

**PROPOSED AMENDMENTS TO
SENATE BILL 91**

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest
2 of the line and insert “creating new provisions; and amending 90.100, 90.160,
3 90.275, 90.295, 90.300, 90.302, 90.320, 90.367, 90.390, 90.425, 90.675 and
4 105.120.”.

5 Delete lines 4 through 30 and delete page 2 and insert:

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

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

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

14 **“(a) Shall advise an applicant in writing of a requirement to obtain**
15 **and maintain renter’s liability insurance and the amount of insurance**
16 **required.**

17 **“(b) May require an applicant to provide documentation of renter’s**
18 **liability insurance coverage before the tenancy begins.**

19 **“(3) For an existing month-to-month tenancy, the landlord may**
20 **amend a written rental agreement to require renter’s liability insur-**
21 **ance after giving the tenant at least 30 days’ written notice of the re-**
22 **quirement. If the tenant does not obtain renter’s liability insurance**

1 **within the 30-day period:**

2 **“(a) The landlord may terminate the tenancy pursuant to ORS**
3 **90.392; and**

4 **“(b) The tenant may cure the cause of the termination as provided**
5 **by ORS 90.392 by obtaining insurance.**

6 **“(4) A landlord may require documentation that the tenant main-**
7 **tains the renter’s liability insurance on a periodic basis related to the**
8 **coverage period of the renter’s liability insurance policy or more fre-**
9 **quently if the landlord reasonably believes that the insurance policy**
10 **is no longer in effect.**

11 **“(5) A landlord may require that a tenant obtain or maintain**
12 **renter’s liability insurance only if the landlord obtains and maintains**
13 **comparable liability insurance and provides documentation to any**
14 **tenant who requests the documentation, orally or in writing. The**
15 **landlord may provide documentation to a tenant in person, by mail**
16 **or by posting in a common area or office. The documentation may**
17 **consist of a current certificate of coverage. A written rental agree-**
18 **ment that requires a tenant to obtain and maintain renter’s liability**
19 **insurance must include a description of the requirements of this sub-**
20 **section.**

21 **“(6) Neither a landlord nor a tenant shall make unreasonable de-**
22 **mands that have the effect of harassing the other with regard to pro-**
23 **viding documentation of insurance coverage.**

24 **“(7) A landlord may not:**

25 **“(a) Require that a tenant obtain renter’s liability insurance from**
26 **a particular insurer;**

27 **“(b) Require that a tenant name the landlord as an additional in-**
28 **sured or as having any other special status on the tenant’s renter’s**
29 **liability insurance policy;**

30 **“(c) Require that a tenant waive the insurer’s subrogation rights;**

1 or

2 “(d) Make a claim against the tenant’s renter’s liability insurance
3 unless:

4 “(A) The claim is for damages or costs for which the tenant is le-
5 gally liable and not for damages or costs that result from ordinary
6 wear and tear, acts of God or the conduct of the landlord;

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

9 “(C) The landlord provides a copy of the claim to the tenant
10 contemporaneous with filing the claim with the insurer.

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

17 “(9) A landlord may not require a tenant to obtain or maintain
18 renter’s liability insurance if the dwelling unit of the tenant has been
19 subsidized with public funds:

20 “(a) Including federal or state tax credits, federal block grants au-
21 thorized in the HOME Investment Partnerships Act under Title II of
22 the Cranston-Gonzalez National Affordable Housing Act, as amended,
23 or the Community Development Block Grant program authorized in
24 the Housing and Community Development Act of 1974, as amended,
25 and tax-exempt bonds.

26 “(b) Not including federal rent subsidy payments under 42 U.S.C.
27 1437f.

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

1 “(11) If a landlord files a frivolous claim against the renter’s liabil-
2 ity insurance of a tenant, the tenant may recover from the landlord
3 the actual damages of the tenant plus \$500.

4 “(12) This section does not:

5 “(a) Affect rights or obligations otherwise provided in this chapter
6 or in the rental agreement.

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

8 “SECTION 3. (1) When evaluating an applicant, a landlord may not
9 consider an action to recover possession pursuant to ORS 105.105 to
10 105.168 if the action:

11 “(a) Was dismissed or resulted in a general judgment for the appli-
12 cant before the applicant submits the application. This paragraph does
13 not apply if the action has not resulted in a dismissal or general
14 judgment at the time the applicant submits the application.

15 “(b) Resulted in a general judgment against the applicant that was
16 entered five or more years before the applicant submits the applica-
17 tion.

18 “(2) When evaluating the applicant, a landlord may not consider a
19 previous arrest of the applicant if the arrest did not result in a con-
20 viction. This subsection does not apply if the arrest has resulted in
21 charges for criminal behavior as described in subsection (3) of this
22 section that have not been dismissed at the time the applicant submits
23 the application.

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

27 “(a) A drug-related crime;

28 “(b) A person crime;

29 “(c) A sex offense;

30 “(d) A crime involving financial fraud, including identity theft and

1 **forgery; or**

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

4 **“(A) Property of the landlord or a tenant; or**

5 **“(B) The health, safety or right to peaceful enjoyment of the**
6 **premises of residents, the landlord or the landlord’s agent.**

7 **“SECTION 4.** ORS 90.160 is amended to read:

8 “90.160. (1) Notwithstanding ORCP 10 and not including the seven-day
9 and four-day waiting periods provided in ORS 90.394, where there are refer-
10 ences in this chapter to periods and notices based on a number of days, those
11 days shall be calculated by consecutive calendar days, not including the in-
12 itial day of service, but including the last day until [*midnight*] **the end** of
13 that last day **at 12 midnight**. Where there are references in this chapter to
14 periods or notices based on a number of hours, those hours shall be calcu-
15 lated in consecutive clock hours, beginning immediately upon service.

16 “(2) Notwithstanding subsection (1) of this section, for 72-hour or 144-hour
17 nonpayment notices under ORS 90.394 that are served pursuant to ORS 90.155
18 (1)(c), the time period described in subsection (1) of this section begins at
19 11:59 p.m. the day the notice is both mailed and attached to the premises.
20 The time period shall end 72 hours or 144 hours, as the case may be, after
21 the time started to run at 11:59 p.m.

22 **“SECTION 5.** ORS 90.275 is amended to read:

23 “90.275. (1) As provided under this section, a landlord may allow an in-
24 dividual to become a temporary occupant of the tenant’s dwelling unit [*as a*
25 *guest of the tenant*]. To create a temporary occupancy, the landlord, tenant
26 and proposed temporary occupant must enter into a written temporary oc-
27 cupancy agreement that describes the temporary occupancy relationship.

28 “(2) The temporary occupant:

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

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

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

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

4 “(b) The landlord only for cause that is a material violation of the tem-
5 porary occupancy agreement.

6 “(4) The temporary occupant does not have a right to cure a violation
7 that causes a landlord to terminate the temporary occupancy agreement.

8 “(5) Before entering into a temporary occupancy agreement, a landlord
9 may screen the proposed temporary occupant for issues regarding conduct
10 or for a criminal record. The landlord may not screen the proposed tempo-
11 rary occupant for credit history or income level.

12 “(6) A temporary occupancy agreement:

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

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

17 “(c) May have a specific ending date.

18 “(7) The landlord, tenant and temporary occupant may extend or renew
19 a temporary occupancy agreement or may enter into a new temporary occu-
20 pancy agreement.

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

23 “(9) The temporary occupant shall promptly vacate the dwelling unit if
24 a landlord terminates a temporary occupancy agreement for material vio-
25 lation of the temporary occupancy agreement or if the temporary occupancy
26 agreement ends by its terms. Except as provided in ORS 90.449, the landlord
27 may terminate the tenancy of the tenant as provided under ORS 90.392 or
28 90.630 if the temporary occupant fails to promptly vacate the dwelling unit
29 or if the tenant materially violates the temporary occupancy agreement.

30 “(10) A temporary occupant shall be treated as a squatter if the temporary

1 occupant continues to occupy the dwelling unit after a tenancy has ended
2 or after the tenant revokes permission for the occupancy by terminating the
3 temporary occupancy agreement.

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

7 “(b) A tenant may not become a temporary occupant in the tenant’s own
8 dwelling unit.

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

11 **“SECTION 6.** ORS 90.295 is amended to read:

12 “90.295. (1) A landlord may require payment of an applicant screening
13 charge solely to cover the costs of obtaining information about an applicant
14 as the landlord processes the application for a rental agreement. This activ-
15 ity is known as screening, and includes but is not limited to checking ref-
16 erences and obtaining a consumer credit report or tenant screening report.
17 The landlord must provide the applicant with a receipt for any applicant
18 screening charge.

19 “(2) The amount of any applicant screening charge shall not be greater
20 than the landlord’s average actual cost of screening applicants. Actual costs
21 may include the cost of using a tenant screening company or a consumer
22 credit reporting agency, and may include the reasonable value of any time
23 spent by the landlord or the landlord’s agents in otherwise obtaining infor-
24 mation on applicants. In any case, the applicant screening charge may not
25 be greater than the customary amount charged by tenant screening compa-
26 nies or consumer credit reporting agencies for a comparable level of screen-
27 ing.

28 “(3) A landlord may not require payment of an applicant screening charge
29 unless prior to accepting the payment the landlord:

30 “(a) Adopts written screening or admission criteria;

1 “(b) Gives written notice to the applicant of:

2 “(A) The amount of the applicant screening charge;

3 “(B) The landlord’s screening or admission criteria;

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

8 “(D) The applicant’s rights to dispute the accuracy of any information
9 provided to the landlord by a screening company or credit reporting agency;

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

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

22 “(e) Gives written notice to the applicant whether the landlord re-
23 quires tenants to obtain and maintain renter’s liability insurance and,
24 if so, the amount of insurance required.

25 “(4) Regardless of whether a landlord requires payment of an applicant
26 screening charge, if a landlord denies an application for a rental agreement
27 by an applicant and that denial is based in whole or in part on a tenant
28 screening company or consumer credit reporting agency report on that ap-
29 plicant, the landlord shall give the applicant actual notice of that fact at the
30 same time that the landlord notifies the applicant of the denial. Unless

1 written notice of the name and address of the screening company or credit
2 reporting agency has previously been given, the landlord shall promptly give
3 written notice to the applicant of the name and address of the company or
4 agency that provided the report upon which the denial is based.

5 “(5) Except as provided in subsection (4) of this section, a landlord need
6 not disclose the results of an applicant screening or report to an applicant,
7 with respect to information that is not required to be disclosed under the
8 federal Fair Credit Reporting Act. A landlord may give to an applicant a
9 copy of that applicant’s consumer report, as defined in the Fair Credit Re-
10 porting Act.

11 “(6) Unless the applicant agrees otherwise in writing, a landlord may not
12 require payment of an applicant screening charge when the landlord knows
13 or should know that no rental units are available at that time or will be
14 available within a reasonable future time.

15 “(7) If a landlord requires payment of an applicant screening charge but
16 fills the vacant rental unit before screening the applicant or does not con-
17 duct a screening of the applicant for any reason, the landlord must refund
18 the applicant screening charge to the applicant within a reasonable time.

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

21 “(a) The landlord fails to comply with this section and does not within
22 a reasonable time accept the applicant’s application for a rental agreement;
23 or

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

27 **“SECTION 7. ORS 90.300 is amended to read:**

28 “90.300. (1) As used in this section, ‘security deposit’ includes any last
29 month’s rent deposit.

30 “(2)(a) Except as otherwise provided in this section, a landlord may re-

1 quire a tenant to pay a security deposit. The landlord shall provide the ten-
2 ant with a receipt for any security deposit the tenant pays. The landlord
3 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
5 rent is prior to the claim of a creditor of the landlord, including a trustee
6 in bankruptcy.

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

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

13 “(4) A landlord may not charge a tenant a pet security deposit for keeping
14 a service animal or companion animal that a tenant with a disability re-
15 quires as a reasonable accommodation under fair housing laws.

16 “(5)(a) Except as otherwise provided in this subsection, a landlord may
17 not change the rental agreement to require the tenant to pay a new or in-
18 creased security deposit during the first year after the tenancy has begun.
19 Subject to subsection (4) of this section, the landlord may require an addi-
20 tional deposit if the landlord and tenant agree to modify the terms and con-
21 ditions of the rental agreement to permit a pet or for other cause and the
22 additional deposit relates to the modification. This paragraph does not pre-
23 vent a landlord from collecting a security deposit that an initial rental
24 agreement provided for but that remained unpaid at the time the tenancy
25 began.

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

29 “(6) The landlord may claim all or part of the security deposit only if the
30 landlord required the security deposit for any or all of the purposes specified

1 in subsection (7) of this section.

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

4 “(A) To remedy the tenant’s defaults in the performance of the rental
5 agreement including, but not limited to, unpaid rent; and

6 “(B) To repair damages to the premises caused by the tenant, not includ-
7 ing ordinary wear and tear.

8 “(b) A landlord is not required to repair damage caused by the tenant in
9 order for the landlord to claim against the deposit for the cost to make the
10 repair. Any labor costs the landlord assesses under this subsection for
11 cleaning or repairs must be based on a reasonable hourly rate. The landlord
12 may charge a reasonable hourly rate for the landlord’s own performance of
13 cleaning or repair work.

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

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

17 “(i) The cleaning is performed by use of a machine specifically designed
18 for cleaning or shampooing carpets;

19 “(ii) The carpet was cleaned [*immediately*] **or replaced after the previ-**
20 **ous tenancy or the most recent significant use of the carpet and** before
21 the tenant took possession; and

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

25 “(B) Loss of use of the dwelling unit during the performance of necessary
26 cleaning or repairs[,] **for which the tenant is responsible under this**
27 **subsection** if the cleaning or repairs are performed in a timely manner.

28 “(8) A landlord may not require a tenant to pay or to forfeit a security
29 deposit or prepaid rent to the landlord for the tenant’s failure to maintain
30 a tenancy for a minimum number of months in a month-to-month tenancy.

1 “(9) The landlord must apply any last month’s rent deposit to the rent due
2 for the last month of the tenancy:

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

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

7 “(c) When the tenancy terminates in accordance with the provisions of a
8 written rental agreement for a term tenancy.

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

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

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

28 “(13) The landlord shall return to the tenant the security deposit or pre-
29 paid rent or the portion of the security deposit or prepaid rent that the
30 landlord does not claim in the manner provided by subsections (11) and (12)

1 of this section not later than 31 days after the tenancy terminates and the
2 tenant delivers possession to the landlord.

3 “(14) The landlord shall give the written accounting required under sub-
4 section (12) of this section or shall return the security deposit or prepaid
5 rent as required by subsection (13) of this section by personal delivery or by
6 first class mail.

7 “(15) If a security deposit or prepaid rent secures a tenancy for a space
8 for a manufactured dwelling or floating home the tenant owns and occupies,
9 whether or not in a facility, and the dwelling or home is abandoned as de-
10 scribed in ORS 90.425 (2) or 90.675 (2), the 31-day period described in sub-
11 sections (12) and (13) of this section commences on the earliest of:

12 “(a) Waiver of the abandoned property process under ORS 90.425 (26) or
13 90.675 (22);

14 “(b) Removal of the manufactured dwelling or floating home from the
15 rented space;

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

18 “(d) Sale of the manufactured dwelling or floating home pursuant to ORS
19 90.425 (10)(a) or 90.675 (10)(a).

20 “(16) If the landlord fails to comply with subsection (13) of this section
21 or if the landlord in bad faith fails to return all or any portion of any pre-
22 paid rent or security deposit due to the tenant under this chapter or the
23 rental agreement, the tenant may recover the money due in an amount equal
24 to twice the amount:

25 “(a) Withheld without a written accounting under subsection (12) of this
26 section; or

27 “(b) Withheld in bad faith.

28 “(17)(a) A security deposit or prepaid rent in the possession of the land-
29 lord is not garnishable property, as provided in ORS 18.618.

30 “(b) If a landlord delivers a security deposit or prepaid rent to a garnishor

1 in violation of ORS 18.618 (1)(b), the landlord that delivered the security
2 deposit or prepaid rent to the garnishor shall allow the tenant at least 30
3 days after a copy of the garnishee response required by ORS 18.680 is deliv-
4 ered to the tenant under ORS 18.690 to restore the security deposit or pre-
5 paid rent. If the tenant fails to restore a security deposit or prepaid rent
6 under the provisions of this paragraph before the tenancy terminates, and the
7 landlord retains no security deposit or prepaid rent from the tenant after the
8 garnishment, the landlord is not required to refund or account for the secu-
9 rity deposit or prepaid rent under subsection (11) of this section.

10 “(18) This section does not preclude the landlord or tenant from recover-
11 ing other damages under this chapter.

12 **“SECTION 8.** ORS 90.302 is amended to read:

13 “90.302. (1) A landlord may not charge a fee at the beginning of the
14 tenancy for an anticipated landlord expense and may not require the payment
15 of any fee except as provided in this section. A fee must be described in a
16 written rental agreement.

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

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

20 “(b) A dishonored check, pursuant to ORS 30.701 (5). The amount of the
21 fee may not exceed the amount described in ORS 30.701 (5) plus any amount
22 that a bank has charged the landlord for processing the dishonored check.

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

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

30 “(e) The abandonment or relinquishment of a dwelling unit during a fixed

1 term tenancy without cause. The fee may not exceed one and one-half times
2 the monthly rent. A landlord may not assess a fee under this paragraph if
3 the abandonment or relinquishment is pursuant to ORS 90.453 (2), 90.472 or
4 90.475. If the landlord assesses a fee under this paragraph:

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

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

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

11 “[*f*] *Noncompliance with written rules or policies. The fee may not exceed*
12 *\$50. A fee may be assessed under this paragraph only for the following types*
13 *of noncompliance:]*

14 “[*A*] *The late payment of a utility or service charge that the tenant owes*
15 *the landlord as described in ORS 90.315.]*

16 “[*B*] *Failure to clean up pet waste from a part of the premises other than*
17 *the dwelling unit.]*

18 “[*C*] *Failure to clean up garbage, rubbish and other waste from a part of*
19 *the premises other than the dwelling unit.]*

20 “[*D*] *Parking violations.]*

21 “[*E*] *The improper use of vehicles within the premises.]*

22 “**(3)(a) A landlord may charge a tenant a fee under this subsection**
23 **for a second noncompliance or for a subsequent noncompliance with**
24 **written rules or policies that describe the prohibited conduct and the**
25 **fee for a second noncompliance, and for any third or subsequent non-**
26 **compliance, that occurs within one year after a written warning notice**
27 **described in subparagraph (A) of this paragraph. The fee may not ex-**
28 **ceed \$50 for the second noncompliance within one year after the**
29 **warning notice for the same or a similar noncompliance or \$50 plus**
30 **five percent of the rent payment for the current rental period for a**

1 **third or subsequent noncompliance within one year after the warning**
2 **notice for the same or a similar noncompliance. The landlord:**

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

4 **“(i) A specific noncompliance before charging a fee for a second or**
5 **subsequent noncompliance for the same or similar conduct; and**

6 **“(ii) The amount of the fee for a second noncompliance, and for any**
7 **subsequent noncompliance, that occurs within one year after the**
8 **warning notice.**

9 **“(B) Shall give a tenant a written notice describing the noncompli-**
10 **ance when assessing a fee for a second or subsequent noncompliance**
11 **that occurs within one year after the warning notice.**

12 **“(C) Shall give a warning notice for a noncompliance or assess a fee**
13 **for a second or subsequent noncompliance within 30 days after the act**
14 **constituting noncompliance.**

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

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

20 **“(b) A landlord may charge a tenant a fee for occurrences of non-**
21 **compliance with written rules or policies as provided in paragraph (a)**
22 **of this subsection for the following types of noncompliance:**

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

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

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

29 **“(D) Parking violations.**

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

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

3 **“(G) Keeping on the premises an unauthorized pet capable of caus-**
4 **ing damage to persons or property, as described in ORS 90.405.**

5 ~~“(3) (4)~~ A landlord may not be required to account for or return to the
6 tenant any fee.

7 ~~“(4) (5)~~ Except as provided in subsection (2)(e) of this section, a landlord
8 may not charge a tenant any form of liquidated damages, however desig-
9 nated.

10 ~~“(5) (6)~~ Nonpayment of a fee is not grounds for termination of a rental
11 agreement for nonpayment of rent under ORS 90.394, but is grounds for ter-
12 mination of a rental agreement for cause under ORS 90.392 or 90.630 (1).

13 ~~“(6) (7)~~ This section does not apply to:

14 “(a) Attorney fees awarded pursuant to ORS 90.255;

15 “(b) Applicant screening charges paid pursuant to ORS 90.295; *[or]*

16 “(c) Charges for improvements or other actions that are requested by the
17 tenant and are not required of the landlord by the rental agreement or by
18 law, **including the cost to replace a key lost by a tenant.**

19 **“(d) Processing fees charged to the landlord by a credit card com-**
20 **pany and passed through to the tenant for the use of a credit card by**
21 **the tenant to make a payment when:**

22 **“(A) The credit card company allows processing fees to be passed**
23 **through to the credit card holder; and**

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

25 **“(e) A requirement by a landlord in a written rental agreement that**
26 **a tenant obtain and maintain renter’s liability insurance pursuant to**
27 **section 2 of this 2013 Act.**

28 ~~“SECTION 9.~~ ORS 90.320 is amended to read:

29 “90.320. (1) A landlord shall at all times during the tenancy maintain the
30 dwelling unit in a habitable condition. For purposes of this section, a

1 dwelling unit shall be considered uninhabitable if it substantially lacks:

2 “(a) Effective waterproofing and weather protection of roof and exterior
3 walls, including windows and doors;

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

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

7 “(A) Under the control of the tenant or landlord and is capable of
8 producing hot and cold running water;

9 “(B) Furnished to appropriate fixtures;

10 “(C) Connected to a sewage disposal system approved under applicable
11 law; and

12 “(D) Maintained so as to provide safe drinking water and to be in good
13 working order to the extent that the system can be controlled by the land-
14 lord;

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

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

20 “(f) Buildings, grounds and appurtenances at the time of the commence-
21 ment of the rental agreement in every part safe for normal and reasonably
22 foreseeable uses, clean, sanitary and free from all accumulations of debris,
23 filth, rubbish, garbage, rodents and vermin, and all areas under control of
24 the landlord kept in every part safe for normal and reasonably foreseeable
25 uses, clean, sanitary and free from all accumulations of debris, filth, rubbish,
26 garbage, rodents and vermin;

27 “(g) Except as otherwise provided by local ordinance or by written
28 agreement between the landlord and the tenant, an adequate number of ap-
29 propriate receptacles for garbage and rubbish in clean condition and good
30 repair at the time of the commencement of the rental agreement, and the

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

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

5 “(i) Ventilating, air conditioning and other facilities and appliances, in-
6 cluding elevators, maintained in good repair if supplied or required to be
7 supplied by the landlord;

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

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

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

16 “(B) **Is located within a structure that contains a carbon monoxide**
17 **source and the dwelling unit is connected to the room in which the**
18 **carbon monoxide source is located by a door, ductwork or a ventilation**
19 **shaft; or**

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

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

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

29 “(b) The agreement does not diminish the obligations of the landlord to
30 other tenants in the premises; and

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

3 “(3) Any provisions of this section that reasonably apply only to a struc-
4 ture that is used as a home, residence or sleeping place shall not apply to
5 a manufactured dwelling, recreational vehicle or floating home where the
6 tenant owns the manufactured dwelling, recreational vehicle or floating
7 home, rents the space and, in the case of a dwelling or home, the space is
8 not in a facility. Manufactured dwelling or floating home tenancies in which
9 the tenant owns the dwelling or home and rents space in a facility shall be
10 governed by ORS 90.730, not by this section.

11 “**SECTION 10.** ORS 90.367 is amended to read:

12 “90.367. (1) A tenant who receives actual notice that the property that is
13 the subject of the tenant’s rental agreement with a landlord is in foreclosure
14 may apply the tenant’s security deposit or prepaid rent to the tenant’s obli-
15 gation to the landlord. The tenant must notify the landlord in writing that
16 the tenant intends to do so. The giving of the notice provided by this sub-
17 section by the tenant does not constitute a termination of the tenancy.

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

19 “(a) Because the tenant has applied the security deposit or prepaid rent
20 as allowed under **subsection (1) of** this section.

21 “(b) For nonpayment of rent during the month in which the tenant applies
22 the security deposit or prepaid rent pursuant to **subsection (1) of** this sec-
23 tion unless an unpaid balance remains due after applying all payments, in-
24 cluding the security deposit or prepaid rent, to the rent.

25 “(3) If the tenant has not provided the written notice applying the secu-
26 rity deposit or prepaid rent as required under subsection (1) of this section
27 before the landlord gives a termination notice for nonpayment of rent, the
28 tenant must provide the written notice within the notice period provided by
29 ORS 90.392 or 90.394. If the tenant does not provide the written notice, the
30 landlord may terminate the tenancy based upon ORS 90.392 or 90.394.

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

4 “(5) If the landlord provides written evidence from a lender or trustee that
5 the property is no longer in foreclosure, the landlord may require the tenant
6 to restore the security deposit or prepaid rent to the amount required prior
7 to the tenant’s application of the security deposit or prepaid rent. The land-
8 lord shall allow the tenant at least two months to restore the security de-
9 posit or prepaid rent.

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

21 **“(b) If the landlord does not provide the tenant with written evi-**
22 **dence as described in paragraph (a) of this subsection within the 30-day**
23 **period after delivery of the notice of termination, the tenancy termi-**
24 **nates as provided in the notice.**

25 **“SECTION 11.** ORS 90.390 is amended to read:

26 “90.390. (1) A landlord may not discriminate against a tenant in violation
27 of local, state or federal law, including ORS 346.630, 346.660, 346.690,
28 659A.145 and 659A.421.

29 “(2) If the tenant can prove that the landlord violated subsection (1) of
30 this section, the tenant has a defense in any discriminatory action brought

1 by the landlord against the tenant for possession, unless the tenant is in
2 default in rent.

3 “(3) A tenant may prove a landlord’s discrimination in violation of ORS
4 659A.145 or 659A.421 by demonstrating that a facially neutral housing policy
5 has a disparate adverse impact, as described in ORS 659A.425, on members
6 of a protected class.

7 “[4] *A landlord may not discriminate against an applicant solely because*
8 *the applicant was a defendant in an action for possession pursuant to ORS*
9 *105.105 to 105.168 that was dismissed or that resulted in general judgment for*
10 *the defendant prior to the application. This subsection does not apply if the*
11 *prior action has not resulted in a dismissal or general judgment at the time*
12 *of the application. If the landlord knowingly acts in violation of this sub-*
13 *section, the applicant may recover actual damages or \$200, whichever is*
14 *greater.*]

15 **“SECTION 12.** ORS 90.425 is amended to read:

16 “90.425. (1) As used in this section:

17 “(a) ‘Current market value’ means the amount in cash, as determined by
18 the county assessor, that could reasonably be expected to be paid for a
19 manufactured dwelling or floating home by an informed buyer to an informed
20 seller, each acting without compulsion in an arm’s-length transaction occur-
21 ring on the assessment date for the tax year or on the date of a subsequent
22 reappraisal by the county assessor.

23 “(b) ‘Dispose of the personal property’ means that, if reasonably appro-
24 priate, the landlord may throw away the property or may give it without
25 consideration to a nonprofit organization or to a person unrelated to the
26 landlord. The landlord may not retain the property for personal use or ben-
27 efit.

28 “(c) ‘Goods’ includes those goods left inside a recreational vehicle, man-
29 ufactured dwelling or floating home or left upon the rental space outside a
30 recreational vehicle, manufactured dwelling or floating home, whether the

1 recreational vehicle, dwelling or home is located inside or outside of a fa-
2 cility.

3 “(d) ‘Lienholder’ means any lienholder of an abandoned recreational ve-
4 hicle, manufactured dwelling or floating home, if the lien is of record or the
5 lienholder is actually known to the landlord.

6 “(e) ‘Of record’ means:

7 “(A) For a recreational vehicle that is not a manufactured structure as
8 defined in ORS 446.561, that a security interest has been properly recorded
9 with the Department of Transportation pursuant to ORS 802.200 (1)(a)(A) and
10 803.097.

11 “(B) For a manufactured dwelling or recreational vehicle that is a man-
12 ufactured structure as defined in ORS 446.561, that a security interest has
13 been properly recorded for the manufactured dwelling or recreational vehicle
14 in the records of the Department of Consumer and Business Services pursu-
15 ant to ORS 446.611 or on a certificate of title issued by the Department of
16 Transportation prior to May 1, 2005.

17 “(C) For a floating home, that a security interest has been properly re-
18 corded with the State Marine Board pursuant to ORS 830.740 to 830.755 for
19 a home registered and titled with the board pursuant to ORS 830.715.

20 “(f) ‘Owner’ means any owner of an abandoned recreational vehicle,
21 manufactured dwelling or floating home, if different from the tenant and ei-
22 ther of record or actually known to the landlord.

23 “(g) ‘Personal property’ means goods, vehicles and recreational vehicles
24 and includes manufactured dwellings and floating homes not located in a
25 facility. ‘Personal property’ does not include manufactured dwellings and
26 floating homes located in a facility and therefore subject to being stored,
27 sold or disposed of as provided under ORS 90.675.

28 “(2) A landlord [*may not*] **is responsible for abandoned personal prop-**
29 **erty and shall** store, sell or dispose of abandoned personal property
30 [*except*] as provided by this section. This section governs the rights and ob-

1 ligations of landlords, tenants and any lienholders or owners in any personal
2 property abandoned or left upon the premises by the tenant or any lienholder
3 or owner in the following circumstances:

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

9 “(b) The tenant has been absent from the premises continuously for seven
10 days after termination of a tenancy by a court order that has not been exe-
11 cuted; or

12 “(c) The landlord receives possession of the premises from the sheriff
13 following restitution pursuant to ORS 105.161.

14 “(3) Prior to **storing**, selling or disposing of the tenant’s personal prop-
15 erty under this section, the landlord must give a written notice to the tenant
16 that must be:

17 “(a) Personally delivered to the tenant; or

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

19 “(A) The premises;

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

22 “(C) The most recent forwarding address if provided by the tenant or ac-
23 tually known to the landlord.

24 “(4)(a) In addition to the notice required by subsection (3) of this section,
25 in the case of an abandoned recreational vehicle, manufactured dwelling or
26 floating home, a landlord shall also give a copy of the notice described in
27 subsection (3) of this section to:

28 “(A) Any lienholder of the recreational vehicle, manufactured dwelling
29 or floating home;

30 “(B) Any owner of the recreational vehicle, manufactured dwelling or

1 floating home;

2 “(C) The tax collector of the county where the manufactured dwelling or
3 floating home is located; and

4 “(D) The assessor of the county where the manufactured dwelling or
5 floating home is located.

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

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

12 “(A) Actually known to the landlord;

13 “(B) Of record; and

14 “(C) Provided to the landlord by the lienholder in a written notice that
15 identifies the personal property subject to the lien and that was sent to the
16 landlord by certified mail with return receipt requested within the preceding
17 five years. The notice must identify the personal property by describing the
18 physical address of the property.

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

21 “(a) The personal property left upon the premises is considered aban-
22 doned;

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

26 “(c) The personal property is stored at a place of safekeeping, except that
27 if the property includes a manufactured dwelling or floating home, the
28 dwelling or home must be stored on the rented space;

29 “(d) The tenant or any lienholder or owner, except as provided by sub-
30 section (18) of this section, may arrange for removal of the personal property

1 by contacting the landlord at a described telephone number or address on
2 or before the specified date;

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

6 “(f) If the personal property is considered to be abandoned pursuant to
7 subsection (2)(a) or (b) of this section, the landlord may require payment of
8 removal and storage charges, as provided by subsection (7)(d) of this section,
9 prior to releasing the personal property to the tenant or any lienholder or
10 owner;

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

14 “(h) If the tenant or any lienholder or owner fails to contact the landlord
15 by the specified date, or after that contact, fails to remove the personal
16 property within 30 days for recreational vehicles, manufactured dwellings
17 and floating homes or 15 days for all other personal property, the landlord
18 may sell or dispose of the personal property. If the landlord reasonably be-
19 lieves that the personal property will be eligible for disposal pursuant to
20 subsection (10)(b) of this section and the landlord intends to dispose of the
21 property if the property is not claimed, the notice shall state that belief and
22 intent; and

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

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

30 “(a) For abandoned recreational vehicles, manufactured dwellings or

1 floating homes, not less than 45 days after personal delivery or mailing of
2 the notice; or

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

5 “(7) After notifying the tenant as required by subsection (3) of this sec-
6 tion, the landlord:

7 “(a) Shall store any abandoned manufactured dwelling or floating home
8 on the rented space and shall exercise reasonable care for the dwelling or
9 home;

10 “(b) Shall store all other abandoned personal property of the tenant, in-
11 cluding goods left inside a recreational vehicle, manufactured dwelling or
12 floating home or left upon the rented space outside a recreational vehicle,
13 dwelling or home, in a place of safekeeping and shall exercise reasonable
14 care for the personal property, except that the landlord may:

15 “(A) Promptly dispose of rotting food; and

16 “(B) Allow an animal control agency to remove any abandoned pets or
17 livestock. If an animal control agency will not remove the abandoned pets
18 or livestock, the landlord shall exercise reasonable care for the animals
19 given all the circumstances, including the type and condition of the animals,
20 and may give the animals to an agency that is willing and able to care for
21 the animals, such as a humane society or similar organization;

22 “(c) Except for manufactured dwellings and floating homes, may store the
23 abandoned personal property at the dwelling unit, move and store it else-
24 where on the premises or move and store it at a commercial storage company
25 or other place of safekeeping; and

26 “(d) Is entitled to reasonable or actual storage charges and costs inci-
27 dental to storage or disposal, including any cost of removal to a place of
28 storage. In the case of an abandoned manufactured dwelling or floating
29 home, the storage charge may be no greater than the monthly space rent last
30 payable by the tenant.

1 “(8) If a tenant, lienholder or owner, upon the receipt of the notice pro-
2 vided by subsection (3) or (4) of this section or otherwise, responds by actual
3 notice to the landlord on or before the specified date in the landlord’s notice
4 that the tenant, lienholder or owner intends to remove the personal property
5 from the premises or from the place of safekeeping, the landlord must make
6 that personal property available for removal by the tenant, lienholder or
7 owner by appointment at reasonable times during the 15 days or, in the case
8 of a recreational vehicle, manufactured dwelling or floating home, 30 days
9 following the date of the response, subject to subsection (18) of this section.
10 If the personal property is considered to be abandoned pursuant to subsection
11 (2)(a) or (b) of this section, but not pursuant to subsection (2)(c) of this sec-
12 tion, the landlord may require payment of removal and storage charges, as
13 provided in subsection (7)(d) of this section, prior to allowing the tenant,
14 lienholder or owner to remove the personal property. Acceptance by a land-
15 lord of such payment does not operate to create or reinstate a tenancy or
16 create a waiver pursuant to ORS 90.412 or 90.417.

17 “(9) Except as provided in subsections (18) to (20) of this section, if the
18 tenant, lienholder or owner of a recreational vehicle, manufactured dwelling
19 or floating home does not respond within the time provided by the landlord’s
20 notice, or the tenant, lienholder or owner does not remove the personal
21 property within the time required by subsection (8) of this section or by any
22 date agreed to with the landlord, whichever is later, the tenant’s, lienholder’s
23 or owner’s personal property is conclusively presumed to be abandoned. The
24 tenant and any lienholder or owner that have been given notice pursuant to
25 subsection (3) or (4) of this section shall, except with regard to the distrib-
26 ution of sale proceeds pursuant to subsection (13) of this section, have no
27 further right, title or interest to the personal property and may not claim
28 or sell the property.

29 “(10) If the personal property is presumed to be abandoned under sub-
30 section (9) of this section, the landlord then may:

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

4 “(A) The landlord may seek to transfer ownership of record of the per-
5 sonal property by complying with the requirements of the appropriate state
6 agency; and

7 “(B) The landlord shall:

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

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

13 “(II) The tenant’s and owner’s name, if of record or actually known to the
14 landlord;

15 “(III) The address and any space number where the recreational vehicle,
16 manufactured dwelling or floating home is located, and any plate, registra-
17 tion or other identification number for a recreational vehicle or floating
18 home noted on the certificate of title, if actually known to the landlord;

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

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

22 “(VI) The name and telephone number of the person to contact to inspect
23 the recreational vehicle, manufactured dwelling or floating home;

24 “(ii) At a reasonable time prior to the sale, give a copy of the notice re-
25 quired by sub-subparagraph (i) of this subparagraph to the tenant and to any
26 lienholder and owner, by personal delivery or first class mail, except that for
27 any lienholder, mail service must be by first class mail with certificate of
28 mailing;

29 “(iii) Obtain an affidavit of publication from the newspaper to show that
30 the notice required under sub-subparagraph (i) of this subparagraph ran in

1 the newspaper at least one day in each of two consecutive weeks prior to the
2 date scheduled for the sale or the last date bids will be accepted; and

3 “(iv) Obtain written proof from the county that all property taxes and
4 assessments on the manufactured dwelling or floating home have been paid
5 or, if not paid, that the county has authorized the sale, with the sale pro-
6 ceeds to be distributed pursuant to subsection (13) of this section;

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

9 “(A) For a manufactured dwelling or floating home, the current market
10 value of the property is \$8,000 or less as determined by the county assessor;
11 or

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

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

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

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

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

25 “(b) If there is no buyer at a sale of a manufactured dwelling or floating
26 home, the personal property is considered to be worth \$8,000 or less, re-
27 gardless of current market value, and the landlord shall destroy or otherwise
28 dispose of the personal property.

29 “(12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord inten-
30 tionally misrepresents the condition of a manufactured dwelling or floating

1 home, the landlord is not liable for the condition of the dwelling or home
2 to:

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

5 “(b) A person or nonprofit organization to whom the landlord gives the
6 dwelling or home pursuant to subsection (1)(b), (10)(b) or (11)(b) of this sec-
7 tion.

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

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

10 “(B) Unpaid rent.

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

16 “(c) If the sale was of a recreational vehicle, manufactured dwelling or
17 floating home, after deducting the amounts listed in paragraphs (a) and (b)
18 of this subsection, if applicable, the landlord shall remit the remaining pro-
19 ceeds, if any, to any lienholder to the extent of any unpaid balance owed on
20 the lien on the recreational vehicle, dwelling or home.

21 “(d) After deducting the amounts listed in paragraphs (a), (b) and (c) of
22 this subsection, if applicable, the landlord shall remit to the tenant or owner
23 the remaining proceeds, if any, together with an itemized accounting.

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

29 “(14) The county tax collector shall cancel all unpaid property taxes and
30 assessments owed on a manufactured dwelling or floating home, as provided

1 under ORS 311.790, only under one of the following circumstances:

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

4 “(b) There is no buyer of the manufactured dwelling or floating home at
5 a sale described under subsection (11) of this section.

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

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

10 “(C) The proceeds of the sale are insufficient to satisfy the unpaid prop-
11 erty taxes and assessments owed on the dwelling or home after distribution
12 of the proceeds pursuant to subsection (13) of this section.

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

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

17 “(C) The proceeds of the sale are insufficient to satisfy the unpaid prop-
18 erty taxes and assessments owed on the manufactured dwelling or floating
19 home after distribution of the proceeds pursuant to subsection (13) of this
20 section; and

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

22 “(15) The landlord is not responsible for any loss to the tenant, lienholder
23 or owner resulting from storage of personal property in compliance with this
24 section unless the loss was caused by the landlord’s deliberate or negligent
25 act. In the event of a deliberate and malicious violation, the landlord is lia-
26 ble for twice the actual damages sustained by the tenant, lienholder or
27 owner.

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

1 pursuant to this section.

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

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

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

11 “(c) A county tax collector aggrieved by the noncompliance may recover
12 from the landlord the actual damages sustained by the tax collector, if the
13 noncompliance is part of an effort by the landlord to defraud the tax col-
14 lector. ORS 90.255 does not authorize an award of attorney fees to the pre-
15 vailing party in any action arising under this paragraph.

16 “(18) In the case of an abandoned recreational vehicle, manufactured
17 dwelling or floating home, the provisions of this section regarding the rights
18 and responsibilities of a tenant to the abandoned vehicle, dwelling or home
19 also apply to any lienholder except that the lienholder may not sell or re-
20 move the vehicle, dwelling or home unless:

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

23 “(b) The tenant or a personal representative or designated person de-
24 scribed in subsection (20) of this section has waived all rights under this
25 section pursuant to subsection (26) of this section; or

26 “(c) The notice and response periods provided by subsections (6) and (8)
27 of this section have expired.

28 “(19)(a) In the case of an abandoned manufactured dwelling or floating
29 home but not including a dwelling or home abandoned following a termi-
30 nation pursuant to ORS 90.429 and except as provided by subsection (20)(d)

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

9 “(b) The lienholder’s right to a storage agreement arises upon the failure
10 of the tenant, owner or, in the case of a deceased tenant, the personal rep-
11 resentative, designated person, heir or devisee to remove or sell the dwelling
12 or home within the allotted time.

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

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

27 “(A) The lienholder make timely periodic payment of all storage charges,
28 as described in subsection (7)(d) of this section, accruing from the com-
29 mencement of the 45-day period described in subsection (6) of this section.
30 A storage charge may include a utility or service charge, as described in

1 ORS 90.532, if limited to charges for electricity, water, sewer service and
2 natural gas and if incidental to the storage of personal property. A storage
3 charge may not be due more frequently than monthly;

4 “(B) The lienholder pay a late charge or fee for failure to pay a storage
5 charge by the date required in the agreement, if the amount of the late
6 charge is no greater than for late charges described in the rental agreement
7 between the landlord and the tenant; and

8 “(C) The lienholder maintain the personal property and the space on
9 which the personal property is stored in a manner consistent with the rights
10 and obligations described in the rental agreement between the landlord and
11 the tenant.

12 “(e) During the term of an agreement described under this subsection, the
13 lienholder has the right to remove or sell the property, subject to the pro-
14 visions of the lien. Selling the property includes a sale to a purchaser who
15 wishes to leave the dwelling or home on the rented space and become a
16 tenant, subject to any conditions previously agreed to by the landlord and
17 tenant regarding the landlord’s approval of a purchaser or, if there was no
18 such agreement, any reasonable conditions by the landlord regarding ap-
19 proval of any purchaser who wishes to leave the dwelling or home on the
20 rented space and become a tenant. The landlord also may condition approval
21 for occupancy of any purchaser of the property upon payment of all unpaid
22 storage charges and maintenance costs.

23 “(f)(A) If the lienholder violates the storage agreement, the landlord may
24 terminate the agreement by giving at least 90 days’ written notice to the
25 lienholder stating facts sufficient to notify the lienholder of the reason for
26 the termination. Unless the lienholder corrects the violation within the no-
27 tice period, the agreement terminates as provided and the landlord may sell
28 or dispose of the dwelling or home without further notice to the lienholder.

29 “(B) After a landlord gives a termination notice pursuant to subparagraph
30 (A) of this paragraph for failure of the lienholder to pay a storage charge

1 and the lienholder corrects the violation, if the lienholder again violates the
2 storage agreement by failing to pay a subsequent storage charge, the land-
3 lord may terminate the agreement by giving at least 30 days' written notice
4 to the lienholder stating facts sufficient to notify the lienholder of the reason
5 for termination. Unless the lienholder corrects the violation within the no-
6 tice period, the agreement terminates as provided and the landlord may sell
7 or dispose of the property without further notice to the lienholder.

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

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

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

21 “(a) The following persons have the same rights and responsibilities re-
22 garding the abandoned dwelling or home as a tenant:

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

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

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

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

29 “(B) Personally delivered or sent by first class mail to any personal rep-
30 resentative or designated person, if actually known to the landlord.

1 “(c) The notice described in subsection (5) of this section must refer to
2 any personal representative or designated person, instead of the deceased
3 tenant, and must incorporate the provisions of this subsection.

4 “(d) If a personal representative, designated person or other person enti-
5 tled to possession of the property, such as an heir or devisee, responds by
6 actual notice to a landlord within the 45-day period provided by subsection
7 (6) of this section and so requests, the landlord shall enter into a written
8 storage agreement with the representative or person providing that the
9 dwelling or home may not be sold or disposed of by the landlord for up to
10 90 days or until conclusion of any probate proceedings, whichever is later.
11 A storage agreement entitles the representative or person to store the per-
12 sonal property on the previously rented space during the term of the agree-
13 ment, but does not entitle anyone to occupy the personal property. If such
14 an agreement is entered, the landlord may not enter a similar agreement
15 with a lienholder pursuant to subsection (19) of this section until the
16 agreement with the personal representative or designated person ends.

17 “(e) If a personal representative or other person requests that a landlord
18 enter into a storage agreement, subsection (19)(c), (d) and (f)(C) of this sec-
19 tion applies, with the representative or person having the rights and re-
20 sponsibilities of a lienholder with regard to the storage agreement.

21 “(f) During the term of an agreement described under paragraph (d) of
22 this subsection, the representative or person has the right to remove or sell
23 the dwelling or home, including a sale to a purchaser or a transfer to an heir
24 or devisee where the purchaser, heir or devisee wishes to leave the dwelling
25 or home on the rented space and become a tenant, subject to any conditions
26 previously agreed to by the landlord and tenant regarding the landlord’s
27 approval for occupancy of a purchaser, heir or devisee or, if there was no
28 such agreement, any reasonable conditions by the landlord regarding ap-
29 proval for occupancy of any purchaser, heir or devisee who wishes to leave
30 the dwelling or home on the rented space and become a tenant. The landlord

1 also may condition approval for occupancy of any purchaser, heir or devisee
2 of the dwelling or home upon payment of all unpaid storage charges and
3 maintenance costs.

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

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

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

21 “(a) The following persons have the same rights and responsibilities re-
22 garding the abandoned personal property as a tenant:

23 “(A) An heir or devisee.

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

26 “(C) Any person designated in writing by the tenant to be contacted by
27 the landlord in the event of the tenant’s death.

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

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

30 “(B) Personally delivered or sent by first class mail to any heir, devisee,

1 personal representative or designated person, if actually known to the land-
2 lord; and

3 “(C) Sent by first class mail to the attention of an estate administrator
4 of the Department of State Lands.

5 “(c) The notice described in subsection (5) of this section must refer to
6 the heir, devisee, personal representative, designated person or estate ad-
7 ministrator of the department, instead of the deceased tenant, and must in-
8 corporate the provisions of this subsection.

9 “(d) The landlord shall allow a person that is an heir, devisee or personal
10 representative of the tenant, or an estate administrator of the department,
11 to remove the personal property if the person contacts the landlord within
12 the period provided by subsection (6) of this section, complies with the re-
13 quirements of this section and provides the landlord with reasonable evi-
14 dence that the person is an heir, devisee or personal representative, or an
15 estate administrator of the department.

16 “(e) If neither an heir, devisee nor personal representative of the tenant,
17 nor an estate administrator of the department, contacts the landlord within
18 the time period provided by subsection (6) of this section, the landlord shall
19 allow removal of the personal property by the designated person of the ten-
20 ant, if the designated person contacts the landlord within that period and
21 complies with the requirements of this section and provides the landlord with
22 reasonable evidence that the person is the designated person.

23 “(f) A landlord who allows removal of personal property under this sub-
24 section is not liable to another person that has a claim or interest in the
25 personal property.

26 “(22) If a governmental agency determines that the condition of a manu-
27 factured dwelling, floating home or recreational vehicle abandoned under
28 this section constitutes an extreme health or safety hazard under state or
29 local law and the agency determines that the hazard endangers others in the
30 immediate vicinity and requires quick removal of the property, the landlord

1 may sell or dispose of the property pursuant to this subsection. The landlord
2 shall comply with all provisions of this section, except as follows:

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

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

13 “(c) The notice required by subsection (3) of this section must be as pro-
14 vided in subsection (5) of this section, except that:

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

17 “(B) The notice must state that a governmental agency has determined
18 that the property constitutes an extreme health or safety hazard and must
19 be removed quickly; and

20 “(C) The landlord shall attach a copy of the agency’s determination to the
21 notice.

22 “(d) If the tenant, a lienholder, owner, personal representative or desig-
23 nated person does not remove the property within the time allowed, the
24 landlord or a buyer at a sale by the landlord under subsection (11) of this
25 section shall promptly remove the property from the facility.

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

29 “(23)(a) If an official or agency referred to in ORS 453.876 notifies the
30 landlord that the official or agency has determined that all or part of the

1 premises is unfit for use as a result of the presence of an illegal drug man-
2 ufacturing site involving methamphetamine, and the landlord complies with
3 this subsection, the landlord is not required to comply with subsections (1)
4 to (22) and (24) to (27) of this section with regard to personal property left
5 on the portion of the premises that the official or agency has determined to
6 be unfit for use.

7 “(b) Upon receiving notice from an official or agency determining the
8 premises to be unfit for use, the landlord shall promptly give written notice
9 to the tenant as provided in subsection (3) of this section. The landlord shall
10 also attach a copy of the notice in a secure manner to the main entrance of
11 the dwelling unit. The notice to the tenant shall include a copy of the
12 official’s or agency’s notice and state:

13 “(A) That the premises, or a portion of the premises, has been determined
14 by an official or agency to be unfit for use due to contamination from the
15 manufacture of methamphetamine and that as a result subsections (1) to (22)
16 and (24) to (27) of this section do not apply to personal property left on any
17 portion of the premises determined to be unfit for use;

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

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

22 “(D) That the tenant may contact the contractor to determine whether
23 any of the tenant’s personal property may be removed from the premises or
24 may be decontaminated at the tenant’s expense and then removed.

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

27 “(d) If the contractor and the department determine that the premises or
28 the tenant’s personal property is not unfit for use, upon notification by the
29 department of the determination, the landlord shall comply with subsections
30 (1) to (22) and (24) to (27) of this section for any personal property left on

1 the premises.

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

5 “(24) In the case of an abandoned recreational vehicle, manufactured
6 dwelling or floating home that is owned by someone other than the tenant,
7 the provisions of this section regarding the rights and responsibilities of a
8 tenant to the abandoned vehicle, dwelling or home also apply to that owner,
9 with regard only to the vehicle, dwelling or home, and not to any goods left
10 inside or outside the vehicle, dwelling or home.

11 “(25) In the case of an abandoned motor vehicle, the procedure authorized
12 by ORS 98.830 and 98.835 for removal of abandoned motor vehicles from pri-
13 vate property may be used by a landlord as an alternative to the procedures
14 required in this section.

15 “(26)(a) A landlord may sell or dispose of a tenant’s abandoned personal
16 property without complying with subsections (1) to (25) and (27) of this sec-
17 tion if, after termination of the tenancy or no more than seven days prior
18 to the termination of the tenancy, the following parties so agree in a writing
19 entered into in good faith:

20 “(A) The landlord;

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

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

28 “(b) A landlord may not, as part of a rental agreement, require a tenant,
29 a personal representative, a designated person or any lienholder or owner to
30 waive any right provided by this section.

1 “(27) Until personal property is conclusively presumed to be abandoned
2 under subsection (9) of this section, a landlord does not have a lien pursuant
3 to ORS 87.152 for storing the personal property.

4 **“SECTION 13.** ORS 90.675 is amended to read:

5 “90.675. (1) As used in this section:

6 “(a) ‘Current market value’ means the amount in cash, as determined by
7 the county assessor, that could reasonably be expected to be paid for per-
8 sonal property by an informed buyer to an informed seller, each acting
9 without compulsion in an arm’s-length transaction occurring on the assess-
10 ment date for the tax year or on the date of a subsequent reappraisal by the
11 county assessor.

12 “(b) ‘Dispose of the personal property’ means that, if reasonably appro-
13 priate, the landlord may throw away the property or may give it without
14 consideration to a nonprofit organization or to a person unrelated to the
15 landlord. The landlord may not retain the property for personal use or ben-
16 efit.

17 “(c) ‘Lienholder’ means any lienholder of abandoned personal property, if
18 the lien is of record or the lienholder is actually known to the landlord.

19 “(d) ‘Of record’ means:

20 “(A) For a manufactured dwelling, that a security interest has been
21 properly recorded in the records of the Department of Consumer and Busi-
22 ness Services pursuant to ORS 446.611 or on a certificate of title issued by
23 the Department of Transportation prior to May 1, 2005.

24 “(B) For a floating home, that a security interest has been properly re-
25 corded with the State Marine Board pursuant to ORS 830.740 to 830.755 for
26 a home registered and titled with the board pursuant to ORS 830.715.

27 “(e) ‘Personal property’ means only a manufactured dwelling or floating
28 home located in a facility and subject to ORS 90.505 to 90.840. ‘Personal
29 property’ does not include goods left inside a manufactured dwelling or
30 floating home or left upon a rented space and subject to disposition under

1 ORS 90.425.

2 “(2) A landlord [*may not*] **is responsible for abandoned personal prop-**
3 **erty and shall** store, sell or dispose of abandoned personal property
4 [*except*] as provided by this section. This section governs the rights and ob-
5 ligations of landlords, tenants and any lienholders in any personal property
6 abandoned or left upon the premises by the tenant or any lienholder in the
7 following circumstances:

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

13 “(b) The tenant has been absent from the premises continuously for seven
14 days after termination of a tenancy by a court order that has not been exe-
15 cuted; or

16 “(c) The landlord receives possession of the premises from the sheriff
17 following restitution pursuant to ORS 105.161.

18 “(3) Prior to **storing**, selling or disposing of the tenant’s personal prop-
19 erty under this section, the landlord must give a written notice to the tenant
20 that must be:

21 “(a) Personally delivered to the tenant; or

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

23 “(A) The premises;

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

26 “(C) The most recent forwarding address if provided by the tenant or ac-
27 tually known to the landlord.

28 “(4)(a) A landlord shall also give a copy of the notice described in sub-
29 section (3) of this section to:

30 “(A) Any lienholder of the personal property;

1 “(B) The tax collector of the county where the personal property is lo-
2 cated; and

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

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

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

10 “(A) Actually known to the landlord;

11 “(B) Of record; and

12 “(C) Provided to the landlord by the lienholder in a written notice that
13 identifies the personal property subject to the lien and that was sent to the
14 landlord by certified mail with return receipt requested within the preceding
15 five years. The notice must identify the personal property by describing the
16 physical address of the property.

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

19 “(a) The personal property left upon the premises is considered aban-
20 doned;

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

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

25 “(d) The tenant or any lienholder, except as provided by subsection (18)
26 of this section, may arrange for removal of the personal property by con-
27 tacting the landlord at a described telephone number or address on or before
28 the specified date;

29 “(e) The landlord shall make the personal property available for removal
30 by the tenant or any lienholder, except as provided by subsection (18) of this

1 section, by appointment at reasonable times;

2 “(f) If the personal property is considered to be abandoned pursuant to
3 subsection (2)(a) or (b) of this section, the landlord may require payment of
4 storage charges, as provided by subsection (7)(b) of this section, prior to re-
5 leasing the personal property to the tenant or any lienholder;

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

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

16 “(i) If applicable, there is a lienholder that has a right to claim the per-
17 sonal property, except as provided by subsection (18) of this section.

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

22 “(7) After notifying the tenant as required by subsection (3) of this sec-
23 tion, the landlord:

24 “(a) Shall store the abandoned personal property of the tenant on the
25 rented space and shall exercise reasonable care for the personal property;
26 and

27 “(b) Is entitled to reasonable or actual storage charges and costs inci-
28 dental to storage or disposal. The storage charge may be no greater than the
29 monthly space rent last payable by the tenant.

30 “(8) If a tenant or lienholder, upon the receipt of the notice provided by

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

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

24 “(10) If the personal property is presumed to be abandoned under sub-
25 section (9) of this section, the landlord then may:

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

28 “(A) The landlord may seek to transfer ownership of record of the per-
29 sonal property by complying with the requirements of the appropriate state
30 agency; and

1 “(B) The landlord shall:

2 “(i) Place a notice in a newspaper of general circulation in the county in

3 which the personal property is located. The notice shall state:

4 “(I) That the personal property is abandoned;

5 “(II) The tenant’s name;

6 “(III) The address and any space number where the personal property is

7 located, and any plate, registration or other identification number for a

8 floating home noted on the title, if actually known to the landlord;

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

10 “(V) Whether the landlord is accepting sealed bids and, if so, the last date

11 on which bids will be accepted; and

12 “(VI) The name and telephone number of the person to contact to inspect

13 the personal property;

14 “(ii) At a reasonable time prior to the sale, give a copy of the notice re-

15 quired by sub-subparagraph (i) of this subparagraph to the tenant and to any

16 lienholder, by personal delivery or first class mail, except that for any

17 lienholder, mail service must be by first class mail with certificate of mail-

18 ing;

19 “(iii) Obtain an affidavit of publication from the newspaper to show that

20 the notice required under sub-subparagraph (i) of this subparagraph ran in

21 the newspaper at least one day in each of two consecutive weeks prior to the

22 date scheduled for the sale or the last date bids will be accepted; and

23 “(iv) Obtain written proof from the county that all property taxes and

24 assessments on the personal property have been paid or, if not paid, that the

25 county has authorized the sale, with the sale proceeds to be distributed

26 pursuant to subsection (13) of this section; or

27 “(b) Destroy or otherwise dispose of the personal property if the landlord

28 determines from the county assessor that the current market value of the

29 property is \$8,000 or less.

30 “(11)(a) A public or private sale authorized by this section must be con-

1 ducted consistent with the terms listed in subsection (10)(a)(B)(i) of this
2 section. Every aspect of the sale including the method, manner, time, place
3 and terms must be commercially reasonable.

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

8 “(12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord inten-
9 tionally misrepresents the condition of personal property, the landlord is not
10 liable for the condition of the personal property to:

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

13 “(b) A person or nonprofit organization to whom the landlord gives the
14 personal property pursuant to subsection (1)(b), (10)(b) or (11)(b) of this sec-
15 tion.

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 sub-
20 section, the landlord shall remit the remaining proceeds, if any, to the
21 county tax collector to the extent of any unpaid property taxes and assess-
22 ments owed on the dwelling or home.

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

27 “(d) After deducting the amounts listed in paragraphs (a), (b) and (c) of
28 this subsection, if applicable, the landlord shall remit to the tenant the re-
29 maining proceeds, if any, together with an itemized accounting.

30 “(e) If the tenant cannot after due diligence be found, the landlord shall

1 deposit the remaining proceeds with the county treasurer of the county in
2 which the sale occurred. If not claimed within three years, the deposited
3 proceeds revert to the general fund of the county and are available for gen-
4 eral purposes.

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

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

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

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

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

16 “(C) The proceeds of the sale are insufficient to satisfy the unpaid prop-
17 erty taxes and assessments owed on the personal property after distribution
18 of the proceeds pursuant to subsection (13) of this section.

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

21 “(B) The current market value of the personal property is more than
22 \$8,000;

23 “(C) The proceeds of the sale are insufficient to satisfy the unpaid prop-
24 erty taxes and assessments owed on the personal property after distribution
25 of the proceeds pursuant to subsection (13) of this section; and

26 “(D) The landlord disposes of the personal property.

27 “(15) The landlord is not responsible for any loss to the tenant or
28 lienholder resulting from storage of personal property in compliance with
29 this section unless the loss was caused by the landlord’s deliberate or
30 negligent act. In the event of a deliberate and malicious violation, the land-

1 lord is liable for twice the actual damages sustained by the tenant or
2 lienholder.

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

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

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

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

16 “(c) A county tax collector aggrieved by the noncompliance may recover
17 from the landlord the actual damages sustained by the tax collector, if the
18 noncompliance is part of an effort by the landlord to defraud the tax col-
19 lector. ORS 90.255 does not authorize an award of attorney fees to the pre-
20 vailing party in any action arising under this paragraph.

21 “(18) The provisions of this section regarding the rights and responsibil-
22 ities of a tenant to the abandoned personal property also apply to any
23 lienholder, except that the lienholder may not sell or remove the dwelling
24 or home unless:

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

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

30 “(c) The notice and response periods provided by subsections (6) and (8)

1 of this section have expired.

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

11 “(b) The lienholder’s right to a storage agreement arises upon the failure
12 of the tenant or, in the case of a deceased tenant, the personal represen-
13 tative, designated person, heir or devisee to remove or sell the dwelling or
14 home within the allotted time.

15 “(c) To exercise the right to a storage agreement under this subsection,
16 in addition to contacting the landlord with a timely response as described
17 in paragraph (a) of this subsection, the lienholder must enter into the pro-
18 posed storage agreement within 60 days after the landlord gives a copy of the
19 agreement to the lienholder. The landlord shall give a copy of the proposed
20 storage agreement to the lienholder in the same manner as provided by sub-
21 section (4)(b) of this section. The landlord may include a copy of the pro-
22 posed storage agreement with the notice of abandoned property required by
23 subsection (4) of this section. A lienholder enters into a storage agreement
24 by signing a copy of the agreement provided by the landlord and personally
25 delivering or mailing the signed copy to the landlord within the 60-day pe-
26 riod.

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

29 “(A) The lienholder make timely periodic payment of all storage charges,
30 as described in subsection (7)(b) of this section, accruing from the com-

1 commencement of the 45-day period described in subsection (6) of this section.
2 A storage charge may include a utility or service charge, as described in
3 ORS 90.532, if limited to charges for electricity, water, sewer service and
4 natural gas and if incidental to the storage of personal property. A storage
5 charge may not be due more frequently than monthly;

6 “(B) The lienholder pay a late charge or fee for failure to pay a storage
7 charge by the date required in the agreement, if the amount of the late
8 charge is no greater than for late charges imposed on facility tenants;

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

13 “(D) The lienholder repair any defects in the physical condition of the
14 personal property that existed prior to the lienholder entering into the stor-
15 age agreement, if the defects and necessary repairs are reasonably described
16 in the storage agreement and, for homes that were first placed on the space
17 within the previous 24 months, the repairs are reasonably consistent with
18 facility standards in effect at the time of placement. The lienholder shall
19 have 90 days after entering into the storage agreement to make the repairs.
20 Failure to make the repairs within the allotted time constitutes a violation
21 of the storage agreement and the landlord may terminate the agreement by
22 giving at least 14 days’ written notice to the lienholder stating facts suffi-
23 cient to notify the lienholder of the reason for termination. Unless the
24 lienholder corrects the violation within the notice period, the agreement
25 terminates as provided and the landlord may sell or dispose of the property
26 without further notice to the lienholder.

27 “(e) Notwithstanding subsection (7)(b) of this section, a landlord may in-
28 crease the storage charge if the increase is part of a facility-wide rent in-
29 crease for all facility tenants, the increase is no greater than the increase
30 for other tenants and the landlord gives the lienholder written notice con-

1 sistent with the requirements of ORS 90.600 (1).

2 “(f) During the term of an agreement described under this subsection, the
3 lienholder has the right to remove or sell the property, subject to the pro-
4 visions of the lien. Selling the property includes a sale to a purchaser who
5 wishes to leave the property on the rented space and become a tenant, sub-
6 ject to the provisions of ORS 90.680. The landlord may condition approval
7 for occupancy of any purchaser of the property upon payment of all unpaid
8 storage charges and maintenance costs.

9 “(g)(A) Except as provided in paragraph (d)(D) of this subsection, if the
10 lienholder violates the storage agreement, the landlord may terminate the
11 agreement by giving at least 90 days’ written notice to the lienholder stating
12 facts sufficient to notify the lienholder of the reason for the termination.
13 Unless the lienholder corrects the violation within the notice period, the
14 agreement terminates as provided and the landlord may sell or dispose of the
15 property without further notice to the lienholder.

16 “(B) After a landlord gives a termination notice pursuant to subparagraph
17 (A) of this paragraph for failure of the lienholder to pay a storage charge
18 and the lienholder corrects the violation, if the lienholder again violates the
19 storage agreement by failing to pay a subsequent storage charge, the land-
20 lord may terminate the agreement by giving at least 30 days’ written notice
21 to the lienholder stating facts sufficient to notify the lienholder of the reason
22 for termination. Unless the lienholder corrects the violation within the no-
23 tice period, the agreement terminates as provided and the landlord may sell
24 or dispose of the property without further notice to the lienholder.

25 “(C) A lienholder may terminate a storage agreement at any time upon
26 at least 14 days’ written notice to the landlord and may remove the property
27 from the facility if the lienholder has paid all storage charges and other
28 charges as provided in the agreement.

29 “(h) Upon the failure of a lienholder to enter into a storage agreement
30 as provided by this subsection or upon termination of an agreement, unless

1 the parties otherwise agree or the lienholder has sold or removed the prop-
2 erty, the landlord may sell or dispose of the property pursuant to this section
3 without further notice to the lienholder.

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

7 “(a) The provisions of this section regarding the rights and responsibil-
8 ities of a tenant to the abandoned personal property shall apply to any per-
9 sonal representative named in a will or appointed by a court to act for the
10 deceased tenant or any person designated in writing by the tenant to be
11 contacted by the landlord in the event of the tenant’s death.

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

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

14 “(B) Personally delivered or sent by first class mail to any personal rep-
15 resentative or designated person if actually known to the landlord.

16 “(c) The notice described in subsection (5) of this section must refer to
17 any personal representative or designated person, instead of the deceased
18 tenant, and must incorporate the provisions of this subsection.

19 “(d) If a personal representative, designated person or other person enti-
20 tled to possession of the property, such as an heir or devisee, responds by
21 actual notice to a landlord within the 45-day period provided by subsection
22 (6) of this section and so requests, the landlord shall enter into a written
23 storage agreement with the representative or person providing that the per-
24 sonal property may not be sold or disposed of by the landlord for up to 90
25 days or until conclusion of any probate proceedings, whichever is later. A
26 storage agreement entitles the representative or person to store the personal
27 property on the previously rented space during the term of the agreement,
28 but does not entitle anyone to occupy the personal property. If such an
29 agreement is entered, the landlord may not enter a similar agreement with
30 a lienholder pursuant to subsection (19) of this section until the agreement

1 with the personal representative or designated person ends.

2 “(e) If a personal representative or other person requests that a landlord
3 enter into a storage agreement, subsection (19)(c) to (e) and (g)(C) of this
4 section applies, with the representative or person having the rights and re-
5 sponsibilities of a lienholder with regard to the storage agreement.

6 “(f) During the term of an agreement described under paragraph (d) of
7 this subsection, the representative or person has the right to remove or sell
8 the property, including a sale to a purchaser or a transfer to an heir or
9 devisee where the purchaser, heir or devisee wishes to leave the property on
10 the rented space and become a tenant, subject to the provisions of ORS
11 90.680. The landlord also may condition approval for occupancy of any pur-
12 chaser, heir or devisee of the property upon payment of all unpaid storage
13 charges and maintenance costs.

14 “(g) If the representative or person violates the storage agreement, the
15 landlord may terminate the agreement by giving at least 30 days’ written
16 notice to the representative or person stating facts sufficient to notify the
17 representative or person of the reason for the termination. Unless the rep-
18 resentative or person corrects the violation within the notice period, the
19 agreement terminates as provided and the landlord may sell or dispose of the
20 property without further notice to the representative or person.

21 “(h) Upon the failure of a representative or person to enter into a storage
22 agreement as provided by this subsection or upon termination of an agree-
23 ment, unless the parties otherwise agree or the representative or person has
24 sold or removed the property, the landlord may sell or dispose of the property
25 pursuant to this section without further notice to the representative or per-
26 son.

27 “(21) If a governmental agency determines that the condition of personal
28 property abandoned under this section constitutes an extreme health or
29 safety hazard under state or local law and the agency determines that the
30 hazard endangers others in the facility and requires quick removal of the

1 property, the landlord may sell or dispose of the property pursuant to this
2 subsection. The landlord shall comply with all provisions of this section,
3 except as follows:

4 “(a) The date provided in subsection (6) of this section by which a tenant,
5 lienholder, personal representative or designated person must contact a
6 landlord to arrange for the disposition of the property must be not less than
7 15 days after personal delivery or mailing of the notice required by sub-
8 section (3) of this section.

9 “(b) The date provided in subsections (8) and (9) of this section by which
10 a tenant, lienholder, personal representative or designated person must re-
11 move the property must be not less than seven days after the tenant,
12 lienholder, personal representative or designated person contacts the land-
13 lord.

14 “(c) The notice required by subsection (3) of this section must be as pro-
15 vided in subsection (5) of this section, except that:

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

18 “(B) The notice must state that a governmental agency has determined
19 that the property constitutes an extreme health or safety hazard and must
20 be removed quickly; and

21 “(C) The landlord shall attach a copy of the agency’s determination to the
22 notice.

23 “(d) If the tenant, a lienholder or a personal representative or designated
24 person does not remove the property within the time allowed, the landlord
25 or a buyer at a sale by the landlord under subsection (11) of this section
26 shall promptly remove the property from the facility.

27 “(e) A landlord is not required to enter into a storage agreement with a
28 lienholder, personal representative or designated person pursuant to sub-
29 section (19) of this section.

30 “(22)(a) A landlord may sell or dispose of a tenant’s abandoned personal

1 property without complying with the provisions of this section if, after ter-
2 mination of the tenancy or no more than seven days prior to the termination
3 of the tenancy, the following parties so agree in a writing entered into in
4 good faith:

5 “(A) The landlord;

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

10 “(C) Any lienholder.

11 “(b) A landlord may not, as part of a rental agreement, as a condition to
12 approving a sale of property on rented space under ORS 90.680 or in any
13 other manner, require a tenant, a personal representative, a designated per-
14 son or any lienholder to waive any right provided by this section.

15 “(23) Until personal property is conclusively presumed to be abandoned
16 under subsection (9) of this section, a landlord does not have a lien pursuant
17 to ORS 87.152 for storing the personal property.

18 **“SECTION 14.** ORS 90.100 is amended to read:

19 “90.100. As used in this chapter, unless the context otherwise requires:

20 “(1) ‘Accessory building or structure’ means any portable, demountable
21 or permanent structure, including but not limited to cabanas, ramadas,
22 storage sheds, garages, awnings, carports, decks, steps, ramps, piers and
23 pilings, that is:

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

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

28 “(2) ‘Action’ includes recoupment, counterclaim, setoff, suit in equity and
29 any other proceeding in which rights are determined, including an action for
30 possession.

1 “(3) ‘Applicant screening charge’ means any payment of money required
2 by a landlord of an applicant prior to entering into a rental agreement with
3 that applicant for a residential dwelling unit, the purpose of which is to pay
4 the cost of processing an application for a rental agreement for a residential
5 dwelling unit.

6 “(4) ‘Building and housing codes’ includes any law, ordinance or govern-
7 mental regulation concerning fitness for habitation, or the construction,
8 maintenance, operation, occupancy, use or appearance of any premises or
9 dwelling unit.

10 “(5) ‘Carbon monoxide alarm’ has the meaning given that term in ORS
11 105.836.

12 “(6) ‘Carbon monoxide source’ has the meaning given that term in ORS
13 105.836.

14 “(7) ‘Conduct’ means the commission of an act or the failure to act.

15 “(8) ‘Dealer’ means any person in the business of selling, leasing or dis-
16 tributing new or used manufactured dwellings or floating homes to persons
17 who purchase or lease a manufactured dwelling or floating home for use as
18 a residence.

19 “(9) ‘Domestic violence’ means:

20 “(a) Abuse between family or household members, as those terms are de-
21 fined in ORS 107.705; or

22 “(b) Abuse, as defined in ORS 107.705, between partners in a dating re-
23 lationship.

24 “(10) ‘Drug and alcohol free housing’ means a dwelling unit described in
25 ORS 90.243.

26 “(11) ‘Dwelling unit’ means a structure or the part of a structure that is
27 used as a home, residence or sleeping place by one person who maintains a
28 household or by two or more persons who maintain a common household.
29 ‘Dwelling unit’ regarding a person who rents a space for a manufactured
30 dwelling or recreational vehicle or regarding a person who rents moorage

1 space for a floating home as defined in ORS 830.700, but does not rent the
2 home, means the space rented and not the manufactured dwelling, recre-
3 ational vehicle or floating home itself.

4 “(12) ‘Essential service’ means:

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

8 “(A) Heat, plumbing, hot and cold running water, gas, electricity, light
9 fixtures, locks for exterior doors, latches for windows and any cooking ap-
10 pliance or refrigerator supplied or required to be supplied by the landlord;
11 and

12 “(B) Any other service or habitability obligation imposed by the rental
13 agreement or ORS 90.320, the lack or violation of which creates a serious
14 threat to the tenant’s health, safety or property or makes the dwelling unit
15 unfit for occupancy.

16 “(b) For a tenancy consisting of rental space for a manufactured dwelling,
17 floating home or recreational vehicle owned by the tenant or that is other-
18 wise subject to ORS 90.505 to 90.840:

19 “(A) Sewage disposal, water supply, electrical supply and, if required by
20 applicable law, any drainage system; and

21 “(B) Any other service or habitability obligation imposed by the rental
22 agreement or ORS 90.730, the lack or violation of which creates a serious
23 threat to the tenant’s health, safety or property or makes the rented space
24 unfit for occupancy.

25 “(13) ‘Facility’ means a manufactured dwelling park or a marina.

26 “(14) ‘Facility purchase association’ means a group of three or more ten-
27 ants who reside in a facility and have organized for the purpose of eventual
28 purchase of the facility.

29 “(15) ‘Fee’ means a nonrefundable payment of money.

30 “(16) ‘First class mail’ does not include certified or registered mail, or any

1 other form of mail that may delay or hinder actual delivery of mail to the
2 recipient.

3 “(17) ‘Fixed term tenancy’ means a tenancy that has a fixed term of ex-
4 istence, continuing to a specific ending date and terminating on that date
5 without requiring further notice to effect the termination.

6 “(18) ‘Floating home’ has the meaning given that term in ORS 830.700.
7 ‘Floating home’ includes an accessory building or structure.

8 “(19) ‘Good faith’ means honesty in fact in the conduct of the transaction
9 concerned.

10 “(20) ‘Hotel or motel’ means ‘hotel’ as that term is defined in ORS 699.005.

11 “(21) ‘Informal dispute resolution’ means, but is not limited to, consulta-
12 tion between the landlord or landlord’s agent and one or more tenants, or
13 mediation utilizing the services of a third party.

14 “(22) ‘Landlord’ means the owner, lessor or sublessor of the dwelling unit
15 or the building or premises of which it is a part. ‘Landlord’ includes a per-
16 son who is authorized by the owner, lessor or sublessor to manage the
17 premises or to enter into a rental agreement.

18 “(23) ‘Landlord’s agent’ means a person who has oral or written authority,
19 either express or implied, to act for or on behalf of a landlord.

20 “(24) ‘Last month’s rent deposit’ means a type of security deposit, however
21 designated, the primary function of which is to secure the payment of rent
22 for the last month of the tenancy.

23 “(25) ‘Manufactured dwelling’ means a residential trailer, a mobile home
24 or a manufactured home as those terms are defined in ORS 446.003. ‘Manu-
25 factured dwelling’ includes an accessory building or structure. ‘Manufactured
26 dwelling’ does not include a recreational vehicle.

27 “(26) ‘Manufactured dwelling park’ means a place where four or more
28 manufactured dwellings are located, the primary purpose of which is to rent
29 space or keep space for rent to any person for a charge or fee.

30 “(27) ‘Marina’ means a moorage of contiguous dwelling units that may

1 be legally transferred as a single unit and are owned by one person where
2 four or more floating homes are secured, the primary purpose of which is to
3 rent space or keep space for rent to any person for a charge or fee.

4 “(28) ‘Month-to-month tenancy’ means a tenancy that automatically re-
5 news and continues for successive monthly periods on the same terms and
6 conditions originally agreed to, or as revised by the parties, until terminated
7 by one or both of the parties.

8 “(29) ‘Organization’ includes a corporation, government, governmental
9 subdivision or agency, business trust, estate, trust, partnership or associ-
10 ation, two or more persons having a joint or common interest, and any other
11 legal or commercial entity.

12 “(30) ‘Owner’ includes a mortgagee in possession and means one or more
13 persons, jointly or severally, in whom is vested:

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

15 “(b) All or part of the beneficial ownership and a right to present use and
16 enjoyment of the premises.

17 “(31) ‘Person’ includes an individual or organization.

18 “(32) ‘Premises’ means:

19 “(a) A dwelling unit and the structure of which it is a part and facilities
20 and appurtenances therein;

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

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

24 “(33) ‘Prepaid rent’ means any payment of money to the landlord for a
25 rent obligation not yet due. In addition, ‘prepaid rent’ means rent paid for
26 a period extending beyond a termination date.

27 “(34) ‘Recreational vehicle’ has the meaning given that term in ORS
28 446.003.

29 “(35) ‘Rent’ means any payment to be made to the landlord under the
30 rental agreement, periodic or otherwise, in exchange for the right of a tenant

1 and any permitted pet to occupy a dwelling unit to the exclusion of others
2 **and to use the premises.** ‘Rent’ does not include security deposits, fees or
3 utility or service charges as described in ORS 90.315 (4) and 90.532.

4 “(36) ‘Rental agreement’ means all agreements, written or oral, and valid
5 rules and regulations adopted under ORS 90.262 or 90.510 (6) embodying the
6 terms and conditions concerning the use and occupancy of a dwelling unit
7 and premises. ‘Rental agreement’ includes a lease. A rental agreement shall
8 be either a week-to-week tenancy, month-to-month tenancy or fixed term
9 tenancy.

10 “(37) ‘Roomer’ means a person occupying a dwelling unit that does not
11 include a toilet and either a bathtub or a shower and a refrigerator, stove
12 and kitchen, all provided by the landlord, and where one or more of these
13 facilities are used in common by occupants in the structure.

14 “(38) ‘Screening or admission criteria’ means a written statement of any
15 factors a landlord considers in deciding whether to accept or reject an ap-
16 plicant and any qualifications required for acceptance. ‘Screening or admis-
17 sion criteria’ includes, but is not limited to, the rental history, character
18 references, public records, criminal records, credit reports, credit references
19 and incomes or resources of the applicant.

20 “(39) ‘Security deposit’ means a refundable payment or deposit of money,
21 however designated, the primary function of which is to secure the perform-
22 ance of a rental agreement or any part of a rental agreement. ‘Security de-
23 posit’ does not include a fee.

24 “(40) ‘Sexual assault’ has the meaning given that term in ORS 147.450.

25 “(41) ‘Squatter’ means a person occupying a dwelling unit who is not so
26 entitled under a rental agreement or who is not authorized by the tenant to
27 occupy that dwelling unit. ‘Squatter’ does not include a tenant who holds
28 over as described in ORS 90.427 (7).

29 “(42) ‘Stalking’ means the behavior described in ORS 163.732.

30 “(43) ‘Statement of policy’ means the summary explanation of information

1 and facility policies to be provided to prospective and existing tenants under
2 ORS 90.510.

3 “(44) ‘Surrender’ means an agreement, express or implied, as described in
4 ORS 90.148 between a landlord and tenant to terminate a rental agreement
5 that gave the tenant the right to occupy a dwelling unit.

6 “(45) ‘Tenant’:

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

8 “(A) Means a person, including a roomer, entitled under a rental agree-
9 ment to occupy a dwelling unit to the exclusion of others, including a
10 dwelling unit owned, operated or controlled by a public housing authority.

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

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

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

17 “(46) ‘Transient lodging’ means a room or a suite of rooms.

18 “(47) ‘Transient occupancy’ means occupancy in transient lodging that has
19 all of the following characteristics:

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

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

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

25 “(48) ‘Vacation occupancy’ means occupancy in a dwelling unit, not in-
26 cluding transient occupancy in a hotel or motel, that has all of the following
27 characteristics:

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

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

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

2 “(49) ‘Victim’ means:

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

5 “(b) The parent or guardian of a minor household member against whom
6 an incident related to domestic violence, sexual assault or stalking is per-
7 petrated, unless the parent or guardian is the perpetrator.

8 “(50) ‘Week-to-week tenancy’ means a tenancy that has all of the follow-
9 ing characteristics:

10 “(a) Occupancy is charged on a weekly basis and is payable no less fre-
11 quently than every seven days;

12 “(b) There is a written rental agreement that defines the landlord’s and
13 the tenant’s rights and responsibilities under this chapter; and

14 “(c) There are no fees or security deposits, although the landlord may
15 require the payment of an applicant screening charge, as provided in ORS
16 90.295.

17 **“SECTION 15.** ORS 105.120 is amended to read:

18 “105.120. (1) As used in this section, ‘rent’ does not include funds paid
19 under the United States Housing Act of 1937 (42 U.S.C. 1437f).

20 “(2) Except as provided in subsection (3) of this section, an action for the
21 recovery of the possession of the premises may be maintained in cases pro-
22 vided in ORS 105.115 (1)(b), when the notice to terminate the tenancy or to
23 quit has been served upon the tenant or person in possession in the manner
24 prescribed by ORS 91.110 and for the period prescribed by ORS 91.060 to
25 91.080 before the commencement of the action, unless the leasing or occupa-
26 tion is for the purpose of farming or agriculture, in which case the notice
27 must be served for a period of 90 days before the commencement of the
28 action. Any person entering into the possession of real estate under written
29 lease as the tenant of another may, by the terms of the lease, waive the
30 giving of any notice required by this subsection.

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

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

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

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

19 “(b) The only unused rent was paid by the tenant for a rental period ex-
20 tending beyond the termination date specified in a valid outstanding notice
21 to terminate the tenancy and the landlord refunded the unused rent within
22 [six] 10 days after receipt by delivering the unused rent to the tenant in
23 person or by first class mailing.”.

24
