

SUMMARY OF SB 390A REGARDING RESIDENTIAL TENANCIES: The General Landlord/Tenant Coalition Bill

John VanLandingham, Lane County Legal Aid & Advocacy Center

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Introduction: The General Landlord/Tenant Coalition, which has had a negotiated compromise bill in every regular legislative session but one since the early 1980s, is the source of SB 390A. The coalition consists of representatives of landlords, tenants, and other interested parties, including the following: Multifamily NW, Oregon Rental Housing Association, Rental Housing Alliance Oregon, Northwest Real Estate Trustees Association, Community Alliance of Tenants, Oregon Law Center, Legal Aid Services of Oregon, Lane County Legal Aid & Advocacy Center, Portland State University Student Legal Services, Oregon Housing Authorities, and the City of Corvallis. The coalition met 11 times between September 2014 and February 2015, for three hours each, to negotiate this bill. There are no known opponents of the bill. The bill passed out of the Senate Judiciary Committee on a unanimous 5 to 0 vote, and passed the full Senate on a 21 to 7 vote.

The following is a section by section summary:

SECTIONS 1 and 2. Amend ORS 90.160 and 105.159 to **change the deadline for various acts to be 11:59 pm**, for clarity and consistency.

SECTION 3. Amends ORS 90.302 regarding **fees** that a landlord may charge a tenant, to make several changes:

a. Expand the allowed fee for failure to pick up pet waste to include service or companion animal waste; these animals are not “pets.”

b. Increase the maximum allowed fee for having an unauthorized pet for a second violation after the required warning, from \$50 to \$250, to reflect the risk of damage that can be caused by a pet and to act as a disincentive to violating rules against pets. This increased fee cannot be assessed until at least 48 hours after the warning notice, to give the tenant time to remove the pet.

c. Add a new fee that a landlord who owns a unit in a condominium or homeowners association may pass through to a tenant of that unit, for **move-in or move-out assessments**, with notice to the tenant and a copy of the assessment.

d. **Add a penalty** for a landlord who violates the law regarding noncompliance fees.

SECTION 4. Amends ORS 90.412 regarding when a landlord is deemed to have waived the right to terminate a tenancy for a violation of the law or rental agreement, to make several changes:

a. **Expand the exemptions from the waiver statute to include housing subsidy payments from other government sources in addition to Section 8,** consistent with the 2013 Source of Income discrimination bill.

b. Provide an **exception to the waiver rules for a landlord’s acceptance of a rent payment before a tenant pays for damages or for any other claim; this provision is part of the change in Section 10 regarding order of payments.** As a result of this amendment, a landlord does not waive a claim for damages by accepting rent, if the landlord gives a warning notice to that effect, notifying the tenant that the damages are still owed. The warning notice is in effect for 12 months. This provision mirrors a similar existing provision in this section regarding conduct.

SECTION 5: Amends ORS 90.222 regarding the landlord’s right to require that a tenant obtain **renter’s liability insurance,** to make several changes:

a. Require that a landlord include in the notice of this requirement a **summary of the exclusions** to this requirement.

b. Clarify that **project-based Section 8 tenancies are excluded,** like subsidized housing projects.

c. Make the provision regarding rental housing assistance **consistent with the 2013 Source of Income discrimination bill** regarding other sources of government rent subsidy.

d. Allow a landlord to require a tenant to **name the landlord as an “interested party,”** authorizing an insurer to notify the landlord if the policy is changed in a significant way.

e. Provide a **penalty** for a landlord who knowingly violates this section.

SECTION 6. Amends ORS 90.453 regarding **domestic violence protections to add a cross-reference to the newly-created (2013) sexual abuse restraining order** as a form of verification that can be used to document abuse.

SECTION 7. Amends ORS 90.325 regarding tenant duties to:

a. Make clear that a **landlord may not hold a tenant responsible for damage to a dwelling unit resulting from Acts of God or from conduct by a perpetrator of domestic violence**, sexual assault, or stalking. A landlord may require verification of the DV as provided by ORS 90.453.

b. Add to the existing tenant duties the requirement to **not tamper with sprinkler heads**.

SECTION 8. Amend ORS 90.315 regarding utility or service charges which a landlord may pass through to a tenant without being treated as rent (e.g., an electricity bill) to add a new, related charge which a landlord may also pass through to a tenant: a **public service charge**, defined to mean a charge imposed on a landlord (and other real property owners) by a utility provider or local government for municipal services or use of a public resource, such as transit, street maintenance, parks, public safety. Such charges are a seemingly growing trend by local governments. These are distinguished from real property taxes or related taxes or fees. A landlord is allowed to amend an existing rental agreement to pass through a new public service charge, on 60 days' notice.

There are **additional changes to all utility or service charges, focused on transparency of the utility provider's bill** regarding how it is assessed and giving a tenant access to that bill. In addition, a landlord may deliver a utility or service charge bill by electronic means, i.e., email. And the timing and content of the bill are clarified.

SECTION 9. Amends ORS 90.155 to change a **cross-reference**.

SECTION 10. Amends ORS 90.220 to specify the **order in which a landlord may apply payments received from a tenant**, starting with back rent, current rent, utility or service charges, late rent charges, and finally damage claims and fees and any other claims. This is important in that the order of application could determine whether a tenant's payment is applied to rent or to something else, which in turn may determine whether a tenant is evicted for nonpayment of rent on a 72-hour notice. This provision resolves an issue which has been litigated in other states.

SECTION 11. The **change made by section 10 to ORS 90.220** regarding the allowed order of payment is made **effective** for month to month and week to week tenancies after January 1, 2016, and **for fixed term tenancies which are entered**

into or renewed after January 1, 2016. Pre-existing fixed term tenancies, commonly called leases, are not required to comply with this new requirement until they are renewed.

SECTIONS 12 and 13. Creates a new section **requiring a landlord to provide an emergency or secondary means of exiting a bedroom**, consistent with applicable law regarding emergency exits from bedrooms; allows a tenant to terminate such a tenancy on 72 hours' notice unless the landlord cures the noncompliance; and provides for damages and a penalty for failure to cure. This change is aimed at landlords who rent out illegal units containing bedrooms without legal or approved egress, which can be catastrophic in the case of a fire or other emergency. This provision is not meant to require fire escape ladders in multistory buildings or to prevent the installation of air conditioners in bedroom windows. The reference to "conform to applicable law" is consistent with language in the habitability statute, ORS 90.320.

John VanLandingham

Lane County Legal Aid & Advocacy Center

376 East 11th

Eugene OR 97401

541-485-1017 x138/541-285-8445 (c)

johnvl@lclac.org

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