

Requested by Representative KOTEK

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4143**

1 On page 1 of the printed A-engrossed bill, line 2, after “provisions;” delete
2 the rest of the line and line 3 and insert “amending ORS 90.220, 90.302 and
3 90.460; and declaring an emergency.”.

4 On page 2, delete lines 40 through 45 and delete pages 3 through 5.

5 On page 6, delete lines 1 through 40 and insert:

6 **“SECTION 4.** ORS 90.302 is amended to read:

7 “90.302. (1) A landlord may not charge a fee at the beginning of the
8 tenancy for an anticipated landlord expense and may not require the payment
9 of any fee except as provided in this section. A fee must be described in a
10 written rental agreement.

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

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

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

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

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

3 “(e) The abandonment or relinquishment of a dwelling unit during a fixed
4 term tenancy without cause. The fee may not exceed one and one-half times
5 the monthly rent. A landlord may not assess a fee under this paragraph if
6 the abandonment or relinquishment is pursuant to ORS 90.453 (2), 90.472 or
7 90.475. If the landlord assesses a fee under this paragraph:

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

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

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

14 “(3)(a) A landlord may charge a tenant a fee under this subsection for a
15 second noncompliance or for a subsequent noncompliance with written rules
16 or policies that describe the prohibited conduct and the fee for a second
17 noncompliance, and for any third or subsequent noncompliance, that occurs
18 within one year after a written warning notice described in subparagraph (A)
19 of this paragraph. Except as provided in paragraph [(b)(H)] **(b)(G) or (H)** of
20 this subsection, the fee may not exceed \$50 for the second noncompliance
21 within one year after the warning notice for the same or a similar noncom-
22 pliance or \$50 plus five percent of the rent payment for the current rental
23 period for a third or subsequent noncompliance within one year after the
24 warning notice for the same or a similar noncompliance. The landlord:

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

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

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

30 “(B) Shall give a tenant a written notice describing the noncompliance

1 when assessing a fee for a second or subsequent noncompliance that occurs
2 within one year after the warning notice.

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

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

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

11 “(b) A landlord may charge a tenant a fee for occurrences of noncompli-
12 ance with written rules or policies as provided in paragraph (a) of this sub-
13 section for the following types 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 the waste of a service animal or a companion
19 animal from a part of the premises other than the dwelling unit.

20 “(D) Failure to clean up garbage, rubbish and other waste from a part of
21 the premises other than the dwelling unit.

22 “(E) Parking violations.

23 “(F) The improper use of vehicles within the premises.

24 “(G) Smoking in a clearly designated nonsmoking unit or area of the
25 premises. **The fee for a second or any subsequent noncompliance under
26 this subparagraph may not exceed \$250. A landlord may not assess this
27 fee before 24 hours after the required warning notice to the tenant.**

28 “(H) Keeping on the premises an unauthorized pet capable of causing
29 damage to persons or property, as described in ORS 90.405. The fee for a
30 second or any subsequent noncompliance under this subparagraph may not

1 exceed \$250. A landlord may not assess this fee before 48 hours after the
2 required warning notice to the tenant.

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

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

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

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

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

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

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

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

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

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

22 “(e) A requirement by a landlord in a written rental agreement that a
23 tenant obtain and maintain renter’s liability insurance pursuant to ORS
24 90.222; or

25 “(f) Assessments, as defined in ORS 94.550 and 100.005, for a dwelling unit
26 that is within a homeowners association organized under ORS 94.625 or an
27 association of unit owners organized under ORS 100.405, respectively, if:

28 “(A) The assessments are imposed by the association on a landlord who
29 owns a dwelling unit within the association and the landlord passes the as-
30 sessments through to a tenant of the unit;

1 “(B) The assessments are imposed by the association on any person for
2 expenses related to moving into or out of a unit located within the associ-
3 ation;

4 “(C) The landlord sets forth the assessment requirement in the written
5 rental agreement at the commencement of the tenancy; and

6 “(D) The landlord gives a copy of the assessment the landlord receives
7 from the association to the tenant before or at the time the landlord charges
8 the tenant.

9 “(8) If a landlord charges a tenant a fee in violation of this section, the
10 tenant may recover twice the actual damages of the tenant or \$300, which-
11 ever is greater. This penalty does not apply to fees described in subsection
12 (2) of this section.”.

13 In line 41, delete “7” and insert “5”.

14 On page 7, line 18, delete “8” and insert “6”.

15 Delete lines 21 through 23 and insert:

16 **“SECTION 7. The amendments to ORS 90.302 by section 4 of this**
17 **2016 Act apply to fees for occurrences of noncompliance with written**
18 **rules or policies charged on or after the effective date of this 2016**
19 **Act.”.**

20 In line 24, delete “10” and insert “8”.

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