

**PROPOSED AMENDMENTS TO
SENATE BILL 390**

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest
2 of the line and delete line 3 and insert “creating new provisions; and
3 amending ORS 90.220, 90.222, 90.302, 90.315, 90.325 and 90.412.”.

4 Delete lines 5 through 31 and delete pages 2 through 9 and insert:

5 **“SECTION 1. ORS 90.315 is amended to read:**

6 **“90.315. (1) As used in this section:**

7 **“(a) ‘Provider’ includes a local government that imposes a public**
8 **service charge on a landlord.**

9 **“(b) ‘Public service charge’ means a charge imposed on a landlord**
10 **by a utility or service provider on behalf of the provider or on behalf**
11 **of a local government or imposed on a landlord by a local government**
12 **for one or more municipal services or for the general use of a public**
13 **resource related to the dwelling unit, including fees assessed to sup-**
14 **port street maintenance or transportation improvements, transit,**
15 **public safety and parks and open space. ‘Public service charge’ does**
16 **not include real property taxes, income taxes, business license fees or**
17 **dwelling inspection fees.**

18 **“[(a)] (c) ‘Sewer service’ includes storm water service and wastewater**
19 **service.**

20 **“[(b)] (d) ‘Utility or service’ includes but is not limited to electricity,**
21 **natural or liquid propane gas, oil, water, hot water, heat, air conditioning,**
22 **cable television, direct satellite or other video subscription services, Internet**

1 access or usage, sewer service, **public service charges** and garbage col-
2 lection and disposal.

3 “(2) The landlord shall disclose to the tenant in writing at or before the
4 commencement of the tenancy any utility or service that the tenant pays
5 directly to a utility or service provider that benefits, directly, the landlord
6 or other tenants. A tenant’s payment for a given utility or service benefits
7 the landlord or other tenants if the utility or service is delivered to any area
8 other than the tenant’s dwelling unit.

9 “(3) If the landlord knowingly fails to disclose those matters required
10 under subsection (2) of this section, the tenant may recover twice the actual
11 damages sustained or one month’s rent, whichever is greater.

12 “(4)(a) Except for tenancies covered by ORS 90.505 to 90.840, if a written
13 rental agreement so provides, a landlord may require a tenant to pay to the
14 landlord a utility or service charge that has been billed by a utility or ser-
15 vice provider to the landlord for utility or service provided directly **or in-**
16 **directly, if a public service charge**, to the tenant’s dwelling unit or to a
17 common area available to the tenant as part of the tenancy. A utility or
18 service charge that shall be assessed to a tenant for a common area must
19 be described in the written rental agreement separately and distinctly from
20 such a charge for the tenant’s dwelling unit. [*Unless the method of allocating*
21 *the charges to the tenant is described in the tenant’s written rental agreement,*
22 *the tenant may require that the landlord give the tenant a copy of the*
23 *provider’s bill as a condition of paying the charges.*]

24 “(b)(A) **A landlord must bill a tenant in writing for a utility or**
25 **service charge within 30 days of receipt of the provider’s bill. If the**
26 **landlord includes in the bill to the tenant a statement of the rent due,**
27 **the landlord must separately and clearly state the amount of the rent**
28 **and the amount of the utility or service charge.**

29 “(B) **The landlord must provide to the tenant in either the written**
30 **rental agreement or a bill an explanation that describes:**

1 “(i) The manner in which the provider assesses a utility or service
2 charge; or

3 “(ii) The manner in which the charge is allocated among the ten-
4 ants if the bill covers multiple tenants.

5 “(C) The landlord shall include in the bill to the tenant a copy of
6 the provider’s bill or state in the bill to the tenant that the tenant
7 may inspect the provider’s bill at a reasonable time and place. The
8 tenant may obtain a copy of the provider’s bill by making a request
9 to the landlord and paying the reasonable cost of making copies of the
10 provider’s bill.

11 “(D) A landlord may make a bill to the tenant for a utility or ser-
12 vice charge due upon delivery of the bill. A landlord shall treat the
13 tenant’s payment as timely under ORS 90.302 (3)(b)(A) if the payment
14 is made by a specified date that is stated in the bill that is not less
15 than 30 days after delivery of the bill.

16 “(E) If a written rental agreement so provides, the landlord may
17 deliver the bill to the tenant by electronic means, as an alternative to
18 notice delivery consistent with ORS 90.155.

19 “[(b)] (c) Except as provided in this paragraph, a utility or service charge
20 may only include the cost of the utility or service as billed to the landlord
21 by the provider. A landlord may add an additional amount to a utility or
22 service charge billed to the tenant if:

23 “(A) The utility or service charge to which the additional amount is added
24 is for cable television, direct satellite or other video subscription services
25 or for Internet access or usage;

26 “(B) The additional amount is not more than 10 percent of the utility or
27 service charge billed to the tenant;

28 “(C) The total of the utility or service charge and the additional amount
29 is less than the typical periodic cost the tenant would incur if the tenant
30 contracted directly with the provider for the cable television, direct satellite

1 or other video subscription services or for Internet access or usage;

2 “(D) The written rental agreement providing for the utility or service
3 charge describes the additional amount separately and distinctly from the
4 utility or service charge; and

5 “(E) Any billing or notice from the landlord regarding the utility or ser-
6 vice charge lists the additional amount separately and distinctly from the
7 utility or service charge.

8 “(d)(A) A landlord shall provide 60 days’ written notice to a tenant
9 before amending a rental agreement for a month-to-month tenancy to
10 impose a public service charge that is adopted by a utility or service
11 provider or a local government.

12 “(B) A landlord may not hold a tenant liable for a public service
13 charge billed to a previous tenant.

14 “[c)] (C) A landlord may not require a tenant to agree to the amendment
15 of an existing rental agreement, and may not terminate a tenant for refusing
16 to agree to the amendment of a rental agreement, if the amendment would
17 obligate the tenant to pay an additional amount for cable television, direct
18 satellite or other video subscription services or for Internet access or usage
19 as provided under paragraph (b) of this subsection.

20 “[d)] (e) A utility or service charge, including any additional amount
21 added pursuant to paragraph [(b)] (c) of this subsection, is not rent or a fee.
22 Nonpayment of a utility or service charge is not grounds for termination of
23 a rental agreement for nonpayment of rent under ORS 90.394 but is grounds
24 for termination of a rental agreement for cause under ORS 90.392.

25 “[e)] (f) If a landlord fails to comply with paragraph (a), (b), [or] (c) or
26 (d) of this subsection, the tenant may recover from the landlord an amount
27 equal to one month’s periodic rent or twice the amount wrongfully charged
28 to the tenant, whichever is greater.

29 “(5)(a) If a tenant, under the rental agreement, is responsible for a utility
30 or service and is unable to obtain the service prior to moving into the

1 premises due to a nonpayment of an outstanding amount due by a previous
2 tenant or the owner, the tenant may either:

3 “(A) Pay the outstanding amount and deduct the amount from the rent;

4 “(B) Enter into a mutual agreement with the landlord to resolve the lack
5 of service; or

6 “(C) Immediately terminate the rental agreement by giving the landlord
7 actual notice and the reason for the termination.

8 “(b) If the tenancy terminates, the landlord shall return all moneys paid
9 by the tenant as deposits, rent or fees within four days after termination.

10 “(6) If a tenant, under the rental agreement, is responsible for a utility
11 or service and is unable to obtain the service after moving into the premises
12 due to a nonpayment of an outstanding amount due by a previous tenant or
13 the owner, the tenant may either:

14 “(a) Pay the outstanding amount and deduct the amount from the rent;
15 or

16 “(b) Terminate the rental agreement by giving the landlord actual notice
17 72 hours prior to the date of termination and the reason for the termination.
18 The tenancy does not terminate if the landlord restores service or the
19 availability of service during the 72 hours. If the tenancy terminates, the
20 tenant may recover actual damages from the landlord resulting from the
21 shutoff and the landlord shall return:

22 “(A) Within four days after termination, all rent and fees; and

23 “(B) All of the security deposit owed to the tenant under ORS 90.300.

24 “(7) If a landlord, under the rental agreement, is responsible for a utility
25 or service and the utility or service is shut off due to a nonpayment of an
26 outstanding amount, the tenant may either:

27 “(a) Pay the outstanding balance and deduct the amount from the rent;
28 or

29 “(b) Terminate the rental agreement by giving the landlord actual notice
30 72 hours prior to the date of termination and the reason for the termination.

1 The tenancy does not terminate if the landlord restores service during the
2 72 hours. If the tenancy terminates, the tenant may recover actual damages
3 from the landlord resulting from the shutoff and the landlord shall return:

4 “(A) Within four days after termination, all rent prepaid for the month
5 in which the termination occurs prorated from the date of termination or the
6 date the tenant vacates the premises, whichever is later, and any other pre-
7 paid rent; and

8 “(B) All of the security deposit owed to the tenant under ORS 90.300.

9 “(8) If a landlord fails to return to the tenant the moneys owed as pro-
10 vided in subsection (5), (6) or (7) of this section, the tenant shall be entitled
11 to twice the amount wrongfully withheld.

12 “(9) This section does not preclude the tenant from pursuing any other
13 remedies under this chapter.

14 **“SECTION 2.** ORS 90.220 is amended to read:

15 “90.220. (1) A landlord and a tenant may include in a rental agreement
16 terms and conditions not prohibited by this chapter or other rule of law in-
17 cluding rent, term of the agreement and other provisions governing the
18 rights and obligations of the parties.

19 “(2) The terms of a fixed term tenancy, including the amount of rent, may
20 not be unilaterally amended by the landlord or tenant.

21 “(3) The landlord shall provide the tenant with a copy of any written
22 rental agreement and all amendments and additions thereto.

23 “(4) Except as provided in this subsection, the rental agreement must in-
24 clude a disclosure of the smoking policy for the premises that complies with
25 ORS 479.305. A disclosure of smoking policy is not required in a rental
26 agreement subject to ORS 90.505 to 90.840 for space in a facility as defined
27 in ORS 90.100.

28 “(5) Notwithstanding ORS 90.245 (1), the parties to a rental agreement to
29 which ORS 90.100 to 90.465 apply may include in the rental agreement a
30 provision for informal dispute resolution.

1 “(6) In absence of agreement, the tenant shall pay as rent the fair rental
2 value for the use and occupancy of the dwelling unit.

3 “(7) Except as otherwise provided by this chapter:

4 “(a) Rent is payable without demand or notice at the time and place
5 agreed upon by the parties. Unless otherwise agreed, rent is payable at the
6 dwelling unit, periodic rent is payable at the beginning of any term of one
7 month or less and otherwise in equal monthly or weekly installments at the
8 beginning of each month or week, depending on whether the tenancy is
9 month-to-month or week-to-week. Rent may not be considered to be due prior
10 to the first day of each rental period. Rent may not be increased without a
11 30-day written notice thereof in the case of a month-to-month tenancy or a
12 seven-day written notice thereof in the case of a week-to-week tenancy.

13 “(b) If a rental agreement does not create a week-to-week tenancy, as de-
14 fined in ORS 90.100, or a fixed term tenancy, the tenancy shall be a month-
15 to-month tenancy.

16 “(8) Except as provided by ORS 90.427 (7), a tenant is responsible for
17 payment of rent until the earlier of:

18 “(a) The date that a notice terminating the tenancy expires;

19 “(b) The date that the tenancy terminates by its own terms;

20 “(c) The date that the tenancy terminates by surrender;

21 “(d) The date that the tenancy terminates as a result of the landlord
22 failing to use reasonable efforts to rent the dwelling unit to a new tenant
23 as provided under ORS 90.410 (3);

24 “(e) The date when a new tenancy with a new tenant begins;

25 “(f) Thirty days after delivery of possession without prior notice of ter-
26 mination of a month-to-month tenancy; or

27 “(g) Ten days after delivery of possession without prior notice of termi-
28 nation of a week-to-week tenancy.

29 “(9)(a) **Notwithstanding a provision in a rental agreement regarding**
30 **the order of application of tenant payments, a landlord shall apply**

1 **tenant payments in the following order:**

2 **“(A) Outstanding rent from prior months;**

3 **“(B) Rent for the current month;**

4 **“(C) Utility or service charges;**

5 **“(D) Late rent charges; and**

6 **“(E) Damage claims and any other fees or claims owed by the ten-**
7 **ant.**

8 **“(b) This subsection does not apply to tenancies governed by ORS**
9 **90.505 to 90.840.**

10 **“SECTION 3. The amendments to ORS 90.220 by section 2 of this**
11 **2015 Act apply to:**

12 **“(1) Fixed term tenancies entered into or renewed after January 1,**
13 **2016;**

14 **“(2) Month-to-month tenancies and week-to-week tenancies on or**
15 **after January 1, 2016.**

16 **“SECTION 4. ORS 90.412 is amended to read:**

17 **“90.412. (1) As used in this section and ORS 90.414 and 90.417, ‘rent’ does**
18 **not include funds paid under the United States Housing Act of 1937 (42**
19 **U.S.C. 1437f).**

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

23 **“(a) During three or more separate rental periods, accepts rent with**
24 **knowledge of the violation by the tenant; or**

25 **“(b) Accepts performance by a tenant that varies from the terms of the**
26 **rental agreement.**

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

29 **“(a) Within 10 days after receipt of the rent payment, the landlord refunds**
30 **the rent; or**

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

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

4 “(a) The landlord and tenant agree otherwise after the violation has oc-
5 curred.

6 “(b) The violation concerns the tenant’s conduct and, following the vio-
7 lation but prior to acceptance of rent for three rental periods or performance
8 as described in subsection (2) of this section, the landlord [*gives*] **provides**
9 a written warning notice to the tenant regarding the violation that:

10 “(A) Describes specifically the conduct that constitutes the violation, ei-
11 ther as a separate and distinct violation, a series or group of violations or
12 a continuous or ongoing violation;

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

15 “(C) States that a reoccurrence of the conduct that constitutes a violation
16 may result in a termination of the tenancy pursuant to ORS 90.392, 90.398,
17 90.405 or 90.630.

18 “(c) **The violation concerns the tenant’s failure to pay money owed**
19 **to the landlord for damage to the premises, damage to any other**
20 **structure located upon the premises, utility charges, fees or deposits**
21 **and, following the violation but prior to the acceptance of rent or**
22 **performance as described in subsection (2) of this section, the landlord**
23 **provides to the tenant a written warning notice that:**

24 “(A) **Describes the basis of the claim and the amount of money**
25 **owed;**

26 “(B) **States that the tenant must pay the money owed to correct the**
27 **violation; and**

28 “(C) **States that continued nonpayment of the money owed may**
29 **result in a termination of the tenancy pursuant to ORS 90.392.**

30 “[*c*] (d) The tenancy consists of rented space for a manufactured dwell-

1 ing or floating home as described in ORS 90.505, and the violation concerns:

2 “(A) Disrepair or deterioration of the manufactured dwelling or floating
3 home pursuant to ORS 90.632; or

4 “(B) A failure to maintain the rented space, as provided by ORS 90.740
5 (2), (4)(b) and (4)(h) and (i).

6 “[~~d~~] (e) The termination is under ORS 90.396.

7 “[~~e~~] (f) The landlord accepts:

8 “(A) A last month’s rent deposit collected at the beginning of the tenancy,
9 regardless of whether the deposit covers a period beyond a termination date;

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

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

14 “(5)(a) For a continuous or ongoing violation, the landlord’s written
15 warning notice under subsection (4)(b) of this section remains effective for
16 12 months and may be renewed with a new warning notice before the end
17 of the 12 months.

18 “(b) **For a violation concerning the tenant’s failure to pay money**
19 **owed, the landlord’s written warning notice under subsection (4)(c) of**
20 **this section remains effective for 12 months from the date of the**
21 **tenant’s failure to pay the money owed to the landlord.**

22 “(6) A landlord that must refund rent under this section shall make the
23 refund to the tenant or other payer by personal delivery or first class mail.
24 The refund may be in the form of the tenant’s or other payer’s check or in
25 any other form of check or money.

26 “**SECTION 5. Section 6 of this 2015 Act is added to and made a part**
27 **of ORS 90.100 to 90.465.**

28 “**SECTION 6. (1) As used in this section, ‘bedroom’ has the meaning**
29 **given that term in ORS 90.262.**

30 “(2) **A landlord shall provide at all times during the tenancy a sec-**

1 **ondary means of exiting all bedrooms in an emergency other than the**
2 **main entrance of the dwelling unit.**

3 **“(3) If the landlord fails at any time to comply with the require-**
4 **ments of this section, the tenant may:**

5 **“(a) Terminate the tenancy by providing actual notice and a de-**
6 **scription of the noncompliance to the landlord 72 hours prior to the**
7 **date of termination; or**

8 **“(b) Recover the tenant’s actual damages or twice the periodic rent,**
9 **whichever is greater.**

10 **“(4) If the landlord cures the noncompliance within the 72-hour**
11 **time period, the tenancy does not terminate. If the tenancy termi-**
12 **nates, the landlord shall return any security deposits or prepaid rent**
13 **to the tenant.**

14 **“(5) Subsection (3) of this section does not apply if the noncompli-**
15 **ance was caused by the tenant.**

16 **“SECTION 7. ORS 90.222 is amended to read:**

17 **“90.222. (1) A landlord may require a tenant to obtain and maintain**
18 **renter’s liability insurance in a written rental agreement. The amount of**
19 **coverage may not exceed \$100,000 per occurrence or the customary amount**
20 **required by landlords for similar properties with similar rents in the same**
21 **rental market, whichever is greater.**

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

23 **“(a) Shall advise an applicant in writing of a requirement to obtain and**
24 **maintain renter’s liability insurance and the amount of insurance required**
25 **and shall provide a reasonable summary of the exemptions to this re-**
26 **quirement under subsections (8) and (9) of this section.**

27 **“(b) May require an applicant to provide documentation of renter’s li-**
28 **ability insurance coverage before the tenancy begins.**

29 **“(3) For an existing month-to-month tenancy, the landlord may amend a**
30 **written rental agreement to require renter’s liability insurance after giving**

1 the tenant at least 30 days' written notice of the requirement **as described**
2 **in subsection (2) of this section.** If the tenant does not obtain renter's
3 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
6 90.392 by obtaining insurance.

7 “(4) A landlord may require [*documentation that the tenant maintains*]
8 **that the tenant provide documentation:**

9 “(a) **That the tenant names the landlord as an interested party on**
10 **the tenant's renter's liability insurance policy authorizing the insurer**
11 **to notify the landlord of:**

12 “(A) **Cancellation or nonrenewal of the policy;**

13 “(B) **Reduction of policy coverage; or**

14 “(C) **Removal of the landlord as an interested party; or**

15 “(b) [*the renter's liability insurance*] On a periodic basis related to the
16 coverage period of the renter's liability insurance policy or more frequently
17 if the landlord reasonably believes that the insurance policy is no longer in
18 effect, **that the tenant maintains the renter's liability insurance.**

19 “(5) A landlord may require that a tenant obtain or maintain renter's li-
20 ability insurance only if the landlord obtains and maintains comparable li-
21 ability insurance and provides documentation to any tenant who requests the
22 documentation, orally or in writing. The landlord may provide documenta-
23 tion to a tenant in person, by mail or by posting in a common area or office.
24 The documentation may consist of a current certificate of coverage. A writ-
25 ten rental agreement that requires a tenant to obtain and maintain renter's
26 liability insurance must include a description of the requirements of this
27 subsection.

28 “(6) Neither a landlord nor a tenant shall make unreasonable demands
29 that have the effect of harassing the other with regard to providing doc-
30 umentation of insurance coverage.

1 “(7) A landlord may not:

2 “(a) Require that a tenant obtain renter’s liability insurance from a par-
3 ticular insurer;

4 “(b) Require that a tenant name the landlord as an additional insured or
5 as having any [*other*] special status on the tenant’s renter’s liability insur-
6 ance policy **other than as an interested party for the purposes described**
7 **in subsection (4)(a) of this section;**

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

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

10 “(A) The claim is for damages or costs for which the tenant is legally li-
11 able and not for damages or costs that result from ordinary wear and tear,
12 acts of God or the conduct of the landlord;

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

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

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

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

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

1 “(b) Not including federal rent subsidy payments under 42 U.S.C. 1437f
2 **or any other local, state or federal rental housing assistance.**

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

6 “(11)(a) **If a landlord knowingly violates this section, the tenant may**
7 **recover the actual damages of the tenant or \$250, whichever is greater.**

8 “(b) If a landlord files a frivolous claim against the renter’s liability in-
9 surance of a tenant, the tenant may recover from the landlord the actual
10 damages of the tenant plus \$500.

11 “(12) This section does not:

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

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

15 **“SECTION 8.** ORS 90.325 is amended to read:

16 “90.325. (1) The tenant shall:

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

20 “(b) Keep all areas of the premises under control of the tenant in every
21 part as clean, sanitary and free from all accumulations of debris, filth, rub-
22 bish, garbage, rodents and vermin, as the condition of the premises permits
23 and to the extent that the tenant is responsible for causing the problem. The
24 tenant shall cooperate to a reasonable extent in assisting the landlord in any
25 reasonable effort to remedy the problem.

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

1 “(d) Keep all plumbing fixtures in the dwelling unit or used by the tenant
2 as clean as their condition permits.

3 “(e) Use in a reasonable manner all electrical, plumbing, sanitary, heat-
4 ing, ventilating, air conditioning and other facilities and appliances includ-
5 ing elevators in the premises.

6 “(f) Test at least once every six months and replace batteries as needed
7 in any smoke alarm, smoke detector or carbon monoxide alarm provided by
8 the landlord and notify the landlord in writing of any operating deficiencies.

9 “(g) Behave and require other persons on the premises with the consent
10 of the tenant to behave in a manner that will not disturb the peaceful en-
11 joyment of the premises by neighbors.

12 “(2) A tenant may not:

13 “(a) Remove or tamper with a smoke alarm, smoke detector or carbon
14 monoxide alarm as described in ORS 105.842 or 479.300.

15 “(b) Deliberately or negligently destroy, deface, damage, impair or remove
16 any part of the premises or knowingly permit any person to do so.

17 “**(3) A tenant is not responsible for damage that results from:**

18 “**(a) Acts of God; or**

19 “**(b) Conduct by a perpetrator relating to domestic violence, sexual
20 assault or stalking.**

21 “**(4) For damage that results from conduct by a perpetrator relating
22 to domestic violence, sexual assault or stalking, a landlord may re-
23 quire a tenant to provide verification that the tenant or a member of
24 the tenant’s household is a victim of domestic violence, sexual assault
25 or stalking as provided by ORS 90.453.**

26 “**SECTION 9.** ORS 90.302 is amended to read:

27 “90.302. (1) A landlord may not charge a fee at the beginning of the
28 tenancy for an anticipated landlord expense and may not require the payment
29 of any fee except as provided in this section. A fee must be described in a
30 written rental agreement.

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

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

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

7 “(c) Removal or tampering with a properly functioning smoke alarm,
8 smoke detector or carbon monoxide alarm, as provided in ORS 90.325 (2). The
9 landlord may charge a fee of up to \$250 unless the State Fire Marshal as-
10 sesses the tenant a civil penalty for the conduct under ORS 479.990 or under
11 ORS 105.836 to 105.842 and 476.725.

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

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

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

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

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

25 “(3)(a) A landlord may charge a tenant a fee under this subsection for a
26 second noncompliance or for a subsequent noncompliance with written rules
27 or policies that describe the prohibited conduct and the fee for a second
28 noncompliance, and for any third or subsequent noncompliance, that occurs
29 within one year after a written warning notice described in subparagraph (A)
30 of this paragraph. **Except as provided in paragraph (b)(G) of this sub-**

1 **section**, the fee may not exceed \$50 for the second noncompliance within one
2 year after the warning notice for the same or a similar noncompliance or \$50
3 plus five percent of the rent payment for the current rental period for a third
4 or subsequent noncompliance within one year after the warning notice for
5 the same or a similar noncompliance. The landlord:

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

7 “(i) A specific noncompliance before charging a fee for a second or sub-
8 sequent noncompliance for the same or similar conduct; and

9 “(ii) The amount of the fee for a second noncompliance, and for any sub-
10 sequent noncompliance, that occurs within one year after the warning notice.

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

14 “(C) Shall give a warning notice for a noncompliance or assess a fee for
15 a second or subsequent noncompliance within 30 days after the act consti-
16 tuting noncompliance.

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

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

22 “(b) A landlord may charge a tenant a fee for occurrences of noncompli-
23 ance with written rules or policies as provided in paragraph (a) of this sub-
24 section for the following types of noncompliance:

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

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

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

1 “(D) Parking violations.

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

3 “(F) Smoking in a clearly designated nonsmoking unit or area of the
4 premises.

5 “(G) Keeping on the premises an unauthorized pet capable of causing
6 damage to persons or property, as described in ORS 90.405. **Notwithstand-**
7 **ing paragraph (a) of this subsection, the fee for a second or any sub-**
8 **sequent noncompliance under this subparagraph may not exceed \$250.**
9 **A landlord may not charge this fee before 48 hours after the required**
10 **warning notice to the tenant.**

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

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

15 “(6) Nonpayment of a fee is not grounds for termination of a rental
16 agreement for nonpayment of rent under ORS 90.394, but is grounds for ter-
17 mination of a rental agreement for cause under ORS 90.392 or 90.630 (1).

18 “(7) This section does not apply to:

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

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

21 “(c) Charges for improvements or other actions that are requested by the
22 tenant and are not required of the landlord by the rental agreement or by
23 law, including the cost to replace a key lost by a tenant;

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

27 “(A) The credit card company allows processing fees to be passed through
28 to the credit card holder; and

29 “(B) The landlord allows the tenant to pay in cash or by check; [or]

30 “(e) A requirement by a landlord in a written rental agreement that a

1 tenant obtain and maintain renter's liability insurance pursuant to ORS
2 90.222[.]; or

3 **“(f) Move-in or move-out assessments, as defined in ORS 94.550,**
4 **that are imposed by a homeowners association created under ORS**
5 **94.625 or by an association of condominium unit owners organized**
6 **under ORS 100.405, on a landlord who owns a dwelling unit within the**
7 **association if the landlord passes the assessment to a tenant of the**
8 **dwelling unit. A landlord shall provide to the tenant upon commence-**
9 **ment of the tenancy a description of the assessment included in the**
10 **written rental agreement and a copy of the assessment before or at**
11 **the time the landlord bills the tenant.**

12 **“(8) If a landlord charges a tenant a fee in violation of this section,**
13 **the tenant may recover from the landlord a penalty equal to twice the**
14 **actual damages of the tenant or \$300, whichever is greater. This pen-**
15 **alty does not apply to fees described in subsection (2) of this**
16 **section.”.**

17
