending beyond the ter-
19 mination date specified in a valid outstanding notice to terminate the tenancy and the landlord re-
20 funded the unused rent within *[six]* **10** days after receipt by delivering the unused rent to the tenant
21 in person or by first class mailing.

22