

# Senate Bill 390

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies provisions affecting landlord and tenant relations.

## A BILL FOR AN ACT

1  
2 Relating to residential landlord-tenant law; amending ORS 90.160, 90.222, 90.302, 90.325, 90.412,  
3 90.453 and 105.159.

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

5 **SECTION 1.** ORS 90.160 is amended to read:

6 90.160. (1) Notwithstanding ORCP 10 and not including the seven-day and four-day waiting pe-  
7 riods provided in ORS 90.394, where there are references in this chapter to periods and notices  
8 based on a number of days, those days shall be calculated by consecutive calendar days, not in-  
9 cluding the initial day of service, but including the last day until the end of that last day at [12  
10 *midnight*] **11:59 p.m.** Where there are references in this chapter to periods or notices based on a  
11 number of hours, those hours shall be calculated in consecutive clock hours, beginning immediately  
12 upon service.

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

18 **SECTION 2.** ORS 105.159 is amended to read:

19 105.159. (1) Notwithstanding ORCP 10, the four-day period specified in ORS 105.151 (2) shall:

20 (a) Commence at 12:01 a.m. on the day [*following*] **after** mailing and service of the notice of  
21 restitution pursuant to ORS 105.158, including a Saturday or a Sunday or other legal holiday; and

22 (b) End [*on the fourth calendar day following*] **at 11:59 p.m., the end of the day, on the fourth**  
23 **calendar day after** the mailing and service except that if the fourth day is a Saturday or a Sunday  
24 or other legal holiday, the period shall end at [*12 midnight of the day*] **11:59 p.m., the end of the**  
25 **day, on the day** preceding the next judicial day.

26 (2) Except as provided in subsection (3) of this section, at any time after the expiration of the  
27 period provided in the notice of restitution, the plaintiff may request that the clerk of the court is-  
28 sue a writ of execution of judgment of restitution directing the sheriff to enforce the judgment of  
29 restitution by returning possession of the premises to the plaintiff. [*Following*] **After** payment of any  
30 required fees, the clerk shall issue the writ in substantially the form provided by ORS 105.156.

31 (3) Unless the judgment otherwise provides, the clerk may not issue a notice of restitution or

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 a writ of execution of judgment of restitution more than 60 days after the judgment is entered or  
 2 after any date for possession as specified in the judgment, whichever is later.

3 **SECTION 3.** ORS 90.302 is amended to read:

4 90.302. (1) A landlord may not charge a fee at the beginning of the tenancy for an anticipated  
 5 landlord expense and may not require the payment of any fee except as provided in this section.  
 6 A fee must be described in a written rental agreement.

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

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

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

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

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

18 (e) The abandonment or relinquishment of a dwelling unit during a fixed term tenancy without  
 19 cause. The fee may not exceed one and one-half times the monthly rent. A landlord may not assess  
 20 a fee under this paragraph if the abandonment or relinquishment is pursuant to ORS 90.453 (2),  
 21 90.472 or 90.475. If the landlord assesses a fee under this paragraph:

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

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

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

28 (3)(a) A landlord may charge a tenant a fee under this subsection for a second noncompliance  
 29 or for a subsequent noncompliance with written rules or policies that describe the prohibited con-  
 30 duct and the fee for a second noncompliance, and for any third or subsequent noncompliance, that  
 31 occurs within one year after a written warning notice described in subparagraph (A) of this para-  
 32 graph. The fee may not exceed \$50 for the second noncompliance within one year after the warning  
 33 notice for the same or a similar noncompliance or \$50 plus five percent of the rent payment for the  
 34 current rental period for a third or subsequent noncompliance within one year after the warning  
 35 notice for the same or a similar noncompliance. The landlord:

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

37 (i) A specific noncompliance before charging a fee for a second or subsequent noncompliance for  
 38 the same or similar conduct; and

39 (ii) The amount of the fee for a second noncompliance, and for any subsequent noncompliance,  
 40 that occurs within one year after the warning notice.

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

43 (C) Shall give a warning notice for a noncompliance or assess a fee for a second or subsequent  
 44 noncompliance within 30 days after the act constituting noncompliance.

45 (D) May terminate a tenancy for a noncompliance consistent with this chapter instead of as-

1 assessing a fee under this subsection, but may not assess a fee and terminate a tenancy for the same  
 2 noncompliance.

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

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

7 (A) The late payment of a utility or service charge that the tenant owes the landlord as de-  
 8 scribed in ORS 90.315.

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

10 (C) **Failure to clean up the waste of a service animal or a companion animal from a part**  
 11 **of the premises other than the dwelling unit.**

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

14 [(D)] (E) Parking violations.

15 [(E)] (F) The improper use of vehicles within the premises.

16 [(F)] (G) Smoking in a clearly designated nonsmoking unit or area of the premises.

17 [(G)] (H) Keeping on the premises an unauthorized pet capable of causing damage to persons  
 18 or property, as described in ORS 90.405.

19 (4) A landlord may not be required to account for or return to the tenant any fee.

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

22 (6) Nonpayment of a fee is not grounds for termination of a rental agreement for nonpayment  
 23 of rent under ORS 90.394, but is grounds for termination of a rental agreement for cause under ORS  
 24 90.392 or 90.630 (1).

25 (7) This section does not apply to:

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

27 (b) Applicant screening charges paid pursuant to ORS 90.295;

28 (c) Charges for improvements or other actions that are requested by the tenant and are not re-  
 29 quired of the landlord by the rental agreement or by law, including the cost to replace a key lost  
 30 by a tenant;

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

33 (A) The credit card company allows processing fees to be passed through to the credit card  
 34 holder; and

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

36 (e) A requirement by a landlord in a written rental agreement that a tenant obtain and maintain  
 37 renter's liability insurance pursuant to ORS 90.222.

38 **SECTION 4.** ORS 90.412 is amended to read:

39 90.412. (1) As used in this section and ORS 90.414 and 90.417, "rent" does not include funds paid  
 40 **to a landlord:**

41 (a) Under the United States Housing Act of 1937 (42 U.S.C. 1437f).

42 (b) **By any other local, state or federal housing assistance program.**

43 (2) Except as otherwise provided in this section, a landlord waives the right to terminate a  
 44 rental agreement for a particular violation of the rental agreement or of law if the landlord:

45 (a) During three or more separate rental periods, accepts rent with knowledge of the violation

1 by the tenant; or

2 (b) Accepts performance by a tenant that varies from the terms of the rental agreement.

3 (3) A landlord has not accepted rent for purposes of subsection (2) of this section if:

4 (a) Within 10 days after receipt of the rent payment, the landlord refunds the rent; or

5 (b) The rent payment is made in the form of a check that is dishonored.

6 (4) A landlord does not waive the right to terminate a rental agreement for a violation under  
7 any of the following circumstances:

8 (a) The landlord and tenant agree otherwise after the violation has occurred.

9 (b) The violation concerns the tenant's conduct and, following the violation but prior to ac-  
10 ceptance of rent for three rental periods or performance as described in subsection (2) of this sec-  
11 tion, the landlord gives a written warning notice to the tenant regarding the violation that:

12 (A) Describes specifically the conduct that constitutes the violation, either as a separate and  
13 distinct violation, a series or group of violations or a continuous or ongoing violation;

14 (B) States that the tenant is required to discontinue the conduct or correct the violation; and

15 (C) States that a reoccurrence of the conduct that constitutes a violation may result in a ter-  
16 mination of the tenancy pursuant to ORS 90.392, 90.398, 90.405 or 90.630.

17 (c) The tenancy consists of rented space for a manufactured dwelling or floating home as de-  
18 scribed in ORS 90.505, and the violation concerns:

19 (A) Disrepair or deterioration of the manufactured dwelling or floating home pursuant to ORS  
20 90.632; or

21 (B) A failure to maintain the rented space, as provided by ORS 90.740 (2), (4)(b) and (4)(h) and  
22 (i).

23 (d) The termination is under ORS 90.396.

24 (e) The landlord accepts:

25 (A) A last month's rent deposit collected at the beginning of the tenancy, regardless of whether  
26 the deposit covers a period beyond a termination date;

27 (B) Rent distributed pursuant to a court order releasing money paid into court as provided by  
28 ORS 90.370 (1); or

29 (C) Rent paid for a rent obligation not yet due and paid more than one rental period in advance.

30 (5) For a continuous or ongoing violation, the landlord's written warning notice under sub-  
31 section (4)(b) of this section remains effective for 12 months and may be renewed with a new warn-  
32 ing notice before the end of the 12 months.

33 (6) A landlord that must refund rent under this section shall make the refund to the tenant or  
34 other payer by personal delivery or first class mail. The refund may be in the form of the tenant's  
35 or other payer's check or in any other form of check or money.

36 **SECTION 5.** ORS 90.222 is amended to read:

37 90.222. (1) A landlord may require a tenant to obtain and maintain renter's liability insurance  
38 in a written rental agreement. The amount of coverage may not exceed \$100,000 per occurrence or  
39 the customary amount required by landlords for similar properties with similar rents in the same  
40 rental market, whichever is greater.

41 (2) Before entering a new tenancy, a landlord:

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

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

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

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

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

7 (4) A landlord may require documentation that the tenant maintains the renter's liability insur-  
 8 ance on a periodic basis related to the coverage period of the renter's liability insurance policy or  
 9 more frequently if the landlord reasonably believes that the insurance policy is no longer in effect.

10 (5) A landlord may require that a tenant obtain or maintain renter's liability insurance only if  
 11 the landlord obtains and maintains comparable liability insurance and provides documentation to  
 12 any tenant who requests the documentation, orally or in writing. The landlord may provide docu-  
 13 mentation to a tenant in person, by mail or by posting in a common area or office. The documen-  
 14 tation may consist of a current certificate of coverage. A written rental agreement that requires a  
 15 tenant to obtain and maintain renter's liability insurance must include a description of the require-  
 16 ments of this subsection.

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

19 (7) A landlord may not:

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

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

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

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

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

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

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

30 (8) A landlord may not require a tenant to obtain or maintain renter's liability insurance if the  
 31 household income of the tenant is equal to or less than 50 percent of the area median income, ad-  
 32 justed for family size as measured up to a five-person family, as determined by the State Housing  
 33 Council based on information from the United States Department of Housing and Urban Develop-  
 34 ment.

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

37 (a) Including federal or state tax credits, federal block grants authorized in the HOME Invest-  
 38 ment Partnerships Act under Title II of the Cranston-Gonzalez National Affordable Housing Act, as  
 39 amended, or the Community Development Block Grant program authorized in the Housing and  
 40 Community Development Act of 1974, as amended, **project-based federal rent subsidy payments**  
 41 **under 42 U.S.C. 1437f** and tax-exempt bonds.

42 (b) Not including **tenant-based** federal rent subsidy payments under **the Housing Choice**  
 43 **Voucher Program authorized by 42 U.S.C. 1437f**.

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

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

3 (12) This section does not:

- 4 (a) Affect rights or obligations otherwise provided in this chapter or in the rental agreement.
- 5 (b) Apply to tenancies governed by ORS 90.505 to 90.840.

6 **SECTION 6.** ORS 90.453 is amended to read:

7 90.453. (1) As used in this section:

8 (a) “Immediate family member” means, with regard to a tenant who is a victim of domestic vi-  
 9 olence, sexual assault or stalking, any of the following who is not a perpetrator of the domestic vi-  
 10 olence, sexual assault or stalking against the tenant:

11 (A) An adult person related by blood, adoption, marriage or domestic partnership, as defined in  
 12 ORS 106.310, or as defined or described in similar law in another jurisdiction;

13 (B) A cohabitant in an intimate relationship;

14 (C) An unmarried parent of a joint child; or

15 (D) A child, grandchild, foster child, ward or guardian of the victim or of anyone listed in sub-  
 16 paragraph (A), (B) or (C) of this paragraph.

17 (b) “Qualified third party” means a person that has had individual contact with the tenant and  
 18 is a law enforcement officer, attorney or licensed health professional or is a victim’s advocate at a  
 19 victim services provider.

20 (c) “Verification” means:

21 (A) A copy of a valid order of protection issued by a court pursuant to ORS 30.866, 107.095 (1)(c),  
 22 107.716, 107.718 [*or 163.738*], **107.725, 107.730, 163.738, 163.765, 163.767 or 163.775** or any other  
 23 federal, state, local or tribal court order that restrains a person from contact with the tenant;

24 (B) A copy of a federal agency or state, local or tribal police report regarding an act of domestic  
 25 violence, sexual assault or stalking against the tenant;

26 (C) A copy of a conviction of any person for an act of domestic violence, sexual assault or  
 27 stalking against the tenant; or

28 (D) A statement substantially in the form set forth in subsection (3) of this section.

29 (d) “Victim services provider” means:

30 (A) A nonprofit agency or program receiving moneys administered by the Department of Human  
 31 Services or the Department of Justice that offers safety planning, counseling, support or advocacy  
 32 to victims of domestic violence, sexual assault or stalking; or

33 (B) A prosecution-based victim assistance program or unit.

34 (2)(a) If a tenant gives a landlord at least 14 days’ written notice, and the notice so requests,  
 35 the landlord shall release the tenant and any immediate family member of the tenant from the rental  
 36 agreement.

37 (b) The notice given by the tenant must specify the release date and must list the names of any  
 38 immediate family members to be released in addition to the tenant.

39 (c) The notice must be accompanied by verification that the tenant:

40 (A) Is protected by a valid order of protection; or

41 (B) Has been the victim of domestic violence, sexual assault or stalking within the 90 days  
 42 preceding the date of the notice. For purposes of this subparagraph, any time the perpetrator was  
 43 incarcerated or residing more than 100 miles from the victim’s home does not count as part of the  
 44 90-day period.

45 (3) A verification statement must be signed by the tenant and the qualified third party and be

1 in substantially the following form:

2 \_\_\_\_\_

3  
4 QUALIFIED THIRD PARTY  
5 VERIFICATION

6  
7 \_\_\_\_\_

8 Name of qualified third party

9  
10 \_\_\_\_\_

11 Name of tenant

12  
13 PART 1. STATEMENT BY TENANT

14  
15 I, \_\_\_\_\_ (Name of tenant), do hereby state as follows:

16  
17 (A) I or a minor member of my household have been a victim of domestic violence, sexual assault  
18 or stalking, as those terms are defined in ORS 90.100.

19  
20 (B) The most recent incident(s) that I rely on in support of this statement occurred on the fol-  
21 lowing date(s): \_\_\_\_\_.

22  
23 \_\_\_\_\_ The time since the most recent incident took place is less than 90 days; or

24  
25 \_\_\_\_\_ The time since the most recent incident took place is less than 90 days if periods when the  
26 perpetrator was incarcerated or was living more than 100 miles from my home are not counted. The  
27 perpetrator was incarcerated from \_\_\_\_\_ to \_\_\_\_\_. The perpetrator  
28 lived more than 100 miles from my home from \_\_\_\_\_ to \_\_\_\_\_.

29  
30 (C) I hereby declare that the above statement is true to the best of my knowledge and belief,  
31 and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

32  
33 \_\_\_\_\_

34 (Signature of tenant)

35 Date: \_\_\_\_\_

36  
37 PART 2. STATEMENT BY QUALIFIED THIRD PARTY

38  
39 I, \_\_\_\_\_ (Name of qualified third party), do hereby verify as follows:

40  
41 (A) I am a law enforcement officer, attorney or licensed health professional or a victim's advo-  
42 cate with a victims services provider, as defined in ORS 90.453.

43  
44 (B) My name, business address and business telephone are as follows:  
45 \_\_\_\_\_

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\_\_\_\_\_

(C) The person who signed the statement above has informed me that the person or a minor member of the person’s household is a victim of domestic violence, sexual assault or stalking, based on incidents that occurred on the dates listed above.

(D) I reasonably believe the statement of the person above that the person or a minor member of the person’s household is a victim of domestic violence, sexual assault or stalking, as those terms are defined in ORS 90.100. I understand that the person who made the statement may use this document as a basis for gaining a release from the rental agreement with the person’s landlord.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

\_\_\_\_\_

(Signature of qualified third party making this statement)

Date: \_\_\_\_\_

\_\_\_\_\_

(4) A tenant and any immediate family member who is released from a rental agreement pursuant to subsection (2) of this section:

- (a) Is not liable for rent or damages to the dwelling unit incurred after the release date; and
- (b) Is not subject to any fee solely because of termination of the rental agreement.

(5) Notwithstanding the release from a rental agreement of a tenant who is a victim of domestic violence, sexual assault or stalking and any tenant who is an immediate family member of that tenant, other tenants remain subject to the rental agreement.

(6) A landlord may not disclose any information provided by a tenant under this section to a third party unless the disclosure is:

- (a) Consented to in writing by the tenant;
- (b) Required for use in an eviction proceeding;
- (c) Made to a qualified third party; or
- (d) Required by law.

(7) The provision of a verification statement under subsection (2) of this section does not waive the confidential or privileged nature of a communication between the victim of domestic violence, sexual assault or stalking and a qualified third party.

**SECTION 7.** ORS 90.325 is amended to read:

90.325. (1) The tenant shall:

(a) Use the parts of the premises including the living room, bedroom, kitchen, bathroom and dining room in a reasonable manner considering the purposes for which they were designed and intended.

(b) Keep all areas of the premises under control of the tenant in every part as clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin, as the condition of the premises permits and to the extent that the tenant is responsible for causing the problem.



1 The tenant shall cooperate to a reasonable extent in assisting the landlord in any reasonable effort  
2 to remedy the problem.

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

7 (d) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their con-  
8 dition permits.

9 (e) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air con-  
10 ditioning and other facilities and appliances including elevators in the premises.

11 (f) Test at least once every six months and replace batteries as needed in any smoke alarm,  
12 smoke detector or carbon monoxide alarm provided by the landlord and notify the landlord in writ-  
13 ing of any operating deficiencies.

14 (g) Behave and require other persons on the premises with the consent of the tenant to behave  
15 in a manner that will not disturb the peaceful enjoyment of the premises by neighbors.

16 (2) A tenant may not:

17 (a) Remove or tamper with a smoke alarm, smoke detector or carbon monoxide alarm as de-  
18 scribed in ORS 105.842 or 479.300.

19 (b) Deliberately or negligently destroy, deface, damage, impair or remove any part of the prem-  
20 ises or knowingly permit any person to do so.

21 **(c) Remove, obstruct or tamper with a sprinkler head used for fire suppression.**

22